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 Government Operations, 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.
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NOTICES OF
PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between November 16, 2021, 12:00 a.m., and December 01, 2021, 11:59 p.m., are included in this, the December 15, 2021, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them ([example]). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.........) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least January 14, 2022. 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 April 14, 2022, 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
### Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

<table>
<thead>
<tr>
<th>A) State budget:</th>
<th>There should be no impact to the state budget. The Rural Rehabilitation Loan program will continue to operate under their existing budget.</th>
</tr>
</thead>
<tbody>
<tr>
<td>B) Local governments:</td>
<td>There should be no impact on local governments because they do not administer or participate in the rural rehabilitation loan program.</td>
</tr>
<tr>
<td>C) Small businesses (<em>small business</em> means a business employing 1-49 persons):</td>
<td>There should be no impact on small businesses because the requirements of the program or availability of funds will not change. This rule change just impacts which committee under the Agricultural Advisory Board will be responsible for approval of loans.</td>
</tr>
<tr>
<td>D) Non-small businesses (<em>non-small business</em> means a business employing 50 or more persons):</td>
<td>There should be no impact on non-small businesses because the requirements of the program or availability of funds will not change. This rule change just impacts which committee under the Agricultural Advisory Board will be responsible for approval of loans.</td>
</tr>
<tr>
<td>E) Persons other than small businesses, non-small businesses, state, or local government entities (<em>person</em> means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <em>agency</em>):</td>
<td>There should be no impact on other persons because the requirements of the program or availability of funds will not change. This rule change just impacts which committee under the Agricultural Advisory Board will be responsible for approval of loans.</td>
</tr>
<tr>
<td>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</td>
<td>Compliance costs for affected persons will not change because any fees charged by the Utah Department of Agriculture and Food associated with the program will remain in place.</td>
</tr>
<tr>
<td>G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):</td>
<td>This rule change will not have a fiscal impact on businesses in Utah. Craig W. Buttars, Commissioner</td>
</tr>
</tbody>
</table>
NOTICES OF PROPOSED RULES

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
<th>FY22</th>
<th>FY23</th>
<th>FY24</th>
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</thead>
<tbody>
<tr>
<td>Fiscal Cost</td>
<td>$0</td>
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<tr>
<td>State Government</td>
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<tr>
<td>Local Governments</td>
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<tr>
<td>Small Businesses</td>
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<tr>
<td>Non-Small Businesses</td>
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<tr>
<td>Other Persons</td>
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</tr>
<tr>
<td>Total Fiscal Cost</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Fiscal Benefits</td>
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<tr>
<td>State Government</td>
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<tr>
<td>Total Fiscal Benefits</td>
<td>$0</td>
<td>$0</td>
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</tr>
<tr>
<td>Net Fiscal Benefits</td>
<td>$0</td>
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<td>$0</td>
</tr>
</tbody>
</table>

B) Department head approval of regulatory impact analysis:
The Commissioner of the Utah Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved the regulatory impact analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 4-19-101

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

A) Comments will be accepted until:
01/14/2022

10. This rule change MAY become effective on:
01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Craig W. Buttars, Commissioner Date: 11/30/2021

R51. Agriculture and Food, Administration.
R51-5. Rural Rehabilitation Loans.
R51-5-1. Authority.
Pursuant to Section 4-19-101 and Subsection 4-2-103(1)(i), this rule establishes the general operating practices by which the Rural Rehabilitation Loan program shall function.

(1) [AGRICULTURAL ADVISORY BOARD:] "Agricultural Advisory Board" means a twenty-one-member board appointed by the Commissioner of Agriculture to advise the Commissioner regarding the planning, implementation, and administration of the Department of Agriculture and Food’s programs as authorized by Section 4-2-108.
(2) [BOARD:] "Board" means the Agricultural Advisory Board.
(3) [BORROWER/APPLICANT:] "Borrower" or "Applicant" means a person applying to or borrowing Rural Rehabilitation federal or state funds.
(4) [COMMISSIONER:] "Commissioner" means the Commissioner of the Utah Department of Agriculture and Food, who is responsible for the conduct and administration of the Rural Rehabilitation Loan Program within the state in accordance with the Use Agreement entered into in January 1975.
(5) [DEPARTMENT:] "Department" means the Utah Department of Agriculture and Food.
(6) [EXECUTIVE COMMITTEE:] "Executive Committee' means a committee consisting of members of the Board that is organized under Subsection 4-2-108(9) and is tasked with approval of Rural Rehabilitation Loans. Pursuant to Subsection 4-19-104(5), the Executive Committee may create a Subcommittee from Board membership to approve a loan or renewal. [EXECUTIVE LOAN COMMITTEE:] A committee consisting of the Board’s chair, vice chair, and two other members selected for the Board who approve loans. The Executive Loan Committee shall be nominated at the beginning of each calendar year and shall serve a one-year term.

R51-5-3. Rural Rehabilitation Loan Program Operation[Objectives].
(1) The program is available to any entity allowed under the January 1975 [Use Agreement] between the department and the United States Farm Home Administration or state or federal law, including individual farmers and ranchers or agricultural
NOTICES OF PROPOSED RULES

cooperatives, corporations, or other entities that directly or indirectly
provide assistance to [such] farmers or members of their families.

(2) Borrowers [The Rural Rehabilitation Loan program] may use funds for any purpose allowed under the January 1975 [L]lsole [A]greement, including for one or more of the following [Rural (R)] Rehabilitation purposes:
(a) [L]loans, such as:
   (i) [R]eal [E]state [L]oans;
   (ii) [F]arm [O]perating [L]oans;
   (iii) [S]chool [L]oans;
   (iv) [E]ducation [L]oans; or
   (v) [C]onservation [K]projects;
   (b) [G]rants, such as:
      (i) [Y]outh and [E]ducation [G]rants;
      (c) [R]eserve [F]unds; and
      (d) [O]ther [R]ural [R]ehabilitation [P]urposes,
(3) Borrowers may use [L]oans [shall be] for the purchase of land within the State of Utah, and any collateral or security for a loan must be located within the State of Utah.
(4) [Such] The department may use a portion of the cost of administration and protection of assets as necessary program funds may be also used by the State for:
   (a) [C]osts of [A]dministration;
   (b) [P]rotection of the [A]ssets; and
   (c) [T]emporary investments, annual reports, implementing agreements, and other allowed uses under Title 4, Chapter 19, Rural Rehabilitation.
(5) The [D]epartment may not make a loan authorized under this chapter Title 4, Chapter 19, Rural Rehabilitation, for a period to exceed 10 years, [but the loan is renewable]. Loans are renewable [Total borrowings by any one entity shall be limited to no more than $350,000 with each application.] A limitation on total borrowings by any one entity shall be set in policy approved by the Executive Committee.
(6) [For the purposes of protecting] To protect its interest in a defaulting loan, the Board may use either appropriated or repayment monies to purchase or otherwise obtain property in which the Board has acquired a security interest by any mortgage, trust deed, pledge, assignment, judgment, or other means at any execution, bankruptcy, or foreclosure sale.
(7) The Board may [also] operate or lease, if necessary to protect its interest, any property in which it has an interest, or sell or otherwise dispose of such property to recover loaned funds.
(8) The department, through the Executive Committee or Board and in conjunction with the Commissioner, may adopt additional policies and procedures as necessary to carry out the purposes of the Rural Rehabilitation Loan program. These policies and procedures may be in addition to those outlined in this rule.

R51-5. Application Procedure.
(1) Any person or group of persons desiring who desires to participate in the Rural Rehabilitation Loan program [must] shall apply [through] to the Department of Agriculture Farm Service Agency [through the staff of the Agriculture Farm Service Agency] department through the staff of the [A]griculture [L]oan department.
(2) Any person who contacts the department to express interest in the program shall be given an applicant information page that lists the information required in the application.
(3) The applicant shall include the required information in a one page application letter, including any necessary personal information.
(4) The one-page application letter must contain all information needed as instructed in the Application Information page that shall be sent to the prospective Applicant upon inquiry to the loan program. To be considered, the application must contain all appropriate information as instructed, be fully completed, and must provide all requested personal information.
(5) Upon receipt If necessary, loan staff shall contact the Applicant and provide further information [to the Applicant] about the policies and procedures [that shall be followed in order for the loan application to be approved] [obtain approval] by the Board. This conversation and/or any other actions by the loan staff does not guarantee loan approval.

R51-5. Loan Review.
(1) Loan staff shall review and discuss [the application and required documentation] [shall be reviewed by loan staff and discussed] with the [A]pplicant[s] representative. Loan staff shall [proceed with] shall conduct a policy compliance review, credit analysis, and underwriting [prior to before presenting a written loan proposal to the Executive] [Loan] Committee for approval.
(2) The Executive Committee shall make [D]ecisions concerning the use of loan program funds [shall be the decision of the Agricultural Advisory Board by], and shall consider the recommendation of the Commissioner and the Department loan staff.
(3) The Board shall ensure, to the best of its ability, that available [Rural (R) rehabilitation (R) loan funds] [can be borrowed] are made available in accordance with this rule and state and federal laws. If there are insufficient funds to fund [all] each loan 

collections, funds shall be distributed based on the date the complete application is received, in sequential order.

(4)  The Executive Committee shall approve loans by majority vote [should be approved by a majority of the Executive Loan Committee and ratified by the Agricultural Advisory Board].

(5)  The Executive Committee shall report approved loans [credit approved on this basis shall be reported] to the Board for ratification at the next scheduled Board meeting.

R51-5-7. Loan Closing.

(1)  Upon approval by the Executive Loan Committee and ratification by the Board, the Commissioner shall sign loans that have been approved by the Executive Committee and make the final obligation of funds by signing the Rural Rehabilitation Obligation to Purchase form.

(2)  Loan staff shall prepare loan documents and an instruction letter for the title company closing; including a signed warrant [request to disburse funds.

(3)  The borrower may proceed with the closing at the title company.

(4)  Neither the state, the department, nor the Board have any obligation to disburse funds [prior to] before the completion of the procedures described in Rule R51-5-8. [above described procedures].

(5)  The [Applicant]borrower shall be required to cover any costs incurred for loan closing including escrow fees, title insurance, recording fees, and appraisal when necessary.


(1)  Collection Policy. The department shall follow the following procedures [should be followed] for delinquent loans:

(a)  30 Days Past Due: If [payment has not been received] the department does not receive payment within 30 days after the due date, a delinquent notice reflecting the amount due including penalty shall be sent to the [B]borrower.

(b)  60 Days Past Due: If [payment has not been received] the department does not receive payment within 60 days after the due date, a second delinquent notice shall be sent [to the borrower. Loan staff shall also make personal contact [shall also be made by loan staff] with the [B]borrower during this time period to try to collect the payment.

(c)  90 Days Past Due: If [payment has not been received] the department does not receive payment within 90 days after the due date, a third delinquent notice shall be sent [out] to the borrower. This notice may also advise the [B]borrower that payment must be made or other satisfactory arrangements made with loan staff within 30 days or the account shall be assigned to the Attorney General's Office for appropriate action. [Attempts to make personal contact by loan staff shall be made]. Loan staff shall attempt to make personal contact during this period [of time] to try to collect the payment or make acceptable arrangements with the [B]borrower.

(d)  120 to 180 Days Past Due: Loan staff shall work with the [B]borrower to make satisfactory arrangements for payment of past due amounts. This may include:

(i) modifying the terms of the original contract to meet the [B]borrower's ability to perform on the obligation,

(ii) taking additional or substitute collateral if the lender is deemed insecure, or

(iii) any other appropriate actions to provide service for the [B]borrower and protect against loss [should be done].

(e)  If it appears that the [B]borrower shall be unable to pay the loan, refuses to communicate or cooperate with the [D]department or loan staff, or fails to cure the delinquency, the account shall be assigned to the Attorney General's Office for collection and foreclosure proceedings.

(f)  These actions are at the discretion of the loan staff in consultation with the Commissioner or the Commissioner's designee and the Attorney General's Office.

(2)  Notwithstanding the [above time guidelines] procedures set in Subsection R51-5-8(1), at any time, the loan staff, with approval from the Commissioner or the Commissioner's designee, may consult with the Attorney General's Office on behalf of the [D]department to protect the state's interest in any pledged security or collateral on a loan or to protect its interest in any property, real or otherwise.

(3)  Notwithstanding the [above time guidelines] procedures set in Subsection R51-5-8(1), the state or the [D]department may, at any time, pursue any legal or equitable remedy allowed under state or federal law to protect its interest in any pledged security or collateral on a loan or to protect its interest in any property, real or otherwise.

KEY: Rural Rehabilitation Loans, loans

Date of Last Change: [May 2, 2018] 2022

Authorizing, and Implemented or Interpreted Law: 4-19-103; 4-2-103(i); 4-19-102

NOTICE OF PROPOSED RULE

<table>
<thead>
<tr>
<th>TYPE OF RULE: Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utah Admin. Code Ref (R no.):</td>
</tr>
</tbody>
</table>

Agency Information

1. Department: Agriculture and Food

Agency: Conservation Commission

Street address: 350 N Redwood Road
City, state and zip: Salt Lake City, UT 84116

Mailing address: PO Box 146500
City, state and zip: Salt Lake City, UT 84114-6500

Contact person(s):

Name: Amber Brown
Phone: 801-982-2204
Email: ambermbrown@utah.gov

Name: Jim Bowcutt
Phone: 801-536-4336
Email: jdbowcutt@utah.gov

Name: Kelly Pehrson
Phone: 801-982-2200
Email: kwpehrson@utah.gov

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

2. Rule or section catchline:

R64-1. Agriculture Resource Development Loans (ARDL)

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Additional language is needed in this rule to address the Emergency Disaster Relief loan program that has been created under the Agriculture Resource Development Loan (ARDL) program and is being used to provide loans to agriculture producers to address losses related to drought and other natural disasters. This rule change will make permanent changes that were filed as emergency changes in September 2021. (EDITOR’S NOTE: The 120-day (emergency) rule was effective on 09/13/2021 and is under ID No. 53936 in the October 1, 2021, Bulletin.)

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

A new Subsection R64-1-3(8) has been added to Section R64-1-3 allowing for the issuance of disaster related loans under the ARDL program that would not be subject to the same requirements as typical ARDL loans. This is authorized under Subsection 4-18-106(3)(g) that allows the Utah Conservation Commission to make loans or grants out of the ARDL fund for a “project or program to improve water quality or address other issues.” Additional changes to this rule are also made to make the text more consistent with the requirements of the Utah Administrative Rulewriting Manual and current Department of Agriculture and Food (Department) practices.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The Department has been granted funding of $5,000,000 from the state’s Industrial Assistance Account to provide loans under this program with an application period that lasts through 04/30/2022. $250,000 of that initial amount was set aside to cover administrative expenses. To date, approximately $300,000 of the remaining funds have been disbursed. Of the remaining approximately $4,450,000 undisbursed funds, the Department estimates that 80% ($3,560,000) will benefit other persons including individuals or partnerships and the remaining $890,000 will benefit small businesses. The funds may be expended through the current loan period and, per the application requirements, loan funds must be used by the end of Fiscal Year 2022, as is reflected in the regulatory impact table. There is a chance that all funds will not be used, however, based on the needs of producers. There is also a chance that the program will be extended based on drought or other emergency conditions. Loans should be paid back within seven years under the program, however, that is not reflected in the three-year table.

B) Local governments:

There should be no cost or savings to local governments because they do not administer or participate in the emergency disaster relief loan program.

C) Small businesses (“small business” means a business employing 1-49 persons):

Current program loan funds will benefit agricultural producers who have been impacted by drought conditions. The Department estimates that 20% of currently undisbursed funds or approximately $890,000 will benefit small businesses in the state.

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

Because of program requirements, the Department does not anticipate that non-small businesses will benefit from this program.

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 estimates that 80% of the funds under this program will be disbursed to other persons, including mainly individuals and partnerships. This would be a total of approximately $3,560,000 of remaining funds under the current loan period.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs or loan application costs required to participate in this program.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule change codifies an emergency disaster relief loan program that will have a positive fiscal impact on agricultural businesses by allowing them access to low interest loans if their business is impacted by drought or other emergency conditions. Craig W. Butters, Commissioner

6. A) 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.)
NOTICES OF PROPOSED RULES

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Craig W. Buttars, Commissioner | Date: 11/17/2021 |

R64. Agriculture and Food, Conservation Commission.
R64-1. Agriculture Resource Development Loans (ARDL).
R64-1-1. Authority and Purpose.
Pursuant to Section 4-18-105, this rule establishes general operating practices by which the Agriculture Resource Development Loan (ARDL) program shall function.

R64-1-2. Definitions.
(4) "Commission" means the Utah Conservation Commission created by Section 4-18-4, which directs and implements the Agriculture Resource Development Loan program throughout the State of Utah, chaired by the Commissioner of the Utah Department of Agriculture and Food.
(2) "ZEC" means a zone executive committee representing several conservation districts in a geographic area consisting of one member from each of the conservation districts in that zone to coordinate ARDL activities.
(2) "CD Board" means a conservation district board consisting of five elected supervisors within each conservation district created by Section 4-18-105, to coordinate ARDL activities at the district level.
(4) "ARDL Program Coordinator or Loan Administrator" means the staff administrator of the ARDL program employed by the Department of Agriculture and Food.
(5) "Technical Assistance" or "Technical Assistance Agency" means such individuals or group of individuals, including administrative services, who may be requested by an applicant client to provide specialized input for proposed projects.
(6) "Executive Committee" means a committee, made up of the commission chair and at least two other members selected from and approved by the commission, who approve applications for presentation to the commission.
(7) "Application" means a project proposal which is prepared by an individual seeking ARDL funds through the process established by the commission and in accordance with Section 4-18-105.
(8) "Resource Improvement and Management Plan" means a plan providing a schedule of operations, implementation and cost estimates, and other pertinent information prepared by a technical assistant, or technical assistance agency, which has been approved by the commission. [1] "Application" means a project proposal which is prepared by an individual seeking ARDL funds through the process established by the commission and in accordance with Section 4-18-105.

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
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</thead>
<tbody>
<tr>
<td>Fiscal Cost</td>
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<tr>
<td>State Government</td>
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<tr>
<td>Local Governments</td>
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<tr>
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<td>Non-Small Businesses</td>
</tr>
<tr>
<td>Other Persons</td>
</tr>
<tr>
<td><strong>Total Fiscal Cost</strong></td>
</tr>
</tbody>
</table>

Fiscal Benefits

| State Government | $0 | $0 | $0 |
| Local Governments | $0 | $0 | $0 |
| Small Businesses | $890,000 | $0 | $0 |
| Non-Small Businesses | $0 | $0 | $0 |
| Other Persons | $3,560,000 | $0 | $0 |
| **Total Fiscal Benefits** | **$4,450,000** | **$0** | **$0** |

Net 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 |
| **Total Net Fiscal Benefits** | **$0** | **$0** | **$0** |

B) Department head approval of regulatory impact analysis:
The Commissioner of the Utah Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 4-18-105  Section 4-18-106

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

A) Comments will be accepted until: 01/14/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

(1) The objectives of the ARDL program are to conserve agricultural resources of the state, increase agriculture yields and efficiency for croplands, orchards, pastures, range, and livestock; maintain and improve water quality, conserve and improve wildlife habitat; prevent flooding, conserve or develop on-farm energy resources, mitigate damages to agriculture as a result of flooding, drought, or other natural disasters, and provide and maintain protection of a crop or animal resource. The commission shall annually allocate funds appropriated for projects that further these objectives.

(2) The commission shall annually allocate funds appropriated for projects that further the objectives of the ARDL program, including:

(a) conserve agricultural resources of the state;
(b) increase agriculture yields and efficiency for croplands, orchards, pastures, range, and livestock;
(c) maintain and improve water quality;
(d) conserve and improve wildlife habitat;
(e) prevent flooding, drought, or other natural disasters; and
(f) provide and maintain protection of a crop or animal resource.

(3) Applicant clients shall submit finalized project proposals to the loan administrator through the conservation districts for review. Applications shall be reviewed for funding by the executive committee if they exceed loan limits established by policy. Applicant clients shall comply with district, zone and commission application procedures, which are available at the district level. Applicant clients shall be investigated for credit and security as may be required by the commission, including repayment capability, past and current financial holdings, fiscal obligations, and debt history. When requests are expected to exceed available funds, projects shall be rated and prioritized according to levels of quality of improvement(s) sought. Rating and approval information from ZEC committees and CD boards shall be duly considered.

(4) The commission will award loan contracts upon receipt of executed documents, generally consisting of promissory notes and other documents that are agreed to and signed by the borrower to perfect liens on required security.

(5) The commission may charge an applicant a loan or technical assistance fee if proposed projects include technical issues that are sufficiently complex, loan and technical assistance fees may be charged to clients. The commission may require projects be supervised by designated personnel. Some projects may require supervision by commission designated personnel.

(6) Contracts with applicants shall be based on repayment ability or defined collateral. Contracts shall include schedules for loan repayment according to the agreed upon interest rates and related fiscal conditions. The loan administrator may acquire appraisals and estimates of collateral values and is authorized to obtain security or collateral in order to meet the provisions of the contract until agreed upon amounts have been collected.

(7) Loan funded projects for which funds are loaned shall be inspected and certified by commission designated personnel for compliance with contractual provisions.

(8) Under direction of the commission, the loan administrator shall:

(a) manage the program;
(b) interpret guidelines;
(c) administer record-keeping operations;
(d) research financial collateral security information;
(e) process and service contracts associated with program functions;
(f) recommend loan approvals to the commission;
(g) analyze resource improvement and management plans; and
(h) administer loan servicing and collection activities.

(9) The commission may provide ARDL loan funds to agriculture producers to provide emergency disaster relief based on unusual or extraordinary circumstances such as flood, drought, or other natural disasters if:

(a) an emergency or natural disaster that has been declared within the prior six months by an authorized federal, state, or county entity, including the Utah governor's office;
(b) the parameters of the emergency loan program are set forth in policies and procedures adopted by the commission;
(c) the loans are approved by the commission or a subcommittee of the commission; and

(10) An applicant shall:

(a) submit finalized project proposals to the loan administrator through the conservation districts for review;
(b) comply with district, zone, and commission application procedures that are available at the district level; and
(c) be subject to credit analysis and collateral valuation as required by the commission, including repayment capability, past and current financial holdings, fiscal obligations, and debt history.

(11) The UCC subcommittee shall:

(a) review applications for funding if the application exceeds loan limits established by commission policy;
(b) rate and prioritized applications, when requests may exceed available funds, according to:
   (i) the quality of improvement, projects; and
   (ii) the improvements sought by the commission; and
(c) consider rating and approval information from CD boards.

(12) The commission will award loan contracts upon receipt of executed documents, generally consisting of promissory notes and other documents that are agreed to and signed by the borrower to perfect liens on required security.

(13) The commission may charge an applicant a loan or technical assistance fee if proposed projects include technical issues that are sufficiently complex, loan and technical assistance fees may be charged to clients. The commission may require projects be supervised by designated personnel. Some projects may require supervision by commission designated personnel.

(14) Contracts with applicants shall be based on repayment ability or defined collateral. Contracts shall include schedules for loan repayment according to the agreed upon interest rates and related fiscal conditions. The loan administrator may acquire appraisals and estimates of collateral values and is authorized to obtain security or collateral in order to meet the provisions of the contract until agreed upon amounts have been collected.

(15) Loan funded projects for which funds are loaned shall be inspected and certified by commission designated personnel for compliance with contractual provisions.

(16) Under direction of the commission, the loan administrator shall:

(a) manage the program;
(b) interpret guidelines;
(c) administer record-keeping operations;
(d) research financial collateral security information;
(e) process and service contracts associated with program functions;
(f) recommend loan approvals to the commission;
(g) analyze resource improvement and management plans; and
(h) administer loan servicing and collection activities.

(17) The commission may provide ARDL loan funds to agriculture producers to provide emergency disaster relief based on unusual or extraordinary circumstances such as flood, drought, or other natural disasters if:

(a) an emergency or natural disaster that has been declared within the prior six months by an authorized federal, state, or county entity, including the Utah governor's office;
(b) the parameters of the emergency loan program are set forth in policies and procedures adopted by the commission;
(c) the loans are approved by the commission or a subcommittee of the commission; and

(d) the objectives of the loan program are consistent with those set forth in state law.

(9) The commission may exempt emergency loans from the requirements of ARDL loans set forth in Section R64-1-3.

(10) Emergency loan funds may not be used for projects that would normally be approved under the ARDL program.

KEY: loans

Date of Last Change: [October 8, 2014]2022
Notice of Continuation: July 23, 2019
Authorizing, and Implemented or Interpreted Law: 4-18-105

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<thead>
<tr>
<th>NOTICE OF PROPOSED RULE</th>
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<tr>
<td>TYPE OF RULE: Amendment</td>
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<td>Utah Admin. Code Ref (R no.): R123-6-3 54112</td>
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Agency Information

1. Department: Auditor
2. Agency: Administration
3. Room no.: E310
4. Building: Utah State Capitol Complex, East Building
5. Street address: 450 N State Street
6. City, state and zip: Salt Lake City, UT 84114

Contact person(s):

- Name: Mandy Teerlink
  - Phone: 801-538-1363
  - Email: mteerlink@utah.gov
- Name: Seth Oveson
  - Phone: 435-572-0440
  - Email: soveson@utah.gov

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

General Information

2. Rule or section catchline:
R123-6-3. Disbursements

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
H.B. 19 passed in the 2021 General Session altered population limits for county classes. This legislative change would have negatively impacted several small counties that currently receive assistance via the multi-county assessing and collecting program. As such, modifying this rule was deemed necessary to reduce the potentially significant loss to funding assistance some counties might have experienced. The intent of this program is to assist counties, particularly small counties who have above average assessing and collecting property tax rates, have sufficient funding to comply with property valuation requirements in Utah’s Constitution and statute.

During calendar year 2020, the following 13 counties received assistance:

6th class: Daggett, Piute, Rich, and Wayne
5th class: Emery, Garfield, Juab, Kane, and Morgan
4th class: Carbon, Duchesne, Sanpete, and Sevier

This assistance program only applies to certain counties.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Modified distribution formula to guarantee minimum funding to qualifying 6th counties, while also limiting possible funding reductions for qualifying 4th and 5th class counties who currently receive assistance via this program due to recent legislative changes.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
No fiscal impact. No state funds are used by this program.

B) Local governments:
Only counties are involved in this program. Most counties will see little to no impact. 16 counties have not received assistance from this program. The 13 counties who received assistance during 2020, would generally see modest changes, with a particular focus on limiting financial loss (based on an analysis had this proposed rule been in place prior to the most recent disbursement). The revenue generated from the multi-county assessing and collecting levy imposed by all counties is distributed to the limited numbers of small counties who qualify to receive assistance. Revenues equal disbursements, resulting in an aggregate $0 net fiscal impact. No other local governments are involved in this program.

C) Small businesses ("small business" means a business employing 1-49 persons):
No fiscal impact. This change has no impact on the associated statutorily-imposed tax levy.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
No fiscal impact. This change has no impact on the associated statutorily-imposed tax levy.

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):

No fiscal impact. This change has no impact on the associated statutorily-imposed tax levy.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No additional cost or savings. This change alters how the Office of the State Auditor computes program assistance and can be handled within the office's current budget.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

No fiscal impact. This change has no impact on the associated statutorily-imposed tax levy. John Dougall, Auditor

6. A) 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.)

<table>
<thead>
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<td>Other Persons</td>
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<td>Fiscal Benefits</td>
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<tr>
<td>Net Fiscal Benefits</td>
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<td>$0</td>
</tr>
</tbody>
</table>

B) Department head approval of regulatory impact analysis:

The state Auditor, John Dougall, has reviewed the fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 59-2-1603

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

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Seth Oveson, Local Government Manager

Date: 11/30/2021

R123. Auditor, Administration.
R123-6-3. Disbursements.

1. Subject to [s]Subsection (2), the disbursement of monies held in the fund shall be determined based on the following:

a. [Fourth, fifth, or sixth] Sixth class counties whose respective combined levy exceeds the mean of the combined levies of all counties shall receive an amount from the fund equal to [50%][80]% of the amount calculated when multiplying the county's Proposed Tax Rate Value[4], as calculated by Utah State Tax Commission[8], by the portion of their combined rate that exceeds the mean rate; and

b. Fifth class counties whose respective combined levy exceeds the mean of the combined levies of all counties shall receive an amount from the fund equal to 50% of the amount calculated when multiplying the county's Proposed Tax Rate Value, as calculated by Utah State Tax Commission, by the portion of their combined rate that exceeds the mean rate; and

c. Fourth class counties whose respective combined levy exceeds the mean of the combined levies of all counties shall receive an amount from the fund equal to 20% of the amount calculated when multiplying the county's Proposed Tax Rate Value, as calculated by Utah
3. **Purpose of the new rule or reason for the change** (Why is the agency submitting this filing?):

This filing updates this rule to implement S.B. 177 and H.B. 178 passed during the 2021 General Session, which amended the Pharmacy Practice Act provisions governing administration of injectables by pharmacists and permits a pharmacist to prescribe certain prescription drugs and devices. This filing also amends this rule in accordance with Executive Order No. 2021-12 to update and clarify this rule to facilitate compliance and enforcement, in particular with respect to recommendations by the Board of Pharmacy and the Division of Occupational and Professional Licensing (Division) regarding certain definitions and the scopes of practice for a pharmacist, pharmacy intern, and pharmacy technician, and to make changes consistent with the Utah Administrative Rulewriting Manual.

4. **Summary of the new rule or change** (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The amendments to Section R156-17b-102 add definitions for "consulting pharmacist," "designated representative," and "responsible individual," and clarify that compounding as defined in Section 58-17b-102(18) does not include adding flavoring agents to conventionally manufactured and commercially available liquid medication if the flavoring agents are therapeutically inert and do not exceed five percent of a preparation's total volume.

The amendments to Sections R156-17b-601 and R156-17b-612 will permit a pharmacy technician or pharmacy intern to transfer a legend prescription and to dispense of emergency prescriptions.

The amendment to Section R156-17b-603 will require a consulting pharmacist, PIC, RDPIC, or DMPIC to complete a self-audit after certain changes, and prior to the end of a renewal cycle.

The amendment to Section R156-17b-614a clarifies that the pharmacy department shall be equipped with a lock where drugs are stored.

The amendments to Section R156-17b-621a deletes the continuing education requirement for pharmacists engaging in the administration of long-acting injectable drugs.

The addition of Section R156-17b-627 defines operating standards for a pharmacist prescribing prescription drugs or devices. The Department of Health may address drugs or devices for prescribing of public health concerns and make recommendations to guidance documents.

In accordance with Executive Order No. 2021-12, the remaining amendments make formatting changes throughout to update and clarify this rule to facilitate compliance and enforcement and make changes.

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**NOTICE OF PROPOSED RULE**

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<th>TYPE OF RULE:</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>Utah Admin. Code Ref (R no.):</td>
<td>R156-17b</td>
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**Agency Information**

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<td>Occupational and Professional Licensing</td>
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<td>Building:</td>
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<td>160 E 300 S</td>
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<tr>
<td>City, state and zip:</td>
<td>Salt Lake City, UT 84111-2316</td>
</tr>
<tr>
<td>Mailing address:</td>
<td>PO Box 146741</td>
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<tr>
<td>City, state and zip:</td>
<td>Salt Lake City, UT 84114-6741</td>
</tr>
<tr>
<td>Contact person(s):</td>
<td>Jennifer Falkenrath</td>
</tr>
</tbody>
</table>

**General Information**

| 2. Rule or section catchline: | R156-17b. Pharmacy Practice Act Rule |

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State Tax Commission, by the portion of their combined rate that exceeds the mean rate but not to exceed 0.000100.

If available monies held in the fund are not sufficient to cover amounts calculated in [s]Subsection (1): the disbursement shall be reduced on a pro-rata basis.

1. Distributions to fourth and fifth class counties shall be reduced on a pro-rata basis based on monies available after the distributions which minimize reductions compared to previous year distributions.

2. Notwithstanding Subsection (2)(b), fourth and fifth class counties who have received previous distributions shall receive distributions in Subsection (2)(a).

3. If available monies held in the fund exceed amounts calculated in Subsection (1), distributions shall be increased on a pro-rata basis.

The Office shall authorize these disbursements on an annual basis.

KEY: counties, property tax
Date of Last Change: 2015
Notice of Continuation: October 28, 2019
Authorizing, and Implemented or Interpreted Law: 59-2-1603

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consistent with the Utah Administrative Rulewriting Manual.

A rule hearing will be held electronically before the Division via Google Meet. Join with Google Meet: meet.google.com/aoa-iezt-ufs; or join by phone: (US) +1 513-818-0954 (PIN: 738852788)

**Fiscal Information**

5. **Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

   **A) State budget:**

   None of these proposed changes are expected to impact state government revenues or expenditures because the changes merely update this rule to establish operating standards that encompass current statutory requirements and practices in the profession, and make nonsubstantive changes for clarity to facilitate compliance and enforcement in accordance with Executive Order No. 2021-12, and will not affect existing state government procedures.

   **B) Local governments:**

   The Division estimates that these proposed amendments will have no impact on local governments because the changes merely update this rule to establish operating standards that encompass current statutory requirements and practices in the profession, and make nonsubstantive changes for clarity to facilitate compliance and enforcement in accordance with Executive Order No. 2021-12.

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

   These amendments are not expected to impact small businesses’ revenues or expenditures. These amendments are based on extensive collaboration with the Board of Pharmacy to update this rule to establish operating standards that encompass current statutory requirements and practices in the profession, and make nonsubstantive changes for clarity to facilitate compliance and enforcement in accordance with Executive Order No. 2021-12.

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

   These amendments are not expected to impact non-small businesses’ revenues or expenditures. These amendments are based on extensive collaboration with the Board of Pharmacy to update this rule to establish operating standards that encompass current statutory requirements and practices in the profession, and make nonsubstantive changes for clarity to facilitate compliance and enforcement in accordance with Executive Order No. 2021-12.

   **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 are not expected to impact any person. These amendments are based on extensive collaboration with the Board of Pharmacy to update this rule to establish operating standards that encompass current statutory requirements and practices in the profession, and make nonsubstantive changes for clarity to facilitate compliance and enforcement in accordance with Executive Order No. 2021-12.

   **F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

   There are no compliance costs expected for affected persons. These amendments are based on extensive collaboration with the Board of Pharmacy to update this rule to establish operating standards that encompass current statutory requirements and practices in the profession, and make nonsubstantive changes for clarity to facilitate compliance and enforcement in accordance with Executive Order No. 2021-12.

   **G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

   The Division proposes amendments to the Pharmacy Practice Act Rule. This filing updates the rule to implement S.B. 177 and H. B. 178 (2021). The Division has updated this rule to conform to Executive Order No. 2021-1 with the Board of Pharmacy's review and approval. Further, in compliance with Executive Order No. 2021-12 issued by Governor Cox on 05/06/2021, this filing makes nonsubstantive formatting changes to comport to the Utah Administrative Rulewriting Manual.

   Small Businesses (less than 50 employees):

   These amendments are not expected to impact small businesses’ revenues or expenditures. These amendments are based on extensive collaboration with the Board of Pharmacy to update this rule in accordance with Executive Order No. 2021-12. Further, no fiscal impact is expected for small businesses beyond the fiscal notes for S.B. 177 and H.B. 178 (2021) as the costs are either inestimable or there is no fiscal impact.

   Regulatory Impact to Non-Small Businesses (50 or more employees):

   These amendments are based on extensive collaboration with the Board of Pharmacy to update this rule to establish operating standards and practices in the profession making nonsubstantive changes for clarity in accordance with Executive Order No. 2021-12. There is no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses. These costs are either inestimable, for the reasons stated above, or there is no fiscal impact.
Margaret W. Busse, Executive Director

6. A) 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

<table>
<thead>
<tr>
<th>Fiscal Cost</th>
<th>FY2022</th>
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</thead>
<tbody>
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<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>
<tr>
<td><strong>Total Fiscal Cost</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
</tr>
</tbody>
</table>

| 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 |
| **Total Fiscal Benefits** | **$0** | **$0** | **$0** |

**Net Fiscal Benefits** | $0 | $0 | $0 |

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

Citations by Reference Information

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

<table>
<thead>
<tr>
<th>Official Title of Materials Incorporated (from title page)</th>
<th>Publisher</th>
<th>Date Issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utah Guidance for Pre-Exposure and Post-Exposure Prophylaxis of HIV</td>
<td>Utah State Board of Pharmacy, Division of Occupational and Professional Licensing</td>
<td>September 28, 2021</td>
</tr>
</tbody>
</table>

B) This rule adds, updates, or removes the following title of materials incorporated by references:

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</tr>
</thead>
<tbody>
<tr>
<td>Utah Guidance for Self-Administered Hormonal Contraceptives</td>
<td>Utah State Board of Pharmacy, Division of Occupational and Professional Licensing</td>
<td>September 28, 2021</td>
</tr>
</tbody>
</table>

C) This rule adds, updates, or removes the following title of materials incorporated by references:

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</tr>
</thead>
<tbody>
<tr>
<td>Utah Guidance for Tobacco Cessation Products</td>
<td>Utah State Board of Pharmacy, Division of Occupational and Professional Licensing</td>
<td>September 28, 2021</td>
</tr>
</tbody>
</table>

D) This rule adds, updates, or removes the following title of materials incorporated by references:

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</tr>
</thead>
<tbody>
<tr>
<td>Utah Guidance for Naloxone</td>
<td>Utah State Board of Pharmacy, Division of Occupational and Professional Licensing</td>
<td>September 28, 2021</td>
</tr>
</tbody>
</table>
NOTICES OF PROPOSED RULES

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

A) Comments will be accepted until: 01/14/2022

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

<table>
<thead>
<tr>
<th>On:</th>
<th>At:</th>
<th>At:</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/20/2021</td>
<td>9:00 AM</td>
<td>Rule hearing will be conducted before the Division electronically only via Google Meet (see information in Box 4 above)</td>
</tr>
</tbody>
</table>

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mark B. Steinagel, Division Director</td>
<td>11/18/2021</td>
</tr>
</tbody>
</table>

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

In addition to the definitions [regarding pharmacy practice ]in Title 58, Chapter [s] 1, Division of Occupational and Professional Licensing Act, and Title 58, Chapter [and] 17b, Pharmacy Practice Act, the following rule definitions supplement the statutory definitions:

(1) "Accredited by ASHP" means a program that:
   (a) was accredited by the ASHP on the day the applicant for licensure completed the program; or
   (b) was in ASHP candidate status on the day the applicant for licensure completed the program.

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

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

(4) "Area of need" as used in Subsection 58-17b-612(1)(b)(i) means:
   (a) a remote-rural hospital, as defined in Section 26-21-13.6;
   (b) a county of the fourth, fifth, or sixth class, as classified in Section 17-50-501; or
   (c) any area where a demonstration of need is approved by the Division in collaboration with the Board, based on any factors affecting the access of persons in that area to pharmacy resources.

(5) "ASHP" means the American Society of Health System Pharmacists.

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

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

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

(9) "Clinic" as used in Subsection 58-17b-625(3)(b) means a [e]Class B pharmacy as defined in Subsection 58-17b-102(11), or a facility that provides outpatient health care services whose primary practice includes the therapeutic use of drugs related to a specific patient for [the purpose of]:
   (a) curing or preventing the patient's disease;
   (b) eliminating or reducing the patient's disease; or
   (c) arresting or slowing a disease process.

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

(11) "Co-licensed product" means a device or prescription drug for which two or more persons have the right to engage in the manufacturing, marketing, or both consistent with 21 CFR 203 (2021) FDA's implementation of the Prescription Drug Marketing Act as applicable.

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

(13) "Compounding," as defined in [Section]Subsection 58-17b-102(18), in accordance with 21 U.S.C. 353a(e) Pharmacy Compounding, does not include:
   (a) mixing, reconstituting, or other such acts that are performed in accordance with directions [contained in approved labeling provided by the product's manufacturer and other manufacturer directions consistent with that labeling][.]; or
   (b) the addition of flavoring agents to conventionally manufactured and commercially prepared available liquid medications, if the flavoring agents:
      (i) are therapeutically inert; and
      (ii) do not exceed 5% of a preparation's total volume.

"Consulting pharmacist" means a licensed pharmacist who provides consultation on an aspect of a pharmaceutical administration facility under Section R156-17b-614c.

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

"Counterfeit prescription drug" has the meaning given that term in 21 USC 321(g)(2)(B) mentioned herein, including any amendments thereto.

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

"Designated representative" or "DR" means an individual supervising the licensed facility in accordance with Subsections R156-17b-615(4) and (5).

"Device" means a prescription device as defined in 21 CFR 801.109 (2021), an instrument, apparatus, implement, machine, contrivance, implant, or other similar or related article, including any component part or accessory, that is required under Federal law to bear the label, "Caution: Federal or State law requires dispensing by or on the order of a physician."]

"DMP" means a dispensing medical practitioner licensed under Title 58, Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy.

"DMP designee" means an individual, acting under the direction of a DMP, who:
(a)(i) holds an active health care professional license under one of the following chapters:
(A) Chapter 67, Utah Medical Practice Act;
(B) Chapter 68, Utah Osteopathic Medical Practice Act;
(C) Chapter 70a, Physician Assistant Act;
(D) Chapter 31b, Nurse Practice Act;
(E) Chapter 16a, Utah Optometry Practice Act;
(F) Chapter 67, Utah Medical Practice Act;
(G) Chapter 16, Utah Optometry Practice Act;
(h) Chapter 44a, Nurse Midwife Practice Act; or
(ii) is a medical assistant as defined in Subsection 58-67-102(12); and
(b) meets requirements [established in Subsection 58-17b-803 (4)(c); and
(c) can document successful completion of a formal or on-the-job dispensing training program [that meets standards established in under Section R156-17b-622.

"DMPIC" means a dispensing medical practitioner in charge licensed under Title 58, Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy who is designated by a dispensing medical practitioner clinic pharmacy to be responsible for activities of the pharmacy.

"Drop shipment" means the sale of a prescription drug to a pharmaceutical wholesaler by the manufacturer of the drug; by the manufacturer's co-licensed product partner, third party logistics provider, or exclusive distributor; or by an authorized distributor of record that purchased the product directly from the manufacturer or from one of these entities; whereby:
(a) the pharmaceutical wholesale distributor takes title to but not physical possession of such prescription drug;
(b) the pharmaceutical wholesale distributor invoices the pharmacy, pharmacy warehouse, or other person authorized by law to dispense to administer such drug; and
(c) the pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer such drug receives delivery of the prescription drug directly from the manufacturer; from the co-licensed product partner, third party logistics provider, or exclusive distributor; or from an authorized distributor of record that purchases the product directly from the manufacturer or from one of these entities.

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

"Drugs," as used in this rule, means drugs or devices.

"Durable medical equipment" or "DME" means equipment that:
(a) can withstand repeated use;
(b) is primarily and customarily used to serve a medical purpose;
(c) generally is not useful to a person in the absence of an illness or injury;
(d) is suitable for use in a health care facility or in the home; and
(e) may include devices and medical supplies.

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

"Entities under common ownership" means entity assets are held indivisibly rather than in the names of individual members.

"ExCPT[...]," [as used in this rule,] means the Exam for the Certification of Pharmacy Technicians.

"FDA" means the United States Food and Drug Administration and any successor agency.

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

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

"Hospice facility pharmacy" means a pharmacy that supplies drugs to patients in a licensed healthcare facility for terminal patients.

"Hospital clinic pharmacy" means a pharmacy that is located in an outpatient treatment area where a pharmacist or pharmacy intern is compounding, admixing, or dispensing prescription drugs, and where:
(a) prescription drugs or devices are under the control of the pharmacist, or the facility for administration to patients of that facility;
(b) prescription drugs or devices are dispensed by the pharmacist or pharmacy intern; or
(c) prescription drugs are administered in accordance with the order of a practitioner by an employee or agent of the facility.

"Legend drug" or "prescription drug" means a drug or device that has been determined to be unsafe for self-
NOTICES OF PROPOSED RULES

medication or [a drug or device] that bears or is required to bear the legend:
(a) "Caution: federal law prohibits dispensing without prescription";
(b) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian";
(c) "Rx only".

"Long-term care facility" as used in Section 58-17b-610.7 means the same as defined in Section 58-31b-102.
"Maintenance medications" means medications the patient takes on an ongoing basis.
"Manufacturer's exclusive distributor" means an entity that contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the drug's sale or disposition.
A manufacturer's exclusive distributor shall be licensed as a pharmaceutical wholesaler under this chapter and be an authorized distributor of record to be considered part of the normal distribution channel.
"Medical supplies" means items for medical use that are:
(a) suitable for use in a health care facility or in the home; and
(b) disposable or semi-disposable and non-reusable.
"MPJE" means the Multistate Jurisprudence Examination.
"NABP" means the National Association of Boards of Pharmacy.
"NAPLEX" means North American Pharmacy Licensing Examination.
"Non-drug" means device handling central prescription processing pharmacy means a central prescription processing pharmacy that does not engage in compounding, packaging, labeling, dispensing, or administering of drugs or devices.
"Normal distribution channel" means a chain of custody for a prescription drug that goes directly, by drop shipment as defined in Subsection (22)24, or via intracompany transfer from a manufacturer, or from the manufacturer's co-licensed partner, [third-party] third party logistics provider, or the exclusive distributor, to:
(a) a pharmacy or other designated persons authorized under this chapter to dispense or administer prescription drugs to a patient;
(b) a chain pharmacy warehouse that performs intracompany sales or transfers of such drugs to a group of pharmacies under common ownership and control;
(c) a cooperative pharmacy warehouse to a pharmacy that is a member of the pharmacy buying cooperative or GPO to a patient;
(d) an authorized distributor of record, and then to either a pharmacy or other designated persons authorized under this chapter to dispense or administer such drug for use by a patient;
(e) an authorized distributor of record, and then to a chain pharmacy warehouse that performs intracompany sales or transfers of such drugs to a group of pharmacies under common ownership and control; or
(f) an authorized distributor of record to another authorized distributor of record to a licensed pharmaceutical facility or a licensed healthcare practitioner authorized under this chapter to dispense or administer such drug for use by a patient.
"Rx only".
"Normal distribution channel" means a chain of packaging, labeling, dispensing, or administering of drugs or devices.
"Research facility" means a facility where research takes place that has policies and procedures describing such research.
"DIC" means the PIC of a remote dispensing pharmacy. The RD PIC shall be the PIC of the remote dispensing pharmacy's supervising pharmacy.
"Other health care facilities" means an[other health care facilities] entity as defined in Subsection [26-21-2(13)(a) or Subsection -R432-1-3(55).
"Parenteral" means a method of drug delivery injected into body tissues but not via the gastrointestinal tract.
"Patient's agent" means a:
(a) relative, friend, or other authorized designee of the patient involved in the patient's care; or
(b) if requested by the patient or the individual under Subsection (40)45(a), one of the following facilities:
(i) an office of a licensed prescribing practitioner in Utah;
(ii) a long-term care facility where the patient resides; or
(iii) a hospital, office, clinic or another medical facility that provides health care services.
"Pedigree" means a document or electronic file containing information that records each distribution of any given prescription drug.
PIC," as used in this rule, means the pharmacist-in-charge.
"Prepackaging" means the act of transferring a drug, manually or by use of an automated pharmacy system, from a manufacturer's or distributor's original container to another container in advance of receiving a prescription drug order or for a patient's immediate need for dispensing by a pharmacy or practitioner authorized to dispense in the establishment where the prepackaging occurred.
"Prescription files" means [hard copy] and electronic prescriptions that includes pharmacist notes or technician notes, clarifications or information written or attached that is pertinent to the prescription.
"Professional entry degree," as used in Subsection 58-17b-303(1)(f), means the professional entry degree offered by the applicant's ACPE-accredited school or college of pharmacy in the applicant's year of graduation, either a baccalaureate in pharmacy (BPharm) or a doctorate in pharmacy (PharmD).
"PTCB" means the Pharmacy Technician Certification Board.
"Qualified continuing education", as used in this rule, means continuing education that meets the standards set forth in Section R156-17b-309.
"Refill" means to fill again.
"Remote dispensing pharmacist-in-charge" or "RD PIC" means the PIC of a remote dispensing pharmacy. The RD PIC shall be the PIC of the remote dispensing pharmacy's supervising pharmacy.
"Remote dispensing pharmacy" means a Class A or Class B pharmacy located in Utah that serves as the originating site where a patient receiving services through a telepharmacy system is physically located and the practice of telepharmacy occurs, pursuant to Section R156-17b-614g.
"Repackage" means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug, excluding that completed by the pharmacist or DMP responsible for dispensing the product to a patient.
"Research facility" means a facility where research takes place that has policies and procedures describing such research.
"Responsible party" means the identity of the supervisor or director of the Class E pharmacy under Section R156-17b-617a.
"Reverse distributor" means a person or company that retrieves unusable or outdated drugs from a pharmacy for the purpose of removing those drugs from stock and destroying them. “Self-administered hormonal contraceptive” means the same as defined in Subsection 26-64-102(9). "Sterile products preparation facility" means any facility, or portion of the facility, that compounds sterile products using aseptic technique. "Supervising pharmacy" means the Class A or Class B pharmacy responsible for overseeing the operation of a remote dispensing pharmacy, and whose PIC is the RDPIC for the remote dispensing pharmacy, pursuant to Section R156-17b-614g. "Supervisor" means a licensed pharmacist or DMP in good standing with the Division. “Telepharmacy system” means a telecommunications and information technologies system that monitors the preparation and dispensing of prescription drugs and provides for related drug review and HIPAA-compliant patient counseling services using: (a) asynchronous store and forward transfer as defined in Subsection 26-60-102(1); (b) synchronous interaction as defined in Subsection 26-60-102(6); or (c) still image capture. "Third party logistics provider” means anyone who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other similar services on behalf of a manufacturer, but does not take title to the prescription drug or have any authoritative control over the prescription drug's sale. "Unauthorized personnel" means a person not participating in the operational processes of the pharmacy who in some way would interrupt the natural flow of pharmaceutical care. "Unit dose" means the ordered amount of a drug in a dosage form prepared for a one-time administration to an individual and indicates the name, strength, lot number and beyond use date for the drug. "Unprofessional conduct," as defined in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and Title 58, Chapter 17b, Pharmacy Practice Act, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-17b-502. "The Utah Hormonal Contraceptive Self-screening Risk Assessment Questionnaire,” adopted September 18, 2018, by the Division in collaboration with the Utah State Board of Pharmacy and Physicians Licensing Board, [as posted on the Division’s website] which is incorporated by reference, is the self-screening risk assessment questionnaire approved by the Division during an administrative inspection pursuant to Section 26-62-106. "USP-NF” means the United States Pharmacopeia-National Formulary (USP 41-NF 36), either First Supplement, dated August 1, 2018, or Second Supplement, dated December 1, 2018, which is hereby adopted and incorporated by reference. "Vaccine Administration Protocol” means the Vaccine Administration Protocol: Standing Order to Administer Immunizations and Emergency Medications, adopted September 24, 2020, by the Division in collaboration with the Board and Utah Physicians Licensing Board, which is incorporated by reference. "Wholesaler” means a wholesale distributor who supplies or distributes drugs or medical devices that are restricted by federal law to sales based on the order of a physician to a person other than the consumer or patient. "Wholesale distribution” means the same as 21 CFR 203.3(cc) (2021) distribution of drugs to persons other than consumers or patients, but does not include: (a) intracompany sales or transfers; (b) the sale, purchase, distribution, trade, or other transfer of a prescription drug for emergency medical reasons, as defined under 21 CFR 203.3(m), including any amendments thereto; (c) the sale, purchase, or trade of a drug pursuant to a prescription; (d) the distribution of drug samples; (e) the return or transfer of prescription drugs to the original manufacturer, original wholesale distributor, reverse distributor, or a third party returns processor; (f) the sale, purchase, distribution, trade, or other transfer of a prescription drug from one authorized distributor of record to one additional authorized distributor of record during a time period for which there is documentation from the manufacturer that the manufacturer is able to supply a prescription drug and the supplying authorized distributor of record states in writing that the prescription drug being supplied had until that time been exclusively in the normal distribution channel; (g) the sale, purchase or exchange of blood or blood components for transfusions; (h) the sale, transfer, merger or consolidation of the whole or part, of the business of a pharmacy; (i) delivery of a prescription drug by a common carrier; or (j) other transactions excluded from the definition of "wholesale distribution" under 21 CFR 203.3(cc), including any amendments thereto). R156-17b-105. License - Administrative Inspection. In accordance with Subsection 58-17b-103(3)(f), the procedure for disposing of [any] drugs or devices seized by the Division during an administrative inspection shall be handled as follows: 

(1) [Any] Legal drugs or devices that are found and temporarily seized by the Division [that are found] finds to be in compliance with [this chapter][Title 58, Chapter 17b, Pharmacy Practice Act] shall be returned to the involved pharmacy's consulting pharmacist, designated representative, responsible party, PIC, RDPIC, or DMPIC of the pharmacy involved at the conclusion of the investigatory or adjudicative proceedings and appeals. 

(2)(a) Drugs—[Any] drugs or devices that are temporarily seized by the Division that are found to be unlawfully possessed, adulterated, misbranded, outdated, or otherwise in violation of [this rule][Title 58, Chapter 17b, Pharmacy Practice Act] shall be destroyed by Division personnel at the conclusion of [any] the investigatory or adjudicative proceedings and appeals. 

(b) The destruction of [any] seized controlled substance drugs shall be witnessed by two Division individuals. A controlled substance destruction form shall be completed and retained by the Division. 

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

(4) In accordance with Subsections 58-17b-103(1) and 58-17b-601(1), a secure email address must be established by the PIC, RDPIC, or DMPIC and responsible party for the pharmacy to be used
NOTICES OF PROPOSED RULES

for self-audits or pharmacy alerts initiated by the Division. The PIC, RDPIC, or DM PIC and responsible party shall cause the Division's Licensing Bureau to be notified on the applicable form prescribed by the Division of the secure email address or any change thereof within seven days of any email address change. Only one email address shall be used for each pharmacy.

R156-17b-309.7. Exemptions from Licensure - Opioid Treatment Program.

(1) In accordance with Section 58-17-b-309.7 “under the direction of a pharmacist” means that the pharmacist has delegated to a [licensed practitioner]covered provider the authority to perform one or more selected dispensing tasks on behalf of the pharmacist:

(a) in accordance with [all] state and federal laws and rules; and

(b) under the general supervision of the pharmacist as defined in Subsection R156-1-102a(4)(c).

(2) [Dispensing tasks that may be delegated include preparing, packaging, or labeling take-home dosages and medications for subsequent use.

(3) |A [delegating] pharmacist retains accountability for the appropriate delegation of dispensing tasks| and for the [pharmaceutical care of the patient].

(3) The covered provider is accountable for the accuracy of the dispensing task and shall consult the pharmacist as needed.

(4) A [practitioner]covered provider may not:

(a) further delegate to another person any dispensing task delegated to the [practitioner]covered provider by the pharmacist; or

(b) expand the scope of a delegated dispensing task without the express permission of the pharmacist.

R156-17b-502. Unprofessional Conduct.

“Unprofessional conduct” includes:

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

(2)(a) failing to comply with the USP-NF Chapter 795 if applicable to activities performed;

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

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

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

(5) defaulting on a student loan;

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

(7) failing to comply with administrative inspections;

(8) failing to return [according to] a self-audit report by the deadline established by the Division[ or ];

(9) providing false information on a [self-inspection] self-audit report;

(10)(a) violating the laws and rules regulating operating standards in a pharmacy, as discovered upon inspection by the Division; or

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

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

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

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

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

(14)(a) as a pharmacist, allowing an unauthorized person in the pharmacy; or

(b) as a pharmacy, allowing an unauthorized person in the pharmacy;

(15)(a) as a pharmacist, failing to offer to counsel a person receiving a prescription medication; or

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

(16) failing to timely pay an administrative fine [that has been assessed in the time designated by the Division];

(17) failing to comply with the PIC, consulting pharmacist, RDPIC, or DM PIC standards [as established in] under Section R156-17b-603;

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

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

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

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

(22) failing to provide consulting pharmacist, designated representative, responsible party, PIC, RDPIC, or DM PIC information to the Division within 30 days of a change in consulting pharmacist, designated representative, responsible party, PIC, RDPIC or DM PIC;

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

(24)(a) as a pharmacist, failing under Subsection R156-17b-603(3)(t) to [update] notify the Division within seven calendar days of a[ny] change in the email address designated for use in self-audits or pharmacy alerts; or

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

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

(26) failing to make a timely report regarding dispensing of an opiate antagonist to the [Division and to the physician who issued the standing order, under [as required in ]Section R156-17b-625; and
R156-17b-601. Operating Standards - Pharmacy Technician and Pharmacy Technician Trainee.

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

1. A pharmacy technician may perform any task associated with the physical preparation and processing of prescription and medication orders, including:
   a. receiving written prescriptions;
   b. taking refill orders, including refill authorizations;
   c. entering and retrieving information into and from a database or patient profile;
   d. preparing labels;
   e. retrieving medications from inventory;
   f. counting and pouring into containers;
   g. placing medications into patient storage containers;
   h. affixing labels;
   i. compounding;
   j. counseling for over-the-counter drugs and dietary supplements under the direction of the supervising pharmacist;
   k. receiving new prescription drug orders when communicating telephonically or electronically, if the original information is recorded so the pharmacist may review the prescription drug order as transmitted, including accepting new information is recorded so the pharmacist may review the
   l. transferring prescriptions under Sections 58-17b-604 and R156-17b-609;

   (A) one year of experience working as a pharmacy technician; and
   (B) [B] at least [six] months of experience at the hospital where the technician is authorized to check medications;
   (ii) technicians shall only check steps in the medication distribution process that do not require the professional judgment of a pharmacist and that are supported by sufficient automation or technology to ensure accuracy, such as [e.g.-] barcode scanning, drug identification automation, checklists, visual aids;
   (iii) hospitals that authorize technicians to check medications shall:
      (A) have a training program and ongoing competency assessment that is documented and retrievable for the duration of each technician's employment and at least three years beyond employment; and
      (B) shall maintain a list of technicians on staff that are allowed to check medications;
   (iv) hospitals that authorize technicians to check medications shall have a medication error reporting system in place and shall be able to produce documentation of its use;
   (v) a supervising pharmacist shall be immediately available during [all] times that a pharmacy technician is checking medications; and
   (vi) hospitals that authorize technicians to check medications shall have comprehensive policies and procedures that guide technician checking that include the following:
      (A) process for technician training and ongoing competency assessment and documentation;
      (B) process for supervising technicians who check medications;
      (C) list of medications, or types of medications that may or may not be checked by a technician;
      (D) description of the automation or technology to be utilized by the institution to augment the technician check;
      (E) process for maintaining a permanent log of the unique initials or identification codes that identify each technician responsible for checked medications by name; and
      (F) description of processes used to track and respond to medication errors; and

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

2. A pharmacy technician may not:
   a. receive a new prescription or medication order, except as described in Subsection (1)(k);
   b. clarify a prescription or medication order from a prescriber;
   c. perform a drug utilization review;
   d. perform final review of a prescribed drug prepared for dispensing;
   e. dispense a drug; or
   f. counsel a patient with respect to a prescription drug.

3. A pharmacy technician may administer vaccines and emergency medications pursuant to delegation by a pharmacist under the Vaccine Administration Protocol, as described in Subsection 58-17b-604, subject to the following:
   a. the delegated pharmacist's assessment that is documented in the patient's record;
   b. the delegated pharmacist's continuous supervision of the technician;
   c. the delegated pharmacist's competency assessment and documentation;
   d. the delegated pharmacist's description of the automation or technology to be utilized by the institution to augment the technician check;
   e. hospitals that authorize technicians to check medications by name;
   f. hospitals that authorize technicians to check medications shall have comprehensive policies and procedures that guide technician checking that include the following:
      (A) process for technician training and ongoing competency assessment and documentation;
      (B) process for supervising technicians who check medications;
      (C) list of medications, or types of medications that may or may not be checked by a technician;
      (D) description of the automation or technology to be utilized by the institution to augment the technician check;
      (E) process for maintaining a permanent log of the unique initials or identification codes that identify each technician responsible for checked medications by name; and
      (F) description of processes used to track and respond to medication errors; and

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

(A) [shall] maintain a list of technicians on staff that are allowed to check medications;

(B) at least six months of experience at the hospital where the technician is authorized to check medications;

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

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

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

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

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

(B) [shall] maintain a list of technicians on staff that are allowed to check medications;

(A) one year of experience working as a pharmacy technician; and

(B) [at least] [six] months of experience at the hospital where the technician is authorized to check medications;
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(2)(a) In accordance with Subsections 58-17b-103(1) and 58-17b-601(1), a unique email address shall be established by the consulting pharmacist, PIC, RDPIC, DMPIC, or responsible party for the pharmacy to be used for self-audits or pharmacy alerts initiated by the Division.

(b) The consulting pharmacist, PIC, RDPIC, DMPIC, or responsible party shall notify the Division of the pharmacy’s email address in the initial application for licensure.

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

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

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

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

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

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

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

(e) education and training of pharmacy personnel;

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

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

(h) bulk compounding of drugs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(u) under Subsection 58-17b-103(1), conducting a pharmacy self-audit on a form provided by the Division, in accordance with the following timeframes:

(i) within 30 days of a change of consulting pharmacist, PIC, DMPIC or RDPIC;

(ii) within 30 days of the opening of a new facility; and

(iii) at least 90 days prior to the end of each renewal cycle; and

(iv) maintaining each pharmacy self-audit form for a period of two years from the date of the self-audit.

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

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

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

(b) the anticipated date of closing;

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

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

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

(a) the date of closing; and

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

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

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

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

(4) If the pharmacy dispenses prescription drug orders:
   (a) transfer the prescription drug order files, including refill information and patient medication records, to a licensed pharmacy within a reasonable distance of the closing pharmacy; and
   (b) move [all] signs or notify the landlord or owner of the property that it is unlawful to use the word "pharmacy", or any other word or combination of words of the same or similar meaning, or any graphic representation that would mislead or tend to mislead the public that a pharmacy is located at this address.

(5) Within ten days of the closing of the pharmacy, the pharmacy owner, consulting pharmacist, DR, Responsible Party, PIC, RDPIC, or DMPIC shall forward to the Division a surrender[written] notice on a form provided by the Division of the closing that includes the following information:
   (a) the actual date of closing;
   (b) a surrender of the license issued to the pharmacy;
   (c) a statement attesting:
      (i) that an inventory as specified in Subsection R156-17b-605(4) has been conducted; and
      (ii) conduct a combined opening inventory of controlled substances on the date of closure; and
   (d) if the pharmacy dispenses prescription drug orders, the name and address of the pharmacy to which the prescription drug orders, including refill information and patient medication records, were transferred.

(6) If the pharmacy is registered to possess controlled substances, a letter shall be sent to the appropriate DEA regional office explaining that the pharmacy has closed. The letter shall include the following items:
   (a) DEA registration certificate;
   (b) all unused DEA order forms (Form 222) with the word "VOID" written on the face of each order form; and
   (c) copy #2 of any DEA order forms (Form 222) used to transfer Schedule II controlled substances from the closed pharmacy.

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

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

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

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

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

(2) General requirements for inventory of a pharmacy shall include the following:
   (a) the consulting pharmacist, PIC, RDPIC, or DMPIC shall be responsible for taking [all] required inventories, but may delegate the performance of the inventory to another person or persons;
   (b) the inventory records shall be maintained for a period of five years and be readily available for inspection;
   (c) the inventory records shall be filed separately from all other records;
   (d) the inventory records shall be in a written, typewritten, or printed form and include [all]-each stock[s] of controlled substances on hand on the date of the inventory, including any that are [out of date]out-of-date drugs and drugs in automated pharmacy systems;
   (e) [A] sign inventory taken by use of a verbal recording device shall be promptly transcribed;
   (f) the inventory may be taken either as the opening of the business or the close of business on the inventory date;
   (g) the person taking the inventory and the consulting pharmacist, PIC, RDPIC, or DMPIC shall indicate the time the inventory was taken and shall sign and date the inventory with the date the inventory was taken;
   (h) [L] the signature of the consulting pharmacist, PIC, RDPIC, or DMPIC and the date of the inventory shall be documented within 72 hours or three working days of the completed initial, annual, change of ownership and closing inventory;
   (i) the person taking the inventory shall make an exact count or measure [all]-controlled substances listed in Schedule I or II;
   (j) the person taking the inventory shall make an estimated count or measure of [all]-Schedule III, IV, or V controlled substances, unless the container holds more than 1,000 tablets or capsules in which case an exact count of the contents shall be made;
   (k) the inventory of Schedule I and II controlled substances shall be listed separately from the inventory of Schedule III, IV, and V controlled substances;
   (l) if the pharmacy maintains a perpetual inventory of any of the drugs required to be inventoried, the perpetual inventory shall be reconciled on the date of the inventory.

(3) Requirements for taking the initial controlled substances inventory shall include the following:
   (a) [all] pharmacies having any stock of controlled substances shall take an inventory, including out-of-date drugs and drugs in automated pharmacy systems, on the opening day of business. [Such inventory shall include all controlled substances including any out of date drugs and drugs in automated pharmacy systems.]
   (b) if in the event a pharmacy commences business with no controlled substances on hand, Schedule I or II controlled substances, the pharmacy shall record this fact as the initial inventory and shall document Schedule I and II controlled substance inventory separately from an inventory reporting no Schedule III, IV, and V controlled substances.

(4) If the pharmacy dispenses prescription drug orders:
   (a) transfer the prescription drug order files, including refill information and patient medication records, to a licensed pharmacy within a reasonable distance of the closing pharmacy; and
   (b) when combined with two pharmacies, each pharmacy shall:
      (i) conduct a separate closing pharmacy inventory of controlled substances on the date of closure; and
      (ii) conduct a combined opening inventory of controlled substances for the new pharmacy prior to opening.
(4) Requirement for annual controlled substances inventory shall be within 12 months following the inventory date of each year and may be taken within four days of the specified inventory date and shall include [all] stocks including out-of-date drugs and drugs in automated pharmacy systems.

(5) Requirements for change of ownership shall include the following:
(a) a pharmacy that changes ownership shall take an inventory of [all] legend drugs and controlled substances including out-of-date drugs and drugs in automated pharmacy systems on the date of the change of ownership;
(b) such inventory shall constitute [for the purpose of this section] the closing inventory for the seller and the initial inventory for the buyer; and
(c) transfer of Schedule I and II controlled substances shall require the use of official DEA order form [Form 222]

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

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

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

In accordance with Subsection 58-17b-601(1), the following shall apply to prescriptions:
(1) Prescription orders for controlled substances [c] shall be handled in accordance with 21 CFR 1306.25 [2021] according to the rules of the Federal Drug Enforcement Administrations.
(2) A prescription issued by an authorized licensed practitioner, if verbally communicated by an agent of that practitioner upon that practitioner's specific instruction and authorization, may be accepted by a pharmacist, pharmacy intern, or DMP.
(3) A prescription issued by a licensed prescriber, if electronically communicated by an agent of that practitioner, upon that practitioner's specific instruction and authorization, may be accepted by a pharmacist, pharmacy intern, pharmacy technician, pharmacy technician trainee, DMP, or DMP designee.
(4) In accordance with Sections 58-17b-609 and 58-17b-611, prescription files, including refill information, shall be maintained for a minimum of five years and shall be immediately retrievable in written or electronic format.
(5) In accordance with Section 58-17b-604, prescriptions [Prescriptions] for legend drugs having a remaining authorization for refill may be transferred by the pharmacist, pharmacy intern, pharmacy technician, at the discretion of the pharmacist on duty, or DMP at the pharmacy holding the prescription to a pharmacist, pharmacy intern, or pharmacy technician, or DMP at another pharmacy upon the authorization of the patient to whom the prescription was issued or electronically as authorized under Subsection R156-17b-613(9). The transferring pharmacist, pharmacy intern, or DMP and receiving pharmacist, pharmacy intern, or DMP shall act diligently to ensure that the total number of authorized refills is not exceeded. The following additional terms apply to such a transfer:
(a) the transfer shall be communicated directly between pharmacists, pharmacy interns, pharmacy technicians or DMPs or as authorized under Subsection R156-17b-613(9);
(b) both the original and the transferred prescription drug orders shall be maintained for a period of five years from the date of the last refill;
(c) the pharmacist, pharmacy intern, or DMP transferring the prescription drug order shall void the prescription electronically or write void[2] or transfer on the face of the invalidated prescription manually;
(d) the pharmacist, pharmacy intern, or DMP receiving the transferred prescription drug order shall:
(i) indicate on the prescription record that the prescription was transferred electronically or manually;
(ii) record on the transferred prescription drug order the following information:
(A) original date of issuance and date of dispensing or receipt, if different from date of issuance;
(B) original prescription number and the number of refills authorized on the original prescription drug order;
(C) number of valid refills remaining and the date of last refill, if applicable;
(D) the name and address of the pharmacy and the name of the pharmacist, pharmacy intern, pharmacy technician, or DMP to whom such prescription is transferred; and
(E) the name of the pharmacist, pharmacy intern, or DMP transferring the prescription drug order information;
(e) the data processing system shall have a mechanism to prohibit the transfer of refilling of legend drugs or controlled substance prescription drug orders that have been previously transferred; and
(f) a pharmacist, pharmacy intern, pharmacy technician, or DMP may not refuse to transfer original prescription information to another pharmacist, pharmacy intern, pharmacy technician, or DMP who is acting on behalf of a patient and who is making a request for this information as specified in Subsection (12) of this section.
(6) Prescriptions for terminal patients in licensed hospices, home health agencies or nursing homes may be partially filled if the patient has a medical diagnosis documenting a terminal illness and may not need the full prescription amount.
(7) Refills may be dispensed only in accordance with the prescriber's authorization as indicated on the original prescription drug order[3].
(8) If there are no refill instructions on the original prescription drug order, or if [all] refills authorized on the original prescription drug order have been dispensed, authorization from the prescribing practitioner shall be obtained prior to dispensing any refills.
(9) Refills of prescription drug orders for legend drugs may not be refilled after one year from the date of issuance of the original prescription drug order without obtaining authorization from the prescribing practitioner prior to dispensing any additional quantities of the drug.
(10) Refills of prescription drug orders for controlled substances shall be done in accordance with Subsection 58-37-6(7)(f).
(11) A pharmacist or DMP may exercise professional judgment in refilling a prescription drug order for a drug, other than a Schedule II controlled substance, without the authorization of the prescribing practitioner, if:
(a) the quantity of prescription drug dispensed does not exceed a 72-hour supply, unless the packaging is in a great quantity;

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In accordance with Rules R156-1 and R156-37, and Subsections 58-17b-102(29), [and] 58-17b-102(30), 58-17b-602(1), [R156-32, and R156-1], prescription orders may be issued by electronic means of communication according to the following standards:

(1) Prescription orders for Schedule II - V controlled substances received by electronic means of communication shall be handled according to [Part 1304.01 of Section 21 of the CFR]21 CFR 1304.06 (2021).

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

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

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

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

(iii) the name of the pharmacy intended to receive the transmission;[1]

(b) [the] A prescription order shall be transmitted under the direct supervision of the prescribing practitioner or [his the prescribing practitioner's designated agent[.]

(c) [the] The pharmacist or DMP shall exercise professional judgment regarding the accuracy and authenticity of the transmitted prescription. [Practitioners or their agents transmitting medication orders using electronic equipment are to]

(d) A practitioner or the practitioner's agent shall provide voice verification when requested by the pharmacist receiving [the a medication order.

(e) The pharmacist, pharmacy intern, pharmacy technician at the discretion of the pharmacist on duty, or DMP is responsible for assuring[shall assure] that each electronically transferred prescription order is valid and shall authenticate a prescription order issued by a prescribing practitioner that has been transmitted to the dispensing pharmacy before filling it, whenever there is a question[.]

(i) A practitioner may authorize an agent to electronically transmit a prescription [provided that if the agent's the identifying information of the transmitting agent is included on the transmission.]

(ii) The practitioner's electronic signature, or other secure method of validation, shall be provided with the electronic prescription[.]

(i) [An] an electronically transmitted prescription order that meets the requirements [above of Section 58-17b-608, for:]

(a) a 30 day supply with the prescribing practitioners instructions; or

(b) the quantity last dispensed at the pharmacy pursuant to the prescription as either a fill or a refill.

(14) A pharmacist or pharmacy intern may dispense an emergency refill prescription for a drug a patient is currently using and on file with the pharmacy, other than a controlled substance, without the prescribing practitioner's authorization if they are not available promptly, in accordance with Section 58-17b-608, for:

(a) a 30 day supply with the prescribing practitioners instructions; or

(b) the quantity last dispensed at the pharmacy pursuant to the prescription as either a fill or a refill.

(15) An agreement between a prescribing practitioner and a pharmacy may not require that prescription orders be transmitted by electronic means from the prescribing practitioner only to that pharmacy[.]

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

(17) Wholesalers, distributors, manufacturers, pharmacists, and pharmacies may not supply electronic equipment to a [any] prescriber for transmitting prescription orders.

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

(19) Prescription orders electronically transmitted to the pharmacy by the patient may not be filled or dispersed.

(20) A prescription order for a legend drug or controlled substance in Schedule III through V may be transmitted up to the maximum refills permitted in accordance with 21 CFR 1306.22 (2021) by law or by the prescriber by electronic transmission, if:

(a) [the pharmacies share a real-time, on-line database;]
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(b)  provided that:

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

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

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

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

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

(iv)  the date and time of the transfer.

R156-17b-614a. Operating Standards - Class A or Class B Pharmacy - General Operating Standards.

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

(1)  The general operating standards include:

(a)  A facility shall be well lighted, well ventilated, clean and sanitary.

(b)  A facility that transfers a drug from a manufacturer's or distributor's original container to another container shall have a sink with hot and cold culinary water separate and apart from restroom facilities. This sink requirement does not apply to clean rooms where sterile products are prepared. Clean rooms may not have sinks or floor drains.

(c)  Required equipment shall be clean and in good operating condition.

(d)  A facility shall be equipped to store prescription drugs and durable medical equipment:

(i)  in an orderly manner that permits clear identification, separation, and easy retrieval of products; and

(ii)  in an environment necessary to maintain the integrity of the product inventory.

(e)  A facility shall be equipped to permit practice within the standards and ethics of the profession as dictated by the usual and ordinary scope of practice conducted within that facility.

(f)  A facility shall be stocked with the quality and quantity of product necessary for the facility to meet its scope of practice in a manner consistent with the public safety.

(g)  A facility that dispenses controlled substances shall be equipped with a security system that:

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

(ii)  provides notice of unauthorized entry to an individual.

(h)  A [facility pharmacy department shall;]

(i)  be equipped with a lock [on each entrance] where drugs are stored; and

(ii)  be securely locked when the pharmacy department is closed.

(i)  A facility shall have a counseling area to allow for confidential patient counseling, if applicable.

(2)  (a)  Prescription labels for compounded sterile and non-sterile medications, when dispensed to the patient or patient's agent, shall include:

(i)  the minimum information required under Section 58-17b-602;

(ii)  generic name;

(iii)  quantity or concentration of each active ingredient; and

(iv)  labeling for sterile preparation for parenteral use shall include:

(A)  the name of the diluent;

(B)  assigned compounding record or lot number; and

(C)  the phrase "compounded preparation."

(b)  The requirements described in Subsections (2)(a)(i) and (2)(a)(iv) shall not apply to a label on the container of a drug that a health care provider administers to a patient at:

(i)  a pharmaceutical administration facility; or

(ii)  a hospital licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

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

(4)  A facility shall have current editions of the following reference publications in print or electronic format, that are readily available to and retrievable by facility personnel:

(a)  Title 58, Chapter 1, Division of Occupational and Professional Licensing Act;

(b)  Rule R156-1, General Rule of the Division of Occupational and Professional Licensing;

(c)  Title 58, Chapter 17b, Pharmacy Practice Act;

(d)  Rule R156-17b, Utah Pharmacy Practice Act Rule;

(e)  Title 58, Chapter 37, Utah Controlled Substances Act;

(f)  Rule R156-37, Utah Controlled Substances Act Rule;

(g)  Title 58, Chapter 37f, Controlled Substance Database Act;

(h)  R156-37f, Controlled Substance Database Act Rule;

(i)  [Code of Federal Regulations (CFR) 21, Food and Drugs, Part 1300 to end] 21 CFR 1300 et seq. (2021) or equivalent such as the USP DI Drug Reference Guides;

(j)  current [FDA Approved] FDA-Approved Drug Products; and

(k)  any other general drug references necessary to permit practice, as dictated by the usual and ordinary scope of practice conducted within that facility.

(5)(a)  A facility shall maintain a current list of licensed employees involved in the practice of pharmacy at the facility, that includes:

(i)  individual licensee names;

(ii)  license classifications;

(iii)  license numbers; and

(iv)  license expiration dates.

(b)  The list shall be readily retrievable for inspection by the Division, and may be maintained in paper or electronic form.

(6)  A pharmacy may not dispense a prescription drug or device to a patient unless a pharmacist or DMP is physically present and immediately available in the facility, or, for a remote dispensing pharmacy, physically present and immediately available in the facility or supervising through a telepharmacy system.

(7)  Only a licensed Utah pharmacist, DMP, or authorized [pharmacy] personnel shall have access to the pharmacy when the pharmacy is closed.
NOTICES OF PROPOSED RULES

R156-17b-614e. Operating Standards - Class B - Pharmaceutical Administration Facility.

In accordance with Subsections 58-17b-102(44) and 58-17b-601(1), the following [apply with respect] operating standards apply to prescription drugs [which] are held, stored, or otherwise under the control of a pharmaceutical administration facility for administration to patients:

(1) The licensed consulting pharmacist shall provide consultation on [all] each aspect[s] of pharmacy services in the facility; establish a system of records of receipt and disposition of [all] controlled substances in sufficient detail to enable an accurate reconciliation; and determine that drug records are in order and that an account of all controlled substances is maintained and periodically reconciled.

(2) Authorized destruction of [all] prescription drugs shall be witnessed by the medical or nursing director or a designated pharmacist, registered nurse or other licensed person employed in the facility and the consulting pharmacist or licensed pharmacy technician, and [must] shall be in compliance with 21 C.F.R. 1317 (2021) [DEA regulations].

(3) Prescriptions for patients in the facility [can] may be verbally requested by a licensed prescribing practitioner and may be entered as the prescribing practitioner's order; but the practitioner must personally sign the order in the facility record within 72 hours if a Schedule II controlled substance and within 30 days if any other prescription drug. The prescribing practitioner's verbal order may be copied and forwarded to a pharmacy for dispensing and may serve as the pharmacy's record of the prescription order.

(4) Prescriptions for controlled substances for patients in Class B pharmaceutical administration facilities shall be dispensed according to Title 58, Chapter 37, Utah Controlled Substances Act, and Rule R156-37, Utah Controlled Substances Act Rules.

(5) Requirements for emergency drug kits shall include:

(a) an emergency drug kit may be used by pharmaceutical administration facilities. The emergency drug kit shall be considered to be a physical extension of the pharmacy supplying the emergency drug kit and shall [at all times] remain under the ownership of that pharmacy;

(b) the contents and quantity of drugs and supplies in the emergency drug kit shall be determined by the Medical Director or Director of Nursing of the pharmaceutical administration facility and the consulting pharmacist of the supplying pharmacy;

(c) a copy of the approved list of contents shall be conspicuously posted on or near the kit;

(d) the emergency kit shall be used only for bona fide emergencies and only when medications cannot be obtained from a pharmacy in a timely manner;

(e) records documenting the receipt and removal of drugs in the emergency kit shall be maintained by the facility and the pharmacy;

(f) the pharmacy shall be responsible for ensuring proper storage, security and accountability of the emergency kit and shall ensure that:

(i) the emergency kit is stored in a locked area and is locked itself; and

(ii) emergency kit drugs are accessible only to licensed physicians, physician assistants and nurses employed by the facility;

(g) the contents of the emergency kit, the approved list of contents and [all]-related records shall be made freely available and open for inspection to appropriate representatives of the Division and the Utah Department of Health.


In accordance with Subsections 58-17b-502(1)(i) and 58-17b-625(2):

(1) Prior to engaging in the administration of a long-acting injectable drug pursuant to Section 58-17b-625, a pharmacist shall successfully complete:

(a) current Basic Life Support (BLS) certification; and

(b) a training program for administering long-acting injectables intramuscularly that is provided by an [ACPE accredited] ACPE-accredited provider.

(2) An individual who engages in the administration of long-acting injectable drugs intramuscularly shall:

(a) maintain documentation that they obtained their required training prior to any administration; and

(b) for each renewal cycle after the initial training, successfully complete at least two hours of continuing education related to administering long-acting injectable drugs, in accordance with Section R156-17b-309.

R156-17b-627. Operating Standards - Prescription of Drugs or Devices by a Pharmacist.

(1) In accordance with Subsection 58-17b-601(1) and Section 58-17b-627, a pharmacist from a Class A or Class B pharmacy may prescribe a prescription drug or device as follows:

(a) Prior to prescribing, the pharmacist shall conduct a patient assessment that includes:

(i) current health status;

(ii) past medical history;
review the guidance documents in Subsection (2) on a biennial basis, in collaboration with the Board. 

(3) The Division in collaboration with the Board shall review the guidance documents in Subsection (2), in accordance with Subsections 58-17b-627(3) and (4).

(ii) any recommendations for updates to the guidance documents in Subsection (2).

(b) After receipt of the Department of Health's annual designation, the Division: 

(i) shall contact the Department of Health to review its proposal; and 

(ii) may review the rules made by the Division, including the guidance documents in Subsection (2), in accordance with Subsections 58-17b-627(3) and (4).

(5) The Division shall review the guidance documents in Subsection (2) on a biennial basis, in collaboration with:

(a) the Board; 

(b) the individuals identified in Subsection 58-17b-627(4); and 

(c) other persons as determined by the Division.

KEY: pharmacists, licensing, pharmacies

Date of Last Change: March 11, 2021

Notice of Continuation: September 5, 2019

Authorizing, and Implemented or Interpreted Law: 58-17b-101; 58-17b-601(1); 58-37-1; 58-1-106(1)(a); 58-1-202(1)(a)

NOTICES OF PROPOSED RULES

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NOTICE OF PROPOSED RULE

<table>
<thead>
<tr>
<th>TYPE OF RULE:</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utah Admin. Code Ref (R no.):</td>
<td>R156-60b</td>
</tr>
</tbody>
</table>

Agency Information

1. Department: Commerce

Agency: Occupational and Professional Licensing

Building: Heber Wells Building

Street address: 160 E 300 S

City, state and zip: Salt Lake City, UT 84111-2316

Mailing address: PO Box 146741

City, state and zip: Salt Lake City, UT 84114-6741

Contact person(s):

Name: Jennifer Falkenrat

Phone: 801-530-6628

Email: jzaelit@utah.gov

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

**2. Rule or section catchline:**
R156-60b. Marriage and Family Therapist Licensing Act Rule

**3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):**
Governor Cox issued Executive Order No. 2021-1 which required a review of all regulated Occupations and Professions. Based upon the Board's review, the Board proposes these amendments to this rule to reduce regulation that created barriers to working in the field, to clarify provisions regarding supervision, and to align provisions with national education standards for licensure. Additionally, in compliance with Executive Order No. 2021-12 issued by Governor Cox on 05/06/2021, this filing further amends this rule by making nonsubstantive formatting changes throughout to facilitate compliance and enforcement and to make changes consistent with the Utah Administrative Rulewriting Manual.

**4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**
- Section R156-60b-102 clarifies coursework identified in the rule as a deficiency and removes unnecessary language regarding supervision.
- Section R156-60b-302a amends the practicum supervision to align with national education requirements.
- Section R156-60b-302b amends this rule for clarity regarding supervision for a student in a doctorate program and further clarifies supervision.
- Section R156-60b-302d clarifies continuing education for a marriage and family therapy supervisor.
- Section R156-60b-502 amends unprofessional conduct to align with the American Association for Marriage and Family Therapy Code of Ethics.

Additional nonsubstantive formatting changes are made throughout this rule to facilitate compliance and enforcement and to make changes consistent with the Utah Administrative Rulewriting Manual.

A rule hearing will be held before the Division of Occupational and Professional Licensing (Division) electronically only via Google Meet information below. Join with Google Meet: meet.google.com/qno-uxfb-wih; or join by phone: (US) +1 475-328-0593 (PIN: 732962552)

### Fiscal Information

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

<table>
<thead>
<tr>
<th>A) State budget:</th>
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<tbody>
<tr>
<td>The changes to Sections R156-60b-102, R156-60b-302a, and R156-60b-302b that reduce regulation and align provisions with national educational standards may result in a cost savings to agencies that are more able to employ licensees but calculating the savings specific to such state agencies is not possible because it will vary widely depending on the characteristics of each employer and employee. The amendments to Section R156-60b-502 defining violations with more particularity to align with the American Association for Marriage and Family Therapy Code of Ethics are expected to have zero net impact on state revenues or expenditures because these changes should not result in any additional complaints, investigations, or disciplinary actions or any additional licensing issues. None of the remaining proposed changes are expected to impact state government revenues or expenditures because the changes merely update this rule to establish supervision and education standards that encompass current requirements and practices in the profession and make formatting changes for clarity.</td>
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</tbody>
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<table>
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<tr>
<th>B) Local governments:</th>
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<tbody>
<tr>
<td>These proposed amendments may impact businesses in the mental health industry who employ associate marriage and family therapists, associate marriage and family therapist externs, and marriage and family therapists, which may potentially include certain local government entities acting as businesses. However, as described for Small Businesses, the Division estimates that these proposed amendments will have no impact on local governments.</td>
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<table>
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<tr>
<th>C) Small businesses (<em>small business</em> means a business employing 1-49 persons):</th>
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<tbody>
<tr>
<td>There are approximately 743 small businesses in Utah with licensees engaged in the practice of mental health therapy and who may employ those engaged in the practice of mental health therapy, such as private or group practices, hospitals, or medical centers (North American Industry Classification System (NAICS) 621112, 621420, 621330, 622210, 623220, 622310). These proposed amendments may impact these small businesses. Specifically, the amendments to Section R156-60b-302a which amend the practicum supervision to a national standard for professionals who are learning proper techniques in a clinical setting. However, although these amendments may result in a cost savings to such businesses who are able to more easily hire licensees, the savings is not measureable as it will depend on specific characteristics of each employer and employee. The remaining amendments are not expected to impact small business as they are based on extensive collaboration with the Marriage and Family Therapist Licensing Board to incorporate generally accepted professional standards common in the industry, and the changes merely update rules, clarify existing statutes, rules, and codify existing standards already adhered to in the industry.</td>
</tr>
</tbody>
</table>
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are approximately 50 non-small businesses in Utah comprising of licensees engaged in the practice of mental health therapy who may employ those engaged in the practice of mental health therapy, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, 622310). These proposed amendments may impact these non-small businesses. Specifically, the amendments to Section R156-60b-302a which amend the practicum supervision to a national standard for professionals who are learning proper techniques in a clinical setting. However, although these amendments may result in a cost savings to such businesses who are able to more easily hire licensees, the savings is not measurable as it will depend on specific characteristics of each employer and employee. Additionally, the estimated fiscal benefit to students described in Box 5E from a resulting reduction in tuition is not expected to cause a corresponding indirect fiscal cost to non-small business schools (NAICS 611310) as it should be offset by the cost savings to the schools from reduced supervision and monitoring. The remaining amendments are not expected to impact small business as they are based on extensive collaboration with the Marriage and Family Therapist Licensing Board to incorporate generally accepted professional standards common in the industry, and the changes merely update rules, clarify existing statutes, rules, and codify existing standards already adhered to in the industry.

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 amendments to Sections R156-60b-102, R156-60b-302a, and R156-60b-302b that clarify supervision and education standards, including amending practicum supervision requirements to align with national education requirements, are expected to result in an average $1,200 reduction in tuition costs for a marriage and family therapy student who will be receiving supervised training through an educational practicum at a facility that engages in mental health. The Division estimates that approximately 100 marriage and family therapy students will benefit from this reduction in tuition costs per year, for a total direct fiscal benefit for these individuals per year ongoing of $120,000 per year.

The amendments for Section R156-60b-302d will affect marriage and family therapist supervisors, who require continuing education to renew their license; however, these amendments are expected to have no fiscal impact for these persons because the amendments merely clarify existing standards and requirements.

The amendment to Section R156-60b-502 defining a violation of unprofessional conduct is not expected to impact these other persons as it should not result in any additional investigations or disciplinary actions; the definition encompasses existing practices. Further, the goal of defining unprofessional conduct is to provide a deterrent, such that there is $0 net impact on all parties involved and minimal occasions for noncompliance, so for the typical person the amendments would have no direct or indirect fiscal impact.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

As described above for other persons, there are no expected compliance costs for affected persons as the amendments will result in either a savings to affected persons or will have no measurable impact on affected persons.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

The Division proposes amendments to the Marriage and Family Therapist Licensing Act Rule. The Division has updated this rule to conform to Executive Order No. 2021-1, and after the Board's review, the Board proposes these amendments to this rule to reduce regulations and align provisions with national education standards for licensure. Further, in compliance with Executive Order No. 2021-12 issued by Governor Cox on 05/06/2021, this filing makes nonsubstantive formatting changes to comport to the Utah Administrative current Rulewriting Manual.

Small Businesses (less than 50 employees):
There are approximately 743 small businesses in Utah with licensees engaged in the practice of mental health therapy and who may employ those engaged in the practice of mental health therapy, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, 622310). These amendments may result in a cost savings to such businesses who are able to more easily hire licensees. The proposed rule is not expected to impact small business revenues or expenditures. The Division estimates that approximately 100 marriage and family therapy students will benefit from this reduction in tuition costs per year, for a total direct fiscal benefit for these individuals per year ongoing of $120,000 per year. Further, no fiscal impact is expected for small businesses as the costs are either inestimable or there is no fiscal impact.

Regulatory Impact to Non-Small Businesses (50 or more employees):
There are approximately 50 non-small businesses in Utah comprising of licensees engaged in the practice of mental health therapy who may employ those engaged in the practice of mental health therapy, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, 622310). The Division estimates that approximately 100 marriage and family therapy students will benefit from this reduction in tuition costs per year, for a total direct fiscal benefit for these
individuals per year ongoing of $120,000 per year. However, there will be no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small business. These costs are either inestimable, for the reasons stated above, or there is no fiscal impact.
Margaret W. Busse, Executive Director

6. A) 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.)

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<th>Regulatory Impact Table</th>
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<tr>
<td>Total Fiscal Benefits</td>
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<tr>
<td>Net Fiscal Benefits</td>
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<td>$120,000</td>
<td>$120,000</td>
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</table>

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 58-1-106(1)(a) Subsection 58-1-202(1)(a) Section 58-60-301

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

A) Comments will be accepted until: 01/14/2022
B) A public hearing (optional) will be held:
On: 12/20/2021 At: 10:30 AM

Rule hearing will be held before the Division electronically only via Google Meet (see information in box 4 above)

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Mark B. Steinagel, Division Director Date: 11/18/2021

In addition to the definitions [regarding marriage and family therapy] in Title 58, Chapter[s] 1, Division of Occupational and Professional Licensing Act, and Chapter 60, Mental Health Professional Practice Act [as used in Title 58, Chapters 1 and 60], the following rule definitions supplement the statutory definitions:
(1) "AAMFT" means the American Association for Marriage and Family Therapy.
(2) "Deficiency," as used in Subsection 58-60-117(1)(d), means the educational degree upon which licensure to be based fails to include no more than a combined total of six semester or eight quarter hours in coursework listed in one or more of Subsections R156-60b-302a(20)(a) through (g):
(a) theoretical foundations of marital and family therapy;
(b) assessment and treatment in marriage and family therapy, including Diagnostic Statistical Manual (DSM);
(c) human development and family studies that include ethnic minority issues, and gender issues including sexuality, sexual functioning, and sexual identity;
(d) research methodology and data analysis; and
(e) electives in marriage and family therapy.

NOTICES OF PROPOSED RULES

R156-60b-103. Authority - Purpose.

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 60, Part 3, Marriage and Family Therapist Licensing Act.

R156-60b-302a. Qualifications for Licensure - Education Requirements.

(1) [Pursuant to] Under Subsection 58-60-305(1)(e)[d], an applicant applying for licensure as a marriage and family therapist shall produce certified transcripts evidencing completion of:

(a) a clinical master's or doctorate degree in marriage and family therapy, from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education for 

(b) a clinical master's degree in marriage and family therapy or equivalent, from an [program][institution] accredited by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education at the time the applicant obtained the education; or

(2) [A—program] Certified transcripts evidencing completion of a degree under Subsection (1)(b) shall include the following:

(a) six semester hours or nine quarter hours of course work in theoretical foundations of marital and family therapy;

(b) nine semester hours or 12 quarter hours of course work in assessment and treatment in marriage and family therapy, including Diagnostic Statistical Manual (DSM);[c]

(c) six semester hours or nine quarter hours of course work in human development and family studies that include ethnic minority issues, and gender issues including sexuality, sexual functioning, and sexual identity;

(d) three semester hours or four quarter hours in professional ethics;

(e) three semester hours or four quarter hours in research methodology and data analysis;

(f) three semester hours or four quarter hours in electives in marriage and family therapy; and

(g) a clinical practicum under supervision [meeting the criteria of Sections R156-60b-302d and R156-60-302, which] that includes at least [600]400 hours as follows:

(i) [at least] 100 hours of face to face direct supervision; and

(ii) [at least 300] 100 hours of mental health therapy under direct contact hours of face to face supervised clinical practice, that with at least [250]50 hours in couple or family therapy with two or more clients participating, shall be with couples or families who are physically present in the therapy room.

R156-60b-302b. Qualifications for Licensure - Supervised Training Requirements.

(1) [Pursuant to] Under Subsections 58-60-305(1)(e)[d] and 58-60-305(1)(i)[e][g] and Section R156-60-302, an applicant shall have completed a minimum of 4,000 hours of supervised marriage and family therapy training as follows:

(a) in not less than two years;

(b) while the applicant is engaged in mental health therapy as:

(i) a W-2 employee of a public or private agency engaged in mental health therapy; or

(ii) a doctorate program student who is not paid as a 1099 independent contractor;

(c) under the supervision of a supervisor meeting the requirements of that complies with Sections 58-60-307, and Section R156-60-302, and R156-60b-302b;

(d) in accordance with, under Subsections 58-60-305(1)(e)[d] and 58-60-305(1)(i)[e][g], include a minimum of 1,000 hours of supervised training in mental health therapy, with at least 500 hours in couple or family therapy with two or more clients participating;

(e) count training hours completed in a group therapy session only if the applicant functioned as the primary therapist or co-therapist; and

(II) [at least] 100 hours of direct supervision, spread uniformly and continually throughout supervised training the training period; and

(i) at least 500 hours in couple or family therapy with two or more clients participating and at least one physically present; and

(e) count training hours completed in a group therapy session only if the supervisee functions as the primary therapist.

(2) An applicant for licensure as a marriage and family therapist, who is not seeking licensure by endorsement based upon licensure in another jurisdiction, and who has completed all or part any of the marriage and family therapy training requirements outside the state, may receive credit for that training completed outside of the state if the applicant demonstrates, by evidence satisfactory to the Division and Board, that the training is equivalent to and meets the requirements for training under this [Section and Subsections 58-60-305(1)(e)[d] and 58-60-305(1)(i)[e][g].
R156-60b-302c. Qualifications for Licensure - Examination Requirements.

[In accordance with]Under Subsection 58-60-305(1)(f), an applicant for licensure as a marriage and family therapist shall pass the Examination of Marital and Family Therapy National Examination administered by the American Association of Marital and Family Therapy Regulatory Boards.

R156-60b-302d. Qualifications to be a Marriage and Family Therapist Training Supervisor.

[In accordance with]Under Subsection 58-60-307(1), to be qualified as a marriage and family therapist training supervisor under Subsections 58-60-305(1)(e)(d) and (f) and Section R156-60-302, an individual shall:

1. have been licensed in good standing as a marriage and family therapist, clinical mental health counselor, psychiatrist, psychologist, registered psychiatric mental health nurse practitioner, or clinical social worker for at least two consecutive years prior to beginning supervised training;
2. be currently licensed in good standing in the state that the training is being performed;
3. (a) be currently approved by AAMFT as a marriage and family therapist supervisor;
   (b) have successfully completed a supervision course in a Commission on Accreditation for Marriage and Family Therapy Education-accredited marriage and family therapy program at an accredited university; or
   (c) have successfully completed 20 clock hours of instruction sponsored by AAMFT or the Utah Association for Marriage and Family Therapy as follows:
      (i) four hours of review of models of marriage and family therapy and supervision;
      (ii) eight hours of marriage and family therapy supervision processes and practice;
      (iii) four hours of research on effective outcomes and processes of supervision; and
      (iv) four hours of AAMFT Code of Ethics, state rules, and case studies related to marriage and family therapy supervision;
4. (a) enter into a written supervision contract with the supervisee in accordance with Section 58-60-302; and
   (b) provide at least one hour of face-to-face supervision for each ten hours of client contact by the supervisee.
5. for a supervisor meeting criteria in Subsection (3)(b) or (3)(c), in each two-year renewal cycle, complete four hours of the 40 hours of continuing professional education in topics directly related to marriage and family therapy supervisor training.

R156-60b-303. Renewal Cycle - Procedures.

1. [In accordance with]Under Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licenses under Title 58, Chapter 60, Mental Health Professional Practice Act, is established by rule. [In accordance with]Section R156-1-308a(1).
2. Renewal procedures shall be in accordance with Sections R156-1-308(e) through R156-1-308l and R156-60b-306.

R156-60b-304. Continuing Education.

[In accordance with]Under Section 58-60-105, the continuing professional education requirements for a marriage and family therapist licensed under Title 58, Chapter 60, Part 3, Marriage and Family Therapist Licensing Act, are established in Section R156-60-105.

R156-60b-306. License Reinstatement [Requirements]. Between Two Years and Five Years After Expiration.

[In accordance with]Under Subsection 58-1-308(5)(j)(b) and subject to [Section]Subsection R156-1-308g(4)(b), an applicant for reinstatement of a license that was active and in good standing at expiration, between two years and five years [more than two years] after the date of expiration, the license expired shall:

1. upon request, meet with the Board to evaluate the applicant's ability to safely and competently practice as a marriage and family therapist, and determine any additional education, experience, or examination requirements before reinstatement;
2. [upon the recommendation of]If recommended by the Board, establish a plan of supervision under an approved supervisor that may include up to 4,000 hours of marriage and family therapy and mental health therapy training as a marriage and family therapist-temporary;
3. if recommended by the Board, pass the Examination of Marital and Family Therapy National Examination administered by the American Association for Marriage and Family Therapy Regulatory Boards; Therapists if the Board determines it necessary to demonstrate the applicant's ability to safely and competently practice as a marriage and family therapist; and
4. as required by the Board, complete a minimum of 40 hours of professional education in subjects determined by the Board as necessary to ensure the applicant's ability to safely and competently practice as a marriage and family therapist.

R156-60b-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

1. acting as a supervisor or accepting supervision duties of a supervisor without complying with or ensuring compliance with the requirements of Sections R156-60-302 and R156-60b-302;
2. engaging in the supervised practice of mental health therapy if not in compliance with Sections R156-60-302 and R156-60b-302;
3. engaging in or aiding or abetting conduct or practices that are dishonest, deceptive or fraudulent;
4. engaging in or aiding or abetting deceptive or fraudulent billing practices;
5. failing to maintain professional boundaries with a client by entering into a dual or multiple relationship without ensuring that there has been no exploitation or injury to the client or to the client's immediate family; within two years after the formal termination of therapy or last professional contact, with or without client consent, including engaging in any of the following:
   (a) dual or multiple relationships; or
   (b) romantic, intimate or sexual relationship;
6. if engaging in any activity or relationship referenced in Subsection (3) with a client after two years following the formal termination of therapy or last professional contact, failing to demonstrate that there has been no exploitation or injury to the client or to the client's immediate family, with or without client consent, failing to maintain professional boundaries with a client after the formal termination of therapy or last professional contact, including engaging in a romantic, intimate, or sexual relationship;
7. engaging in sexual activities or sexual contact with a client's relative or other individual with whom the client maintains a relationship, if that individual is especially vulnerable or susceptible...
to being disadvantaged because of the personal history, current mental status, or any condition that could reasonably be expected to place that individual at a disadvantage recognizing the power imbalance that exists or may exist between the marriage and family therapist and that individual;

(8) physical contact with a client when there is a risk of exploitation or potential harm to the client resulting from the contact;

(9) engaging in or aiding or abetting sexual harassment or any conduct that is exploitive or abusive with respect to a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;

(10) failing to render impartial, objective, and informed services, recommendations or opinions with respect to custodial or parental rights, divorce, domestic relationships, adoptions, sanity, competency, mental health or any other determination concerning an individual's civil or legal rights;

(11) exploiting a client for personal gain;

(12) use of a professional client relationship to exploit a person that is known to have a personal relationship with a client for personal gain;

(13) failing to maintain appropriate client records for a period of not less than ten years from the documented termination of services to the client;

(14) failing to obtain informed consent from the client or legal guardian before taping, recording or permitting third party observations of client care or records;

(15) failure to cooperate with the Division during an investigation; and

(16) violating a provision of the Revised AAMFT Code of Ethics effective January 1, 2015, which is adopted and incorporated by reference.

KEY: licensing, therapists, marriage and family therapist
Date of Last Change: [November 10, 2020]2022
Notice of Continuation: June 13, 2019
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-60-301

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal

Utah Admin. Code Ref (R no.): R307-301
Filing ID: 54174

Agency Information

1. Department: Environmental Quality

Agency: Air Quality

Building: Multi-Agency State Office Building

Street address: 195 N 1950 W

City, state and zip: Salt Lake City, UT 84116

Mailing address: PO Box 144820

City, state and zip: Salt Lake City, UT 84114-4820

Contact person(s):

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bo Wood</td>
<td>385-499-3416</td>
<td><a href="mailto:rwood@utah.gov">rwood@utah.gov</a></td>
</tr>
</tbody>
</table>

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

General Information

2. Rule or section catchline:

R307-301. Utah and Weber Counties: Oxygenated Gasoline Program as a Contingency Measure

3. Purpose of the new rule or reason for the change

(Why is the agency submitting this filing?):

During the required five-year review analysis, the Division of Air Quality (DAQ) staff determined that this rule is no longer necessary. This rule was originally adopted as a contingency measure for the carbon monoxide (CO) attainment and maintenance state implementation plan (SIP) revisions for Utah and Weber counties, last approved by the Air Quality Board in 2004. This rule requires gasoline sold in Utah and Weber Counties between November 1 and the end of February to be oxygenated with a 2.7% minimum blend of ethanol, should the area violate the standard and the contingency be triggered.

According to the U.S. Department of Energy, more than 98% of gasoline sold in the United States today is oxygenated with a blend of 10% ethanol, exceeding the 2.7% required by this rule. Considering this, the DAQ in consultation with the Environmental Protection Agency, have determined that this rule is no longer required to meet any SIP requirements.

Additionally, monitored data shows that neither area has exceeded the CO standard since 1993. The DAQ continues to operate an air quality monitoring network in accordance with 40 CFR Part 58 to verify the continued attainment of the CO NAAQS, but as CO emissions continue to decline, it is unlikely that a violation of the 8-Hour CO standard will occur.

4. Summary of the new rule or change

(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule is repealed in its entirety.

A public hearing is set for Tuesday, 01/18/2022. Further details may be found below. The hearing will be cancelled should no request for one be made by Monday, 01/17/2022 at 10:00am MST. The final status of the public hearing will be posted on Monday, 01/17/2022, after 10:00AM MST. The status of the public hearing may be checked at the following website location under the corresponding rule.
Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
There are no anticipated costs or savings to the state budget because the tax credit no longer exists.

B) Local governments:
There are no anticipated costs or savings to local governments because this rulemaking is not applicable to them.

C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because the tax credit no longer exists.

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 because the tax credit no longer exists.

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 for persons other than small businesses, and non-small businesses, state, or local government because the tax credit no longer exists.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no anticipated compliance costs for affected persons.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
DAQ does not expect any measurable fiscal impact on businesses due to this rule repeal. Kimberly D. Shelley, Executive Director

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
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<tbody>
<tr>
<td>Fiscal Cost</td>
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<tr>
<td>State Government</td>
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<tr>
<td>Local Governments</td>
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<tr>
<td>Small Businesses</td>
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<tr>
<td>Non-Small Businesses</td>
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<td>Other Persons</td>
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<td>Total Fiscal Cost</td>
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<td>Fiscal Benefits</td>
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<td>State Government</td>
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<td>Local Governments</td>
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<td>Small Businesses</td>
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<tr>
<td>Non-Small Businesses</td>
</tr>
<tr>
<td>Other Persons</td>
</tr>
<tr>
<td>Total Fiscal Benefits</td>
</tr>
<tr>
<td>Net Fiscal Benefits</td>
</tr>
</tbody>
</table>

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved of this impact analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 19-2-101 | Section 19-2-104

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

A) Comments will be accepted until: 01/14/2022


[R307-301]—Utah and Weber Counties: Oxygenated Gasoline Program As a Contingency Measure. 

R307-301-1. Definitions. 

The following additional definitions apply to R307-301. 

"Averaging period" is the control period and means the period of time over which all gasoline sold or dispensed for use in a control area by any control area responsible party or blender control area responsible party must comply with the average oxygen content standard. 

"Blender control area responsible party (blender CAR)" means a person who owns oxygenated gasoline which is sold or dispensed from a control area oxygenate blending installation. 

"Blending Allowance" means the amount of oxygen a gasoline blend is allowed above its upper oxygen content limit. Any blending allowances are not be permitted under a waiver granted by the Administrator of the Environmental Protection Agency under 42 U.S.C. 7545(f)(4). 

"Carrier" means any person who transports, stores or causes the transportation or storage of gasoline at any point in the gasoline distribution network, without taking title to or otherwise having ownership of the gasoline, and without altering the quality or quantity of the gasoline. 

"Control area" means a geographic area in which only gasoline under the oxygenated gasoline program may be sold or dispensed during the control period. 

"Control area terminal" means either a terminal which is capable of receiving gasoline in bulk, i.e., by pipeline, marine vessel or barge, or a terminal at which gasoline is altered either in quantity or quality, excluding the addition of deposit control additives, or both. Gasoline which is intended for use in any control area is sold or dispensed into trucks at these control area terminals. 

"Control period" means November 1 through the last day of February, during which time only oxygenated gasoline may be sold and dispensed in any control area. 

"Distributor" means any person who transports or stores or causes the transportation or storage of gasoline at any point in the gasoline refiner's installation and any retail outlet or wholesale purchaser-consumer's installation. A distributor is a blender CAR if the distributor alters the oxygen content of gasoline intended for use in any control area through the addition of one or more oxygenates, or lowers its oxygen content below the minimum oxygen content specified in R307-301-6. 

"Gasoline" means any fuel sold for use in motor vehicles and motor vehicle engines, and commonly or commercially known or sold as gasoline. 

"Gasoline blendstock" means a hydrocarbon material which by itself does not meet specifications for finished gasoline, but which can be blended with other components, including oxygenates, to produce a blended gasoline fully meeting the American Society for Testing and Materials (ASTM) or state specifications. 

"Non-oxygenated gasoline" means any gasoline which does not meet the definition of oxygenated gasoline. 

"Oxygen content of gasoline blends" means percentage of oxygen-by-weight contained in a gasoline blend based upon the percent-by-volume of each type of oxygenate contained in the gasoline blend excluding denaturants and other non-oxygen-containing compounds. All measurements shall be adjusted to 60 degrees Fahrenheit. 

"Oxygenate" means any substance, which when added to gasoline, increases the amount of oxygen in that gasoline blend. 

"Oxygenate blender" means a person who owns, leases, operates, controls, or supervises a control area oxygenate blending installation. 

"Oxygenated gasoline" means any gasoline which contains at least 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1%, that was produced through the addition of one or more oxygenates to a gasoline and has been included in the oxygenated gasoline program accounting by a control area responsible party or blender control area responsible party and which is intended to be sold or dispensed for use in any control area. Notwithstanding the foregoing, if the Board determines that the requirement of 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1%, will prevent or interfere with attainment of the PM2.5 National Ambient Air Quality Standard and the State requests and is granted a waiver from the Administrator of the Environmental Protection Agency under 42 U.S.C. 7545, the waiver amount granted by the Administrator of the Environmental Protection Agency shall apply. Oxygenated gasoline containing lead is required to conform to the same waiver conditions or substantially similar ruling as unleaded gasoline as described in the definition of oxygenate.
(1) “Refiner” means any person who owns, leases, operates, controls, or supervises a refinery which produces gasoline for use in a control area during the applicable control period.

(2) “Refinery” means a plant at which gasoline is produced.

(3) “Reseller” means any person who purchases gasoline and resells or transfers it to a retailer or a wholesale purchaser-consumer.

(4) “Retail outlet” means any establishment at which gasoline is sold or offered for sale to the ultimate consumer for use in motor vehicles.

(5) “Retailer” means any person who owns, leases, operates, controls, or supervises a retail outlet.

(6) “Terminal” means an installation at which gasoline is sold, or dispensed into tanks for transportation to retail outlets or wholesale purchaser-consumer installations.

(7) “Trigger date” means the date on which is triggered the Contingency Action Level specified in Section IX.C.8.h or IX.C.6.e of the state implementation plan.

“Whole sale purchaser-consumer” means any organization that:

(1) is an ultimate consumer of gasoline;

(2) purchases or obtains gasoline from a supplier for use in motor vehicles; and

(3) receives delivery of that product into a storage tank of at least 550 gallon capacity substantially under the control of that organization.

(4) “Working day” means Monday through Friday, excluding observed federal and Utah state holidays.


(1) Unless waived under authority of 42 U.S.C. 7545(m)(2) by the Administrator of the Environmental Protection Agency, R307-301 is applicable in Utah and Weber Counties.

(2) The first control period for areas for which R307-301 is applicable begins on November 1 following the trigger date for the county in which it has been triggered.


(1) All gasoline sold or dispensed during the control period, for use in each control area, by each CAR or blender CAR as defined in R307-301-1, shall be blended for each averaging period to contain an average oxygen content of not less than 2.7% oxygen by weight.

(2) The averaging period over which all gasoline sold or dispensed in the control area is to be averaged shall be equal to the control period.


(4) Any gasoline blended under 42 U.S.C. 7545(f)(1) dealing with substantially similar fuels must be blended in compliance with the criteria specified in the substantially similar ruling. Any extra volume of oxygenate or oxygenates added to gasoline blended under a substantially similar ruling as provided for under 42 U.S.C. 7545(f)(1) in excess of the criteria specified in 42 U.S.C. 7545(f)(1) may not be included in the compliance calculations specified in R307-301-5(2) and (3).

(5) Any gasoline blended under a waiver granted by the Environmental Protection Agency under the provisions of 42 U.S.C. 7545(f)(4) must be blended in compliance with the criteria specified in the appropriate waiver. Gasoline blends waived to oxygen content above 2.7% oxygen by weight are not permitted a blending allowance for blending tolerance purposes. Any extra volume of oxygenate in excess of the criteria specified in the appropriate waiver may not be included in the compliance calculations specified in R307-301-5(2) or (3).

(6) Oxygen content shall be determined in accordance with R307-301-4.


(1) For the purpose of determining compliance with the requirements of R307-301, the oxygen content of gasoline shall be determined by one or both of the following methods:

(a) Volumetric Method. Oxygen content may be calculated by the volumetric method specified in the Environmental Protection Agency Guidelines for Oxygenated Gasoline Credit Programs under Section 211(m) of the Clean Air Act as Amended - Supplementary Information - Oxygen Content Conversions, published in the Federal Register on October 20, 1992.

(b) Chemical Analysis Method.

(i) Use the sampling methodologies detailed in 40 CFR Part 80 (1993), Appendix D, to obtain a representative sample of the gasoline to be tested;

(ii) Determine the oxygen content of the sample by use of:

(A) the test method specified in ASTM Designation D4815-93, Testing Procedures—Method—ASTM Standard Test Method for Determination of C1 to C4 Alcohols and MTBE in Gasoline by Gas Chromatography;

(B) the test method specified in Appendix C of Environmental Protection Agency Guidelines for Oxygenated Gasoline Credit Programs under Section 211(m) of the Clean Air Act as Amended—Test Procedure—Test for the Determination of Oxygenates in Gasoline as published in the Federal Register on October 20, 1992, or

(C) an alternative test method approved by the director.

(iii) Calculate the oxygen content of the gasoline sampled by multiplying the mass concentration of each oxygenate in the gasoline sampled by the oxygen molecular weight contribution of the oxygenate set forth in (3) below.

(2) All volume measurements required in R307-301-4 shall be adjusted to 60 degrees Fahrenheit.

(3) For the purposes of R307-301, the oxygen molecular weight contributions and specific gravities of oxygenates currently approved for use in the United States by the U.S. Environmental Protection Agency are the following:

<table>
<thead>
<tr>
<th>Oxygenate</th>
<th>Weight Fraction</th>
<th>Specific Gravity at 60 degrees F</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ethyl alcohol</td>
<td>0.3473</td>
<td>0.7939</td>
</tr>
<tr>
<td>Normal propyl alcohol</td>
<td>0.2662</td>
<td>0.8080</td>
</tr>
<tr>
<td>Isopropyl alcohol</td>
<td>0.2662</td>
<td>0.7899</td>
</tr>
<tr>
<td>Normal butyl alcohol</td>
<td>0.2188</td>
<td>0.8177</td>
</tr>
<tr>
<td>Isobutyl alcohol</td>
<td>0.2188</td>
<td>0.8088</td>
</tr>
<tr>
<td>Secondary butyl alcohol</td>
<td>0.2188</td>
<td>0.8114</td>
</tr>
<tr>
<td>Tertiary butyl alcohol</td>
<td>0.2188</td>
<td>0.7922</td>
</tr>
<tr>
<td>Methyl tertiary butyl alcohol</td>
<td>0.1811</td>
<td>0.7460</td>
</tr>
<tr>
<td>Tertiary amyl methyl ether</td>
<td>0.1666</td>
<td>0.7352</td>
</tr>
<tr>
<td>Ethyl tertiary butyl ether</td>
<td>0.1666</td>
<td>0.7462</td>
</tr>
</tbody>
</table>

(4) Sampling, testing, and oxygen content calculation records shall be maintained for not less than two years after the end of each control period for which the information is required.
(5) Every refiner must determine the oxygen content of all gasoline produced for use in a control area by use of the methodology specified in (1) above. Documentation shall include the percent oxygen by weight, each type of oxygenate, the purity of each oxygenate, and the percent oxygenate by volume for each oxygenate. If a CAR or blender CAR alters the oxygen content of a gasoline intended for use within a control area during a control period, the CAR or blender CAR must determine the oxygen content of the gasoline by use of the methodology specified in (1) above.


(1) Each CAR or blender CAR shall comply with the standard specified in R307-301-3 by means of the method set forth in either (2) or (3) below and shall specify which option will be used at the time of the registration required under R307-301-7.

(2) Compliance calculation on average basis.

(a) The CAR or blender CAR shall determine compliance with the standard specified in R307-301-3 for each averaging period and for each control area by:

(i) Calculating the total volume of gasoline labeled as oxygenated that is sold or dispensed, not including volume dispensed or sold to another CAR or blender CAR, for use in the control area which is the sum of:

(A) the volume of each separate batch or truckload of gasoline labeled as oxygenated that is sold or dispensed;

(B) minus the volume of each separate batch or truckload of gasoline labeled as oxygenated that is sold or dispensed for use in a different control area;

(C) minus the volume of each separate batch or truckload of gasoline labeled as oxygenated that is sold or dispensed for use in any non-control area;

(ii) Calculating the required total oxygen credit units. Multiply the total volume in gallons of gasoline labeled as oxygenated that is sold or dispensed for use in the control area, as determined by (i) above, by the oxygen content standard specified in R307-301-3.(1).

(iii) Calculating the actual total oxygen credit units generated. The actual total oxygen credit units generated is the sum of the volume of each batch or truckload of gasoline labeled as oxygenated that was sold or dispensed for use in the control area as determined by (c) above, multiplied by the actual oxygen content by weight percent associated with each batch or truckload. If a batch or truckload of gasoline is blended under the substantially similar provisions of 42 U.S.C. 7545(f)(1) or under a waiver granted by the Environmental Protection Agency under the provisions of 42 U.S.C. 7545(f)(4), any extra volume of oxygenate in excess of the substantially similar criteria including the blending tolerance of 0.2% oxygen by weight, or in excess of the appropriate waiver, cannot be included in the calculation of oxygen credit units.

(iv) Calculating the adjusted actual total oxygen credit units. The adjusted actual total oxygen credit units is the sum of the actual total oxygen credit units generated, as determined by (iii) above;

(A) plus the total oxygen credit units purchased, acquired through trade and received; and

(B) minus the total oxygen credit units sold, given away and provided through trade.

(v) Comparing the adjusted actual total oxygen credit units with the required total oxygen credit units. If the adjusted actual total content oxygen credit units is greater than, or equal to, the required total oxygen credit units, then the standard in R307-301-3 is met. If the adjusted actual total oxygen credit units is less than the required total oxygen credit units, then the purchase of oxygen credit units is required in order to achieve compliance.

(vi) In transferring oxygen credit units, the transferor shall provide the transferee with information as to how the credits were calculated, including the volume and oxygen content by weight percent of the gasoline associated with the credits.

(b) To determine the oxygen credit units associated with each batch or truck load of oxygenated gasoline sold or dispensed into the control area, use the running weighted oxygen content (RWOC) of the tank from which and at the time the batch or truck load was received (see (e) below). In the case of batches or truckloads of gasoline to which oxygenate was added outside of the terminal storage tank from which it was received, use the weighted average of the RWOC and the oxygen content added as a result of the volume of the additional oxygenate added.

(c) Running weighted oxygen content. The RWOC accounts for the volume and oxygen content of all gasoline, including transfers to or from another CAR or blender CAR, which enters or leaves a terminal storage tank, and the oxygenation contribution of all oxygenates which are added to the tank. The RWOC must be calculated each time gasoline enters or leaves the tank or whenever oxygenates are added to the tank. The RWOC is calculated weighing the following:

(i) the volume and oxygen content by weight percent of the gasoline in the storage tank at the beginning of the averaging period;

(ii) the volume and oxygen content by weight percent of gasoline entering the storage tank;

(iii) the volume and oxygen content by weight percent of gasoline leaving the storage tank; and

(iv) the volume, type, purity and oxygen content by weight percent of the oxygenates added to the storage tank.

(d) Credit transfers. Credits may be used in the compliance calculation in (2)(a)(i) above, provided that:

(i) the credits are generated in the same control area as they are used, i.e., no credits may be transferred between nonattainment areas;

(ii) the credits are generated in the same averaging period as they are used;

(iii) the ownership of credits is transferred only between CARs or blender CARs registered under the averaging compliance option specified in R307-301-7;

(iv) the transfer agreement is made no later than 30 working days, as defined in R307-301-1, after the final day of the averaging period in which the credits are generated; and

(v) the credits are properly created.

(e) Improperly created credits.

(i) No party may transfer any credits to the extent such a transfer would result in the transferor having a negative credit balance at the conclusion of the averaging period for which the credits were transferred. Any credits transferred in violation of this paragraph are improperly created credits.

(ii) Improperly created credits may not be used, regardless of a credit transferee’s good faith belief that the transferee was receiving valid credits.

(3) Compliance calculation on a per gallon basis. Each gallon of gasoline sold or dispensed by a CAR or blender CAR for use within each control area during the averaging period as defined in R307-301-3 shall have an oxygen content of at least the average oxygen content standard specified in R307-301-3.(1). The maximum oxygen content which may be used to calculate compliance is the average oxygen content standard specified in R307-301-3. In addition, the CAR or blender CAR is prohibited from selling, trading
or providing oxygen credits based on gasoline for which compliance is calculated under this alternative per-gallon method.


(1) Any gasoline which is sold or dispensed by a CAR, blender CAR, carrier, distributor, or reseller for use within a control area, as defined in R307-301-1, during the control period, shall contain not less than 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1%, unless it is sold or dispensed to another registered CAR or blender CAR. This requirement shall begin five working days, as defined in R307-301-1, before the applicable control period and shall apply until the end of that period.

(2) This requirement shall apply to all parties downstream of the CAR or blender CAR unless the gasoline will be sold or dispensed to another CAR or blender CAR. Any gasoline which is offered for sale, sold or dispensed to an ultimate consumer within a control area during a control period, as defined in R307-301-1, shall not contain less than 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1%. This requirement shall apply during the entire applicable control period.

(3) Every refiner must determine the oxygen content of all gasoline produced by use of the methodologies described in R307-301-1. This determination shall include the oxygen content by weight percent, each type of oxygenate, and percent oxygenate by volume for each type of oxygenate.

(4) Any gasoline sold or dispensed by a CAR or blender CAR for use within a control area and for which compliance is demonstrated using the method specified in (3) shall contain not less than the average oxygen content standard specified in R307-301-3(L), unless the gasoline is sold or dispensed to another registered CAR or blender CAR.

R307-301-7. Registration.

(1) All persons who sell or dispense gasoline directly or indirectly to persons who sell or dispense to ultimate consumers in a control area during a control period, including CARs, blender CARs, carriers, resellers, and distributors, shall petition the director for registration not less than one calendar month in advance of such sales or transfers of gasoline into the control area during the control period.

(2) This petition for registration shall be on forms prescribed by the director and shall include the following information:

(a) the name and business address of the CAR, blender CAR, carrier, reseller, or distributor;

(b) the address and physical location of each of the control area terminals from which the CAR operates;

(c) in the case of a blender CAR, the address and physical location of each control area oxygenate blending installation which is owned, leased, operated, or controlled, or supervised by a blender CAR;

(d) in the case of a carrier, distributor, or reseller, the names and addresses of retailers they supply;

(e) the address and physical location where documents which are required to be retained by R307-301 shall be kept; and

(f) in the case of a CAR or blender CAR, the compliance option chosen under provisions of R307-301-5 and a list of oxygenates which will be used.

(2) If the registration information previously supplied by a registered party under the provisions of (2)(a) through (e) becomes incomplete or inaccurate, that party shall submit updated registration information to the director within 15 working days as defined in R307-301-1. If the information required under (2)(f) is to change, the updated registration information must be submitted to the director before the change is made.

(4) No person shall participate in the oxygenated gasoline program as a CAR, blender CAR, carrier, reseller, or distributor until such person has been notified by the director that such person has been registered as a CAR, blender CAR, carrier, reseller, or distributor. Registration shall be valid for the time period specified by the director. The director shall issue each CAR, blender CAR, carrier, reseller, or distributor a unique identification number within one calendar month of the petition for registration.


(1) Records. All parties in the gasoline distribution network, as described below, shall maintain records containing compliance information enumerated or described below. These records shall be retained by the regulated parties for a period of two years after the end of each control period for which the information is required.

(a) Refiners. Refiners shall, for each separate quantity of gasoline produced or imported for use in a control area during a control period, maintain records containing the following information:

(i) results of the tests utilized to determine the types of oxygenates and percent by volume;

(ii) percent oxygenate content by volume of each oxygenate;

(iii) oxygen content by weight percent;

(iv) purity of each oxygenate;

(v) total volume of gasoline, and

(vi) the name and address of the party to whom each separate quantity of oxygenated gasoline was sold or transferred.

(b) Control area terminal operators. Persons who own, lease, operate or control gasoline terminals which serve control areas, or any truck- or terminal-lessee who subleases any portion of a leased tank or terminal to other persons, shall maintain a copy of the transfer document for each batch or truckload of gasoline received, purchased, sold or dispensed, and shall maintain records containing the following information:

(i) the owner of each batch of gasoline handled by each regulated installation if known, or the storage customer of record;

(ii) volume of each batch or truckload of gasoline going into or out of the terminal;

(iii) for all batches or truckloads of gasoline leaving the terminal, the RWOC of the batch or truckload;

(iv) for each oxygenate, the type of oxygenate, purity if available, and percent oxygenate by volume;

(v) oxygen content by weight percent of all batches or truckloads received at the terminal;

(vi) destination county of each tank truck sale or batch of gasoline as declared by the purchaser of the gasoline, if the destination is within Utah or Weber County;

(vii) the name and address of the party to whom the gasoline was sold or transferred and the date of the sale or transfer, and

(viii) the results of the tests for oxygenates, if performed, of each sale or transfer, and who performed the tests.

(c) CARs and blender CARs. Each CAR must maintain records containing the information listed in (b) above. Each CAR and blender CAR must maintain a copy of the transfer document for each shipment of gasoline received, purchased, sold or dispensed, as well as the records containing the following information.
NOTICES OF PROPOSED RULES

R307-301-9. Reports.
(1) Each CAR or blender CAR that elects to comply with the average oxygen content standard specified in R307-301-3 by the compliance option specified in R307-301-5(2) shall submit a report to the director for each control period for each control area as defined in R307-301-1 reflecting the compliance information detailed in R307-301-5(2).
(2) Each CAR or blender CAR that elects to comply with the average oxygen content standard specified in R307-301-3 shall submit a report to the director for each control period for each control area as defined in R307-301-1 reflecting the compliance information detailed in R307-301-5(3), including the volume of oxygenated gasoline sold or dispensed into each control area during the control period.
(3) The report is due 30 working days, as defined in R307-301-1, after the last day of the control period for which the information is required. The report shall be filed using forms provided by the director.

R307-301-10. Transfer Documents.
Each time that physical custody or title of gasoline destined for a control area changes hands other than when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer installation, the transferee shall provide to the transferee, in addition to, or as part of, normal bills of lading, invoices, etc., a document containing information regarding that shipment. This document shall accompany every shipment of gasoline to a control area after it has been dispensed by a terminal, or the information shall be included in the normal paperwork which accompanies every shipment of gasoline. The information shall legibly and conspicuously contain the following information:
(1) the date of the transfer;
(2) the name, address, and CAR, blender CAR, carrier, distributor, or reseller identification number, if applicable, of the transferee;
(3) the name, address, and CAR, blender CAR, carrier, distributor, or reseller identification number, if applicable, of the transferor;
(4) the volume of gasoline which is being transferred;
(5) identification of the gasoline as oxygenated or, if non-oxygenated, with a statement labeling it as "Non-oxygenated gasoline, not for sale to ultimate consumer in a control area during a control period";
(6) the location of the gasoline at the time of the transfer;
(7) type of each oxygenate and percentage by volume for each oxygenate;
(8) oxygen content by weight percent; and
(9) for gasoline which is in the gasoline distribution network between the refinery or import installation and the control area terminal, for each oxygenate used, the type of oxygenate, its purity and percentage by volume and the oxygen content by weight percent.

(1) During the control period, no refiner, oxygenate blender, CAR, blender CAR, control area terminal operator, carrier,
(a) gasoline which contains less than 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1% for use during the control period, in a control area unless clearly marked documents accompany the gasoline labeling it as “Non-oxygenated gasoline, not for sale to ultimate consumer in a control area during a control period;

(b) gasoline represented as oxygenated which has an oxygen content which is improperly stated in the documents which accompany such gasoline.

(2) No retailer or wholesale purchaser-consumer may dispense, offer for sale, sell or store, for use during the control period, gasoline which contains less than 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1% in a control area.

(3) No person may operate as a CAR or blender CAR or hold themselves out as such unless they have been properly registered by the director. No CAR or blender CAR may offer for sale or store, sell, dispense gasoline, to any person not registered as a CAR or blender CAR for use in a control area, unless:

(a) the average oxygen content of the gasoline during the averaging period meets the standard established in R307-301-3; and

(b) the gasoline contains at least 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1% on a per-gallon basis.

(4) For terminals which sell or dispense gasoline intended for use in a control area during a control period, the terminal owner or operator may not accept gasoline into the terminal unless:

(a) transfer documentation containing the information specified in R307-301-8(3) accompanies the gasoline and

(b) the terminal owner or operator conducts a quality assurance program to verify the accuracy of this information.

(5) No person may sell or dispense non-oxygenated gasoline for use in any control area during the control period, unless:

(a) the non-oxygenated gasoline is segregated from oxygenated gasoline;

(b) clearly marked documents accompany the non-oxygenated gasoline labeling it as “non-oxygenated gasoline, not for sale to ultimate consumer in a control area during a control period;” and

(c) the non-oxygenated gasoline is in fact not sold or dispensed to ultimate consumers during the control period in the control area.

(6) No named person may fail to comply with the recordkeeping and reporting requirements contained in R307-301-8 through 10.

(7) No person may sell, dispense or transfer oxygenated gasoline, except for use by the ultimate consumer at a retail outlet or wholesale purchaser-consumer installation, without transfer documentation which accurately contain the information required by R307-301-10.

(8) Liability for violations of the prohibited activities.

(a) Where the gasoline contained in any storage tank at any installation owned, leased, operated, controlled or supervised by any refiner, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender is found in violation of the prohibitions described in (1)(a) or (2) above, the following persons shall be in violation:

(i) the retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender who owns, leases, operates, controls or supervises the installation where the violation is found; and

(ii) each oxygenate blender, distributor, reseller, and carrier who, downstream of the control area terminal, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline which is in the storage tank containing gasoline found to be in violation.

(b) Where the gasoline contained in any storage tank at any installation owned, leased, operated, controlled or supervised by any retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender is found in violation of the prohibitions described in (1)(b) or (2) above, the following persons shall be in violation:

(i) the retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender who owns, leases, operates, controls or supervises the installation where the violation is found; and

(ii) each refiner, oxygenate blender, distributor, reseller, and carrier who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline which is in the storage tank containing gasoline found to be in violation.

(9) Defenses for prohibited activities.

(a) In any case in which a refiner, oxygenate blender, distributor, reseller or carrier would be in violation under (1) above, that person shall not be in violation if they can demonstrate that they meet all of the following:

(i) that the violation was not caused by the regulated party or its employee or agent;

(ii) that refiner, oxygenate blender, distributor, reseller or carrier possesses documents which should accompany the gasoline, which contain the information required by R307-301-8; and

(iii) that refiner, oxygenate blender, distributor, reseller or carrier conducts a quality assurance sampling and testing program as described in (10) below.

(b) In any case in which a retailer or wholesale purchaser-consumer would be in violation under (2) above, the retailer or wholesale purchaser-consumer shall not be in violation if it can demonstrate that they meet all of the following:

(i) that the violation was not caused by the regulated party or its employee or agent; and

(ii) that the retailer or wholesale purchaser-consumer possesses documents which should accompany the gasoline, which contain the information required by R307-301-8 through 10.

(c) Where a violation is found at an installation which is operating under the corporate, trade or brand name of a refiner, that refiner must show, in addition to the defense elements required by (a) above, that the violation was caused by any of the following:

(i) an act in violation of law; and

(ii) the action of a refiner, distributor, oxygenate blender, carrier, or a retailer, or wholesale purchaser-consumer which is supplied by any of the persons listed in (a) above, in violation of a contractual undertaking imposed by the refiner designed to prevent such action, and despite periodic sampling and testing by the refiner to ensure compliance with such contractual obligation.

(iii) the action of any carrier or other distributor not subject to a contract with the refiner but engaged by the refiner for transportation of gasoline, despite specification or inspection of procedures and equipment by the refiner or periodic sampling and testing which are reasonably calculated to prevent such action.
(d) In R307-301-8 through -11, the term “was caused” means that the party must demonstrate by specific showings or by direct evidence, that the violation was caused or must have been caused by another.

(10) Quality Assurance Program. In order to demonstrate an acceptable quality assurance program, a party must conduct periodic sampling and testing to determine if the oxygenated gasoline has oxygen content which is consistent with the product transfer documentation.

(1) Any person selling or dispensing oxygenated gasoline pursuant to R307-301 is required to label the fuel dispensing system with one of the following notices:
(a) “The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles. This fuel contains up to (specify maximum percent by volume) (specific oxygenate or specific combination of oxygenates in concentrations of at least one percent).”
(b) “The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles. This fuel contains up to (specify maximum percent by volume) (specific oxygenate or combination of oxygenates present in concentrations of at least one percent) from November 1 through February 29.”
(2) The label letters shall be block letters of no less than 20 point type, at least 1/16 inch stroke (width of type), and of a color that contrasts with the label background color. The label letters that specify maximum percent oxygenate by volume and that disclose the specific oxygenate shall be at least 1/2 inch in height, 1/16 inch stroke (width of type).
(3) The label must be affixed to the upper one-half of the vertical surface of the pump on each side with gallonage and dollar amount meters from which gasoline can be dispensed and must be clearly readable to the public.
(4) The retailer or wholesale purchaser-consumer shall be responsible for compliance with R307-301-12.

R307-301-13. Inspections.
Inspections of registered parties, control area retailers, refineries, control area terminals, oxygenate blenders and control area wholesale purchaser-consumers may include the following:
(1) physical sampling, testing, and calculation of oxygen content of the gasoline as specified in R307-301-4;
(2) review of documentation relating to the oxygenated gasoline program, including but not limited to records specified in R307-301-8; and
(3) in the case of control area retailers and wholesale purchaser-consumers, verification that gasoline dispensing pumps are labeled in accordance with R307-301-12.

The director shall provide to the affected public, mechanics, and industry information regarding the benefits of the program and other issues related to oxygenated gasoline.

KEY: air pollution control, motor vehicles, gasoline, petroleum

Date of Last Change: May 18, 2004
Notice of Continuation: January 27, 2017
Authorizing, and Implemented or Interpreted Law: 19-2-101, 49-2-104

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal

Utah Admin. Code Ref (R no.): R384-205  Filing ID 54142

Agency Information
1. Department: Health

Agency: Disease Control and Prevention, Health Promotion
Building: Cannon Health Building
Street address: 288 N 1460 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 143102
City, state and zip: Salt Lake City, UT 84114

Contact person(s):
Name: Teresa Brechlin
Phone: 385-214-5933
Email: tbrechlin@utah.gov

Name: Anna Fondario
Phone: 385-258-8537
Email: afondario@utah.gov

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

General Information
2. Rule or section catchline:
R384-205. Opiate Overdose Outreach Pilot Program

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The agency is requesting to repeal this rule. The program was funded for one year. It no longer receives funds and is no longer active.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is repealed in its entirety.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
There is no fiscal impact to the state budget because the funding for this program was one time funding and the program is no longer active. Please see Subsections 25-55-107(4-7).
B) Local governments:

There is no fiscal impact to the local governments because the funding for this program was one time funding and the program is no longer active. Please see Subsections 25-55-107(4-7).

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

There is no fiscal impact to small business because the funding for this program was one time funding and the program is no longer active. Please see Subsections 25-55-107(4-7).

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

There is no fiscal impact to non-small businesses because the funding for this program was one time funding and the program is no longer active. Please see Subsections 25-55-107(4-7).

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 fiscal impact to persons other than small businesses, non-small businesses, state, or local government entities because the funding for this program was one time funding and the program is no longer active. Please see Subsections 25-55-107(4-7).

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons because the funding for this program was one time funding and the program is no longer active. Please see Subsections 25-55-107(4-7).

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There is no fiscal impact on business unless it was the recipient of a prior grant of funds that no longer exist. Nathan Checketts, Interim Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:

The Executive Director of the Utah Department of Health, Nathan Checketts, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Title 26, Chapter 55

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

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of
[R384-205. Opiate Overdose Outreach Pilot Program.

**R384-205-1. Authority and Purpose.**

This rule establishes procedures and application processes pursuant to Title 26 Chapter 55. Opiate Overdose Response Act for the Utah Department of Health. Funding will provide for the purchase of an opiate antagonist, and for the cost of training on the proper administration of an opiate antagonist, in response to an opiate-related drug overdose event.

**R384-205-2. Definitions.**

1. The following definitions apply to this rule:
   - "Department" means the Utah Department of Health Violence and Injury Prevention Program.
   - "Harm Reduction" means services that are aimed at reducing negative consequences associated with drug use.
   - "High risk populations" means tribal communities, rural communities, geographic areas and/or populations with significantly high rates of opioid abuse, misuse, or overdose.
   - "Opiate antagonist" as defined in Subsection 26-55-102(8).

**R384-205-3. Application Process.**

1. The Department shall establish an Opiate Overdose Outreach grant application process and packet on an annual basis, as funding is available. The packet will include the review schedule, submission details, review criteria, and eligibility details. The application packet with all details will be posted on the Utah Department of Health Violence and Injury Prevention Program website.

**R384-205-4. Criteria for Application for the Opiate Overdose Outreach Pilot Program.**

1. Eligible applicants may include organizations as defined in Subsection 26-55-107(1), which includes organizations that provide harm reduction services, and an overdose outreach provider as defined in Subsection 26-55-102(10)(c), (d).

2. Additional weight for awarding a grant will be given based on applicant's ability to demonstrate:
   - a. how they will serve high risk populations and
   - b. size of population served.

**R384-205-5. Criteria for Funding Allocation.**

1. The Department shall select a grant allocation committee. The committee will include five professionals from one or more of the following professions:
   - a. health care,
   - b. pharmacy,
   - c. public health,
   - d. emergency medical services.

2. The committee will review the applications and assign a score based on the following evaluation criteria of the application:
   - a. Demonstrated burden and identified target audience,
   - b. Capacity to reach target audience,
   - c. Ability to operate under deadline, and
   - d. Detailed budget breakdown.

3. Allocation of funding for each application will be based upon the criteria outlined in the Scope of Services and Requirements section of the grant application.

   - 1. Applicant's funding request shall meet the criteria stated in Subsection 26-55-107(7)(b), as it relates to training costs.
   - 2. Funding will be allocated according to applicant scores.

**R384-205-6. Report Requirements.**

1. The grantee shall submit an annual report to the Department in accordance to Subsection 26-55-107(7)(d).

**R384-205-7. Audit Provisions.**

1. The grantee shall record, preserve, and make data available for audit by the Department. The retention schedule shall be according to that specified in the application packet when applying for funding.

KEY: opioids, naloxone, overdoses, prescription drugs

Date of Last Change: November 7, 2016

Authorizing, and Implemented or Interpreted Law: 26-55-107]
Executive Order No. 2021-12 requires state agencies to amend rules that are inconsistent with the current edition of the Utah Administrative Rulewriting Manual. As required, the amendments to Rule R386-703 provide technical and conforming changes in accordance with the Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Technical and conforming amendments were made to all sections of this rule to align with the Utah Administrative Rulewriting Manual and remove superfluous and repetitive language, including the following:

In Section R386-703-2, definitions for technical terms that were defined in the body of the rule were moved to the definitions section.

In Section R386-703-3, the list of reportable injuries was simplified due to the removal of definitions.

Section R386-703-4 was broken into separate sections for their respective reporting requirements. This created a new Section R386-703-5, a new Section R386-703-6, and a new Section R386-703-7.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

No anticipated cost or savings because the changes do not affect existing operations.

B) Local governments:

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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):

No anticipated cost or savings because the changes do not affect existing operations.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No anticipated cost or savings because the changes do not affect existing operations.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There is no fiscal impact to businesses because it does not add any additional requirements or obligations. Nathan Checketts, Interim Executive Director

6. A) 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.)

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R386. Health, Disease Control and Prevention, Epidemiology.  
R386-703. Injury Reporting Rule.

1. Purpose Statement.
   (1) The Injury Reporting Rule is adopted under authority of
   Sections 26-1-30 and 26-6-3.
   (2) The Injury Reporting Rule establishes an injury
   surveillance and reporting system for major injuries occurring in
   Utah. Injuries constitute a leading cause of death and disability in
   Utah and, therefore, pose an important risk to public health. I specified
   injuries with the intent of identifying the risk factors that contribute to
   the causes of injury that can be ameliorated, thereby reducing
   morbidity and mortality.

2. Definitions.
   (1) "Acute Traumatic Brain Injury" means a head injury of sufficient severity to cause death or to require admission to a health care facility. Acute traumatic brain injuries may be associated with transient or persistent neurological dysfunction and may be diagnosed as brain concussions, brain contusions, or traumatic intracranial hemorrhages.
   (2) "Acute Spinal Cord Injury" means a traumatic injury to the contents of the spinal canal, spinal cord or cauda equina, which result in death or which result in transient or persistent neurological dysfunction of sufficient severity to require health care facility admission.
   (3) "Agency" means the health care facility or laboratory at which a reportable injury is treated or evaluated.
   (4) "Asphyxiation" means an injury which arises from atmospheric oxygen deprivation or from traumatic respiratory obstruction which results in death or is of sufficient severity to require admission to a health care facility.
   (5) "Authorized Health Personnel" means a person representing the Department or a local health department who is authorized to inspect medical records for injury investigations.
   (6) "Blunt Force Injury" means a blunt force injury which results in death or is of sufficient severity to require admission to a health care facility.
   (7) "Bureau of Emergency Medical Services" means the Bureau of Emergency Medical Services in the Division of Family Health and Preparedness in the Utah Department of Health.
   (8) "Bureau of Epidemiology" means the Bureau of Epidemiology in the Division of Disease Control and Prevention in the Utah Department of Health.
   (9) "Burns" means an injury resulting from acute thermal exposure or exposure to fire which results in death or is of sufficient severity to require admission to a health care facility.
   (10) "Chemical Poisoning" means any case where a person has an acute exposure to toxic chemical substances which result in death or require admission to a health care facility or emergency department evaluation.
   (11) "Department" means the Utah Department of Health.
   (12) "Drowning" and "Near Drowning" means a water immersion injury resulting in death and any water immersion injury of sufficient severity to require admission to a health care facility.
   (13) "Electrocution" means an injury arising from exposure to electricity which results in death or is of sufficient severity to require admission to a health care facility.
   (14) "Elevated Blood Lead" means any case where a person has a blood lead concentration equal to or greater than 5 micrograms per deciliter.
   (15) "Health Care Facility" means the same as in Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
   (16) "Individual" means the medical examiner, head start coordinator, or licensed medical personnel of a private office who treated or evaluated a reportable injury.
   (17) "Injury" means bodily damage resulting from exposure to physical agents [such as] including mechanical energy, thermal energy, ionizing radiation, or chemicals, or resulting from the deprivation of basic environmental requirements [such as] including oxygen or heat. Mechanical energy injuries include acceleration and deceleration injuries, blunt trauma, and penetrating wound injuries.
   (18) "Injury Related to Substance Abuse" means any case of injury resulting in death or hospitalization and associated with alcohol or drug intoxication of any person involved in the injury occurrence.
   (19) "Intentional Injuries" means any case of suicide or attempted suicide resulting in admission to a health care facility or any case of homicide, attempted homicide, or battery resulting in hospitalization.
"Laboratory" is defined as any clinical laboratory, physician office, [hospital] health care facility, health clinic, reference laboratory or any facility that performs blood lead analysis.

"Local health department" has the same meaning as defined in Section 26A-1-102.

"Local health officer" means the executive director of the jurisdictional local health department or a designated representative.

"Mechanical Energy Injuries" means acceleration and deceleration injuries, blunt trauma, and penetrating wound injuries.

"Office of Vital Records and Statistics" means the Office of Vital Records and Statistics in the Center for Health Data and Informatics in the Utah Department of Health.

"Traumatic Amputations" means a traumatic amputation of a limb or part of a limb which results in death or which require admission to a health care facility or emergency department treatment.

R386-703-3. Reportable Injuries.

[The Utah Department of Health declares the following injuries to be of concern to the public's health. Each case shall be reported to the Utah Department of Health as described in R386-703-4: An individual or agency shall report the following to the Department as outlined in Section R386-703-4:

(a) Acute traumatic brain injury. Reportable acute traumatic brain injuries include head injuries of sufficient severity to cause death or to require admission to a hospital. Acute traumatic brain injuries may be associated with transient or persistent neurological dysfunction, and may be diagnosed as brain concussions, brain contusions, or traumatic intracranial hemorrhages.

(b) Acute spinal cord injury. Reportable acute spinal cord injuries include traumatic injuries to the contents of the spinal canal, spinal cord or cauda equina, which result in death or which result in transient or persistent neurological dysfunction of sufficient severity to require hospital admission.

(c) Blunt force injury. Reportable injuries include all blunt force injuries which result in death or which are of sufficient severity to require hospital admission.

(d) Drowning and near drowning. Reportable drownings and near drownings include all water immersion injuries resulting in death and other water immersion injuries of sufficient severity to require hospital admission.

(e) Asphyxiation. Reportable asphyxiations include injuries which arise from atmospheric oxygen deprivation or from traumatic respiratory obstruction which result in death or which are of sufficient severity to require hospital admission.

(f) Burns. Reportable burn injuries include injuries resulting from acute thermal exposure or exposure to fire which result in death or which are of sufficient severity to require hospital admission.

(g) Electrocution. Reportable electrocution injuries include injuries arising from exposure to electricity which result in death or which are of sufficient severity to require hospital admission.

(h) Blood Lead. All blood lead test results are reportable. Cases of elevated blood lead levels include all persons with blood lead concentrations equal to or greater than 5 micrograms per deciliter. All cases shall be confirmed by either a venous or capillary blood sample, if the first sample was a capillary blood sample.

(i) Chemical Poisoning. Reportable cases of chemical poisoning include all persons with acute exposure to toxic chemical substances which result in death or which require hospital admission or hospital emergency department evaluation. Unintentional adverse health effects resulting from the use of pharmacological agents as prescribed by physicians do not require reporting under this rule.

(j) Intentional Injuries. Reportable intentional injuries include all cases of suicide or attempted suicide resulting in hospital admission and all cases of homicide, attempted homicide, or battery resulting in hospitalization.

(k) Injuries Related to Substance Abuse. Reportable injuries include all cases of injury resulting in death or hospitalization and associated with alcohol or drug intoxication of any person involved in the injury occurrence.

(l) Traumatic Amputations. Reportable amputations include traumatic amputations of a limb or part of a limb which result in death or which require hospital admission or hospital emergency department treatment. Only amputations resulting in bone loss shall be reported.

(a) chemical poisoning, except unintentional adverse health effects resulting from the use of pharmacological agents as prescribed by a physician do not require reporting under this rule:

(b) acute traumatic brain injury;

(c) acute spinal cord injury;

(d) blunt force injury;

(e) drowning and near drowning;

(f) asphyxiation;

(g) burns;

(h) electrocution;

(i) intentional injuries;

(j) injuries related to substance abuse;

(k) traumatic amputation; and

(l) each blood lead test result.

In the case of an elevated blood lead test result, if the initial test result was from a capillary blood sample the attending individual or agency shall confirm each case of elevated blood lead by either a venous or capillary blood sample.


[Report Requirements: Blood Lead Testing Results.

(a) Non Case Report Contents. Unless otherwise specified, each blood lead result. When reporting a non-case blood lead test result, the individual or agency taking the sample shall provide the following information for the person being tested:

(name, date of birth or age if date of birth is unknown, sex, zip code, and the individual or agency submitting the report)

(b) date of birth or age if date of birth is unknown;

(c) sex;

(d) zip code; and

(e) the individual or agency submitting the report.

(b)2) Case Report Contents. Unless otherwise specified, each injury report. When reporting a case of elevated blood lead the individual or agency taking the sample shall provide the following information with each injury report pertaining to the injured person:

(name, date of birth or age if date of birth is unknown, sex, address of residence, date of injury, type of injury, external cause of injury, locale of injury, intentionality, relation of injury to occupation, disposition of the injured person, and the individual or agency submitting the report. A standard report format has been adopted and shall be supplied to reporting sources by the Department of Health upon request]

(a) name;

(b) date of birth or age if date of birth is unknown;

(c) sex;
NOTICES OF PROPOSED RULES

R386-703-5. Report Requirements: Agencies or Individuals Required to Report Injuries.

(2) Agencies or Individuals Required to Report Injuries.
A reportable injury evaluated or treated at a hospital shall be reported by that hospital. Reportable injuries not evaluated at a hospital shall be reported by the involved physician, nurse, other health care practitioner, medical examiner, head start health coordinator or laboratory administrator. Each individual or agency treating or evaluating a reportable injury shall report the injury as required in Sections R386-703-3 through R386-703-7.


(2) Time Requirements. Persons required to report a reportable injury shall submit their report[s] to the local health department or the Utah Department of Health within 60 days of the time of diagnosis or recognition of injury. In the event of an unusual or excessive occurrence of injuries which may arise from a continuing or immediate threat to the public's health, persons required to report shall immediately report by telephone to the local health officer or to the Utah Department of Health.


(4) Case Report Destinations. Each case of injury shall be reported. Except in (a), (b), and (c), an individual or agency shall report a reportable injury to the Bureau of Epidemiology [Utah Department of Health] or to the local health department responsible for the geographic area where the injury occurred.

(a) The local health officer shall forward all original reports to the Utah Department of Health. Local health departments may maintain copies of these reports.

(b) Except as noted in R386-702-4(3)(c), (d) and (e), case reports shall be sent to the Bureau of Epidemiology of the Utah Department of Health.

(c) In fatal cases, when a case results in death, submission of completed death certificates to the Bureau of Vital Records fulfills reporting requirements. An individual or agency reporting a reportable injury may submit a completed death certificate to the Office of Vital Records and Statistics in lieu of reporting to the Bureau of Epidemiology.

(d) In the case where an injury is evaluated in a hospital emergency department, an emergency department report is submitted. Report requirements are fulfilled for the local health department and the Utah Department of Health.


(1) The [Utah Department of Health] Department and local health [departments] officer may conduct epidemiologic investigations of injury occurrence. The Utah Department of Health and local health departments may collect, including the collection of additional information pertaining to risk factors, medical condition, and circumstances of an injury.

(2) Hospitals and other health care providers required to report in Section R386-703(5) shall, upon request by the Department and the local health officer, provide authorized health personnel the authority to inspect medical records of reportable injuries.

R386-703-9. Confidentiality of Reports.

(4) All report[s] therein required in Section R386-703-3 are confidential and are not open to public inspection. The Department shall maintain the confidentiality of personal information obtained under this rule[shall be maintained] according to [the provisions of] Sections 26-6-27 through 26-6-30. Nothing in this rule[however] precludes the discussion of case information with the attending [physician or public health worker] individual, agency, or authorized health personnel.

R386-703-10. Penalties.

(4) Enforcement provisions and penalties for the violation of or for the enforcement of public health rules, including [this Injury Reporting Rule] Rule R386-703, are prescribed under Sections 26-23-3 through 26-23-6.

KEY: [rules and procedures, injuries]report, injury, blood lead
Date of Last Change: 2022[August 23, 2017]
Notice of Continuation: July 31, 2020
Authorizing, and Implemented or Interpreted Law: 26-1-30

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NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment
Utah Admin. Code Ref (R no.): R392-300 Filing ID 54166

Agency Information
1. Department: Health
Agency: Health, Disease Control and Prevention, Environmental Services
Room no.: Second Floor
Building: Cannon Health Building
Street address: 288 N 1460 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 142101
City, state and zip: Salt Lake City, UT 84114-2101
Contact person(s):
Name: Karl Hartman
Phone: 801-538-6191
Email: khartman@utah.gov

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

General Information
2. Rule or section catchline:
R392-300. Recreation Camp Sanitation

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
Executive Order No. 2021-12 requires state agencies to amend rules that are inconsistent with the current edition of the Administrative Rulewriting Manual. As required, the amendments to Rule R392-300 provide technical and conforming changes in accordance with the Rulewriting Manual for Utah.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Technical and conforming amendments were made to all sections of this rule to align with the Rulewriting Manual for Utah and remove superfluous and repetitive language, including the following:

Tables 1, 2, and 3 were reformatted.
A new Section R392-300-16 was added to include a severability clause.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
No anticipated cost or savings because the changes do not affect existing operations.

B) Local governments:
No anticipated cost or savings because the changes do not affect existing operations.

C) Small businesses ("small business" means a business employing 1-49 persons):
No anticipated cost or savings because the changes do not affect existing operations.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
No anticipated cost or savings because the changes do not affect existing operations.

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):
No anticipated cost or savings because the changes do not affect existing operations.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
No anticipated cost or savings because the changes do not affect existing operations.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
There is no fiscal impact on business because the changes do not affect existing business operations.
Nathan Checketts, Interim Executive Director

6. A) 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.)

<table>
<thead>
<tr>
<th>Fiscal Cost</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Government</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Local Governments</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>
### Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

<table>
<thead>
<tr>
<th>Section</th>
<th>Citation</th>
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</thead>
<tbody>
<tr>
<td>26-1-5</td>
<td>Section 26-15-2</td>
</tr>
<tr>
<td>Subsection 26-1-30(23)</td>
<td>Subsection 26-1-30(23)</td>
</tr>
</tbody>
</table>

### 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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 01/14/2021

10. This rule change MAY become effective on: 01/21/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of the Attorney General as required by Section 63G-3-302. Effective dates may not be specified until: 01/14/2021

### Administrative Rules on or before the date designated in Box 10.

### Agency Authorization Information

| Agency head or designee, and title: | Nathan Checketts, Interim Executive Director | Date: 12/01/2021 |

**R392. Health, Disease Control and Prevention, Environmental Services.**

**R392-300. Recreation Camp Sanitation.**

1. This rule is authorized under Sections 26-1-5, 26-1-10, and Subsection 26-1-30(23).

2. This rule establishes definitions; sets standards for health, safety, and welfare of individuals and for the prevention of the spread of disease in or from a recreational camp.

**R392-300-2. Applicability.**

1. Except as provided in Subsection (2), this rule applies to any person who owns or operates a camp in Utah, unless specifically exempted. This rule applies to the repair, maintenance, use, operation, and occupancy of any camp[s] or campsites[a] designed, intended for use, or otherwise used for temporary human habitation in Utah. This rule does not apply to primitive or backcountry camping.

2. This rule does not apply to primitive or back-country camping.

**R392-300-3. Definitions.**

For the purposes of this rule, the following terms, phrases, and words shall have the meanings herein expressed:

1. "Camp" means any day-use area, primitive camp, modern camp, semi-developed, or semi-primitive campground.

2. "Day-use area" means an area in which human occupation is limited specifically to day-use, and does not include overnight sleeping accommodations. A day-use area may include including any parcel or tract of land designated as a recreation park, picnic ground, or recreational area located within the confines of an organized recreation camp.

3. "Local health officer" means the health officer of the local health department having jurisdiction, or designated representative, executive director of the jurisdictional local health department or a designated representative.

4. "Modern camp" means a campground of two or more campsites accessible by any type of vehicular traffic, and having permanent buildings for sleeping, a potable water supply under pressure, and food service facilities. Modern camps may be operated on a seasonal or short-term basis, and may include privately owned campgrounds such as youth camps, boy or girl scout camps, mixed-age group camps, summer camps, athletic camps, family group camps, or camps that are operated and maintained under the guidance, supervision, or auspices of religious, public and private educational, and community service organizations.

5. "Operator" means a person with ownership or overall responsibility for managing or operating a camp in the State of Utah.


7. "Primitive" or "Back-country" means camping in a completely naturalized wilderness location that is in no way

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### Table: Fiscal Analysis

<table>
<thead>
<tr>
<th>Fiscal Benefits</th>
<th>Total Fiscal Cost</th>
<th>Net Fiscal Benefits</th>
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</thead>
<tbody>
<tr>
<td>State Government</td>
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<td>$0 $0 $0</td>
</tr>
<tr>
<td>Local Governments</td>
<td>$0 $0 $0</td>
<td>$0 $0 $0</td>
</tr>
<tr>
<td>Small Businesses</td>
<td>$0 $0 $0</td>
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</tr>
<tr>
<td>Non-Small Businesses</td>
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</tr>
<tr>
<td>Other Persons</td>
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<td>$0 $0 $0</td>
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<tr>
<td><strong>Total Fiscal Cost</strong></td>
<td><strong>$0 $0 $0</strong></td>
<td><strong>$0 $0 $0</strong></td>
</tr>
</tbody>
</table>

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### Notes:

- Submit written comments to the agency identified in box 1.
- A public hearing may also be requested by submitting a written request to the agency.
- Effective dates may not be specified until a Notice of Effective Date is submitted to the Office of the Attorney General.
- The Interim Executive Director of the Department of Health, Nathan Checketts, has reviewed and approved this fiscal analysis.
Water services are not available. Rudimentary facilities including vault pit, subsurface drywell, French drain, or seepage trench. The operator shall ensure that the area immediately around a water faucet (i.e. spigot) or spigot is designed to promote surface drainage by using a constructed drain system such as a gravel pit, subsurface drywell, French drain, or seepage trench. The operator shall prevent water in this area from flowing into traffic areas and surface waters, or from pooling, standing, or becoming stagnant.

The operator may be required to sample any water system(s) operated on a seasonal basis for bacteriologic analysis, as determined by the local health officer. When a semi-primitive camp is provided with potable water, the operator shall comply with all the requirements of R392-300-5 this section.


(1)(a) The operator shall make sewer service available to any modern camp or semi-developed camp.

(b) Sewer systems for use by camp occupants shall be designed, installed, and operated according to the requirements set forth by:

(i) Plumbing Code;

(ii) The Utah Department of Environmental Quality, Division of Water Quality under Title R317, Water Quality; and

(iii) local health department regulations.

(c) Wastewater shall be discharged to a public sanitary sewer system when practicable.

(d) Where connection to a public sewer is not practicable, wastewater shall be discharged into an approved wastewater disposal system meeting the requirements of Title R317, Water Quality, and local health department regulations.

(e) Before commencing construction or alteration, the operator shall submit to the local health department all required plans for the construction or alteration of a wastewater disposal system in accordance with Title R317, Water Quality, prior to commencing construction or alteration.

(f) Sanitary vault privies or earthen pit privies shall be located, constructed, and maintained according to the requirements of Rule R317-560 and local health department regulation in such a manner that:

(i) users do not contact waste matter deposited;

(ii) access to the privy interior or vault is minimized for flies, insects, rats, and other animals;

(iii) surface or ground water cannot enter the vault or pit, either as run-off or as flood water;

(iv) the waste material in the privy cannot contaminate a water supply, stream, or body of water; and

(v) odors are minimized both inside and outside the privy structure.

(g) The operator shall take measures to ensure that campers do not defecate or urinate or otherwise dispose of human waste except at designated privies or toilet facilities.

R392-300-7. Required Plumbing - Modern Camps.

(1)(a) The operator shall ensure that the minimum number of plumbing fixtures to be provided for modern camps are provided to each modern camp in a service building according to Table 1.

(b) Where a camp is not used exclusively by one gender, the number of fixtures shall be based on 50% percent of the total number of occupants being male and 50% percent of the total number of occupants being female, except where the camp is used exclusively by one gender, and shall be calculated from Table 1.

(a) Showers and sinks shall be provided with hot and cold water.
NOTICES OF PROPOSED RULES

TABLE I
Required Minimum Plumbing Fixtures For Modern Camps

<table>
<thead>
<tr>
<th>Plumbing Fixtures</th>
<th>Ratio of Plumbing Fixtures</th>
<th>Males</th>
<th>Females</th>
<th>Both Sexes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Toilets</td>
<td>1:15*</td>
<td>1:25*</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Sinks</td>
<td>1:15*</td>
<td>1:25*</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Showers</td>
<td>1:15*</td>
<td>1:25*</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Drinking Fountains</td>
<td>--</td>
<td>1:300</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Service Sink</td>
<td>--</td>
<td>1:15*</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Potable Water Faucet</td>
<td>--</td>
<td>1:15*</td>
<td>--</td>
<td>--</td>
</tr>
</tbody>
</table>

For fraction thereof

(23) A sink shall be located either in the same room as each toilet, or immediately adjacent to the service building.

(24) For any toilet room intended to be used by males only, a urinal may be substituted for a toilet for up to half of the required number of toilets. A service building shall be located not less than 15 feet and not more than 300 feet from any living and camping space served, unless integrated into a permanent building at a modern camp.

(25) Soap and toilet tissue in a suitable dispenser, and a waste receptacle with a lid shall be provided in each service building.

(26) Clean individual disposable towels, or other alternate hand drying method approved by the local health officer, shall be provided at each sink.

(27) The operator shall ensure that each service building is maintained in a clean and sanitary condition.


The operator shall ensure that the minimum number of plumbing fixtures at any day-use area are provided according to Table III.

TABLE II
Required Minimum Plumbing Fixtures For Semi-Developed Camps

<table>
<thead>
<tr>
<th>Plumbing Fixtures</th>
<th>Ratio of Plumbing Fixtures</th>
<th>Males</th>
<th>Females</th>
<th>Both Sexes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Toilets or vault privies</td>
<td>1:15*</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Potable Water Faucet</td>
<td>1:15*</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
</tbody>
</table>

For fraction thereof

R392-300-10. Operation and Maintenance.

(1) When tents, or permanent or semi-permanent buildings are provided, the operator shall:

(a) be of sound construction;

(b) assure adequate protection against the weather;

(c) include essential facilities to permit maintenance in a clean and operable condition;

(d) include operable windows or mechanical ventilation; and

(e) provide adequate storage for personal belongings.

(2) Notwithstanding Subsection (2)(c), double stacked bunks shall have a minimum horizontal separation of six feet, except in the case of double stacked bunks, which:

(a) Except when using double stacked bunks, in open bay type sleeping areas containing four or more beds, the operator shall separate beds by a horizontal distance of at least five feet, reducible to three feet if beds are alternated head to foot, under all circumstances.

(b) Notwithstanding Subsection (2)(c), double stacked bunks shall have a minimum horizontal separation of six feet, except in the case of double stacked bunks, which:

(c) If partitions are utilized to preclude face-to-face exposure between beds, spacing requirements may be modified to a minimum separation distance of three feet between adjacent beds upon approval of the local health officer.

(3) The operator shall calculate the minimum required number of fixtures according to Table II.

TABLE III
Required Minimum Plumbing Fixtures For Day-Use Areas

<table>
<thead>
<tr>
<th>Plumbing Fixtures</th>
<th>Ratio of Plumbing Fixtures</th>
<th>Males</th>
<th>Females</th>
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<td>--</td>
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<td>--</td>
</tr>
</tbody>
</table>

For fraction thereof
[4] (a) The operator shall ensure that each building[, room[, and equipment[, including], and furnishing[, and equipment] provided in a camping area[, and the grounds surrounding them [shall be] maintained in a clean and operable condition.

(5) Where electric power is available, each service building[, and] be provided with outside lighting to show the location and entrance doorways of each of each entrance.

(6)(a) Where necessary, all The operator shall use reasonable means [shall be employed] to eliminate or control infestations of vermin, vectors, or pests within [all parts of any] each camp.

(b) This shall include approved screening or other approved control of outside openings in structures intended for occupancy or food service facilities. The operator shall use, on each outside opening of a structure intended for occupancy or food service, a screen to prevent ingress by vermin, vectors, and pests, or another method of control of outside openings approved by the local health officer.

(7) Each modern camp shall be equipped with at least a 24-unit ANSI compliant first aid kit. The operator shall ensure that each first aid kit is:

(a) properly stocked;
(b) readily accessible; and
(c) conveniently located in critical areas.

(8) The operator of a camp with onsite staff shall employ at least one individual who is adequately trained to give first aid. This individual shall and who possesses at least a certificate of completion of the Basic First Aid Course as presented by the American National Red Cross or its equivalent.


The operator shall ensure that when food service is provided for camp occupants, food service, storage, and food preparation [shall comply] complies with the FDA Model Food Code as incorporated and amended in Rule R392-100, Food Service Sanitation, and local health department regulations.


The operator shall ensure that:

(1) The operator shall provide adequate containers are provided to prevent the accumulation of solid waste in the camp[s];
(2) Solid waste generated at a camp or picnic area [shall be] is stored in a leak-proof, non-absorbent container, which shall be] that is kept covered with a tight-fitting lid[;] and
(3) All solid waste[s] [shall be] is disposed with sufficient frequency and in such a manner as to prevent insect breeding, rodent harborage, or a public health nuisance.


The operator shall comply with Rule R392-302, Design, Construction, and Operation of Public Pools as well as other local health department regulations for [all] each pool[; or spa[; made available to camp occupants or staff.


(1) [a] Except as in Subsection (1)(b), and upon presenting proper identification, the operator shall permit a local health officer to enter upon the premises of a camp to perform inspections, investigations, reviews, and other actions as necessary to ensure compliance with [Rule R392-300] this rule.

(b)(2) The local health officer may not enter an occupied tent or other structure designed or intended for temporary human habitation without the express permission of the occupant except:
NOTICES OF PROPOSED RULES

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

General Information
2. Rule or section catchline:

R392-400. Temporary Mass Gatherings Sanitation

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Executive Order No. 2021-12 requires state agencies to amend rules that are inconsistent with the current edition of the Administrative Rulewriting Manual for Utah. As required, the amendments to Rule R392-400 simplify this rule, remove outdated language and redundancies, and provide technical and conforming changes in accordance with the Rulewriting Manual for Utah.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The amendments to Rule R392-400 provide technical and conforming changes throughout the rule and remove unnecessary and repetitive language.

Section R392-400-1 is a new section added to specify the statute under which this rule is authorized, and to explain the purpose of this rule.

Section R392-400-2 is a new section added to describe individuals and groups to whom this rule applies, and to specify exclusions to such.

In Section R392-400-3: 1) added definitions for Imminent health hazard, and local health department; 2) modified the definitions for local health officer, safe drinking water, and wastewater; and 3) removed unnecessary definitions for Department, and Director.

In Sections R392-400-4 through R392-400-17, the Department has made nonsubstantive revisions including the rewording and restructuring of these sections to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah.

The Department made the following substantive amendments: 1) Tables 1, 2, and 3 were reformatted, and 2) Section R392-400-17 was modified to match the clause in most other rules promulgated under Title R392.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

No anticipated cost or savings because the changes do not affect existing operations.

B) Local governments:

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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):

No anticipated cost or savings because the changes do not affect existing operations.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No anticipated cost or savings because the changes do not affect existing operations.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There is no fiscal impact on business because the changes do not affect existing operations. Nathan Checketts, Interim Executive Director

6. A) 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

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NOTICES OF PROPOSED RULES

R392-400-1. Authority and Purpose.

R392. Health, Disease Control and Prevention, Environmental Services.


R392-400-1. Authority and Purpose.

(1) This rule is authorized under Utah Code Sections 26-15-2, 26-1-5 and 26-1-30.

(2) This rule establishes minimum standards for the sanitation, operation, and maintenance of a temporary mass gathering to:

(a) protect, preserve and promote the health and safety of the public;
(b) prevent and control the incidence of communicable diseases;
(c) reduce hazards to health and environment;
(d) maintain adequate sanitation and public health; and
(e) promote the general welfare of the public.

B) Department head approval of regulatory impact analysis:

The Interim Executive Director of the Department of Health, Nathan Checketts, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26-1-5 Section 26-15-2 Section 26-1-30

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

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Nathan Checketts, Interim Executive Director Date: 11/21/2021

R392. Health, Disease Control and Prevention, Environmental Services.


R392-400-1. Authority and Purpose.

NOTICES OF PROPOSED RULES

(b) has charge, care, or control of any premises, as legal or equitable owner, agent of the owner, or lessee.

(9) " Permit" means a written form of authorization written in accordance with this rule.

(10) " Person" means any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the State or its departments, institution, bureau, agency, county, city, political subdivision, or any legal entity recognized by law.

(11) " Safe drinking water" means potable water meeting the Department of Environmental Quality, Division of Drinking Water rules or bottled water as regulated by the Utah Department of Agriculture and Food.

(12) " Solid waste" means garbage, refuse, trash, rubbish, hazardous waste, dead animals, sludge, liquid or semi liquid waste, other spent, useless, worthless, or discarded materials or materials stored or accumulated for the purpose of discarding, materials that have served their original intended purpose.

(13) " Staff" means any person who:
(a) works for or provides services for or on behalf of the operator or a vendor, or
(b) is a vendor at a gathering.

(14) " Temporary mass gathering" or " Gathering" means an actual or reasonably anticipated assembly of 1,000 or more people, which continues or can reasonably be expected to continue for two or more hours, at a site or sites for a purpose different from the designed use and usual type of occupancy.

(15) " Vendor" means any person who sells or offers food for public consumption.

(16) " Wastewater" means used water or water carried wastes, sewage, industrial waste, or other liquid or waterborne substances causing or capable of causing pollution of waters of the state.

R392-400-4. Permit [To] Operate Required.

(1) A person may not operate a temporary mass gathering without a valid written permit issued by the local health officer.

(2) The local health officer may exempt a parade from the permit requirement if the operator submits an application as required in Section R392-400-6 and the local health officer determines that the availability of existing public sanitary facilities, drinking water and trash containers is sufficient to protect public health.

(3) A temporary mass gathering may not exceed 16 consecutive days unless otherwise approved by the local health officer.

(4) The local health officer may attach conditions or grant waivers to a permit, in accordance with this rule, to meet specific public health and safety concerns.


(1) The operator shall establish a headquarters at the gathering site.

(2) The operator or the operator's designee shall be present at the gathering [at all times] during operating hours.

R392-400-6. Permit Application Required.

(1) The local health officer shall prescribe the application process, and shall require the applicant to submit an application at least 15 days [prior to] before the first advertisement of the gathering and at least 30 days [prior to] before the first day of the gathering. The local health officer may grant an exception to this requirement on a case by case basis because of the nature of the event, scarcity of problems associated with the event in the past or other public health related criteria.

(2) An application for a permit shall be submitted to the local health officer and include the following information:
(a) name, address, telephone number, and email [and fax number (if applicable)] of the operator;
(b) number of people expected to attend the gathering;
(c) a description of the type of gathering to be held with the date(s) and times the gathering will be held;
(d) estimated length of stay of attendees;
(e) name, address, telephone number, and email [and fax number (if applicable)] of property owner;
(f) the location of the gathering and a site plan delineating the area where the gathering is to be held including the following:
(i) the parking area available for patrons;
(ii) location of entrance, exit, and interior roadways and walks;
(iii) location, type, and provider of restroom facilities;
(iv) location and description of water stations;
(v) location and number of food stands, and the types of food to be served if known;
(vi) location, number, type, and provider of solid waste containers;
(vii) location of operator's headquarters at the gathering;
(viii) a plan to provide lighting adequate to ensure the safety of attendees and staff;
(ix) location of [all] each parking area[s] designated for the gathering and under the operator's control; and
(x) the location of [all] each first aid station[s] and emergency medical resources provider;

(3) The operator shall provide the local health officer with the following documentation:
(a) a plan developed by the operator to address nuisances or health hazards associated with animals present at the gathering;
(b) a site clean up plan after the gathering;
(c) a plan for directional and exit signs;
(d) a plan developed by the operator to address nuisances or health hazards associated with animals present at the gathering;
(e) a plan[s] to address hazardous conditions as required in Section R392-400-12;

(4) The operator shall provide the local health officer with access to [all] each area[s] of the gathering that the local health officer deems necessary [and with the number of access credentials they requested].

(5) The operator shall effectively communicate the local health officer's access privileges to staff.

R392-400-7. Inspections.

(1) The local health officer may conduct inspections before, during, and after a gathering to ensure compliance with this rule and approved plans.

(2) The operator shall provide the local health officer with access to [all] each area[s] of the gathering that the local health officer deems necessary [and with the number of access credentials they requested].

(3) The operator shall effectively communicate the local health officer's access privileges to staff.

The local health officer may issue a notice of violation to the owner, operator or the operator's designee if the gathering fails to meet the requirements of this rule or the conditions of the permit.

2. The local health officer shall, in accordance with Rule R392-100 Food Service Sanitation, direct the disposition of any food items, including ice and water, that have been adulterated or are otherwise unfit for human consumption.

3. The local health officer may issue and post a notice of closure of the gathering or affected part thereof to the owner, operator or the operator's designee if the local health officer determines that conditions at the gathering constitute a serious or imminent health hazard.

(a) No gathering site or affected part thereof that has been closed may be used for a gathering until the local health officer determines that the conditions causing the closure have been abated and written approval is received from the local health officer.

(b) The local health officer shall remove the posted notice described in Subsection (3) when the violations upon which closing and posting were based, have been remedied.

5. No unauthorized person may deface or remove a posted notice from any gathering site that has been closed by the local health officer.

6. The operator may appeal a notice or closure in accordance with the procedures established by the local Board of Health or Title 63G, Chapter 4, Administrative Procedures Act [the Utah Administrative Procedures Act], whichever [is applicable] applies.


1. The operator shall contract with a solid waste hauler approved by the local health officer.

(a) The operator shall provide and strategically locate a sufficient number of covered waste containers approved by the local health officer to effectively accommodate the solid waste generated at the gathering as approved by the local health officer.

(b) The operator shall provide waste containers next to the hand wash stations.

3. The operator shall ensure that the waste containers are emptied as often as necessary to prevent overflowing, littering, or insect or rodent infestation.

4. The operator shall ensure that solid waste is cleaned from the property periodically during the gathering and that, within 24 hours following the gathering, the property is free of solid waste and is clean. The local health officer may allow for more than 24 hours to clean up the site because of the time of year, nature of the event or other extenuating circumstances if the local health officer is satisfied that the extension will not adversely affect public health.

5. The operator shall ensure that solid waste is prevented from being blown from the gathering site onto adjacent properties.

8. The operator shall ensure that [all] solid waste is collected and disposed of at a solid waste disposal or recycling facility meeting state and local solid waste disposal facility requirements.

7. The operator, staff, participants, and spectators shall comply with [all] applicable state and local requirements for solid waste management.

R392-400-10. Site Maintenance.

1. All buildings, structures and overnight parking provided for the gathering shall be maintained safe, clean, in good repair, and shall comply with [all] applicable laws.

2. The operator shall eliminate any infestation of vermin within any part of a structure intended for occupancy, food storage, or restroom facilities prior to, before, during, and immediately following a gathering.

4. The operator is responsible for the maintenance and sanitation of the gathering site and facilities. The operator shall take steps to prevent and abate any nuisance or insanitary condition which may develop.

5. A gathering site shall be constructed to provide surface drainage adequate to prevent flooding of the gathering site and to prevent water related nuisances on adjacent properties.

6. The operator shall ensure sufficient signs shall identify and show the location of first aid, restroom, and drinking water facilities so spectators and participants can readily find them from any place on the gathering site.

7. The operator shall provide lighting adequate to ensure the safety of attendees.

8. Each parking area used for the gathering and under the control of the gathering operator [must] shall meet the requirements of this rule.

R392-400-11. Emergency Medical Care Requirements.

1. The operator shall ensure that:

(a) the gathering has at least one first aid station;

(b) [emergency medical care and necessary supplies and equipment shall be provided as determined by the local health officer, the emergency medical provider, and the emergency medical operations plan.]

(c) The health officer or emergency medical provider may require more than one first aid station.

2. [First aid stations shall afford privacy to a person receiving care or treatment;]

3. [First aid stations shall be of sufficient size to accommodate the number of care givers required, and the predicted number of sick or injured persons;]

4. [First aid stations shall be strategically located to provide expedient medical care for those attending or participating in the gathering;]

5. [First aid stations shall be easily accessible by emergency vehicles;]

6. [The operator shall provide the emergency medical provider with a map of the gathering site which includes;]

(i) location of first aid stations;

(ii) emergency vehicle ingress and egress routes;

(iii) landing zones, if applicable;

(iv) rendezvous locations;

7. [A first aid station shall be clearly marked and identifiable as a first aid station is provided;]

(i) medical staff have access to telephones or radios to contact outside emergency medical services;

(ii) the staff person in charge of the first aid station keeps accurate records of patients and treatment; and

(k) the local health officer is notified of each case involving a serious injury or communicable disease in accordance with Rule R386-702, Communicable Disease, and Rule R386-703, Injury Reporting.

2. The local health officer or emergency medical provider may require:

(a) more than one first aid station;

(b) [The health officer or emergency medical provider may require additional emergency medical services personnel as deemed necessary; or]

(c) the operator to provide dedicated stand-by ambulances and personnel at the gathering.
NOTICES OF PROPOSED RULES

[---(8) The operator shall ensure that all medical staff have access to telephones or radios to contact outside emergency medical services.
---(9) The local health officer or emergency medical providers may require the operator to provide dedicated stand-by ambulances and personnel at the gathering.
---(10) The operator shall ensure that the staff person in charge of the first aid station keeps accurate records of patients and treatment, and that the health officer is notified of all cases involving a serious injury, communicable disease, in accordance with R386-702 Communicable Disease Rule and R386-703 Injury Reporting Rule.

The operator shall develop contingency plans for any dangerous condition[which] that may occur during the gathering. The plans may include evacuation, cancellation, or delay of the gathering, and provision for support facilities.

(1) The operator and vendors shall comply with Rule R392-100, Food Service Sanitation.
(2) The operator shall assure that food vendors [obtain] get required food service operating permits from the local health [officer]department.

(1) The operator shall provide water free of charge and strategically locate drinking water stations to effectively meet the drinking water needs of attendees and staff.
(2) Supplied potable drinking water for public use shall be:
(a) dispensed from a potable water supply system that is designed, installed, and operated according to the requirements set forth by:
(i) the Utah Department of Environmental Quality, Division of Drinking Water under Title R309, Drinking Water; and
(ii) local health department regulations; or
(b) [The operator shall ensure that all drinking water is from a state approved drinking water system or commercially bottled water meeting 21 CFR 129, Processing and Bottling of Bottled Drinking Water [(April 1, 2015)] and 21 CFR 165.110, Bottled Water [(April 1, 2015)] from a company registered with the U.S. Food and Drug Administration and the Utah Department of Agriculture and Food.
(2) [3] Drinking water hauled to the gathering shall be hauled and dispensed in a manner that protects public health as determined by the local health officer.
(3) The operator shall provide water free of charge and strategically locate drinking water stations to effectively meet the drinking water needs of attendees and staff.
(4) At least four drinking water stations are required. An additional drinking water station is required for each additional 500 attendees above 1,000 persons. The local health officer may reduce the number of additional drinking water stations or require more than one drinking water station for each additional 500 attendees above 1,000 persons because of the time of year, heat index, nature of the event or public health related criteria. If containers are needed to drink the water at the required drinking water stations, the operator [must] shall provide single use containers.

(1) [All] Wastewater shall be disposed of in accordance with state and local wastewater rules.
(2) [The operator may use portable restroom facilities and wastewater holding tanks as determined by the local health officer.

---(14) The number of toilets shall be provided in accordance with Table 1.

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<tr>
<th>Peak Crowd</th>
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---(2) Minimum Numbers of Toilets Required

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---(3) Minimum Numbers of Toilets Required

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</tr>
</tbody>
</table>

---(3) The number of toilets shall be provided in accordance with Table 1.
Where conditions make the use of soap and water impractical, the local health officer may allow sanitizing gel in place of soap and water.
(d) Sanitizing gel may not be used in place of soap and water at hand wash stations used by food service workers.

(H)[9] The operator shall provide a minimum of one covered trash container for every ten portable toilets or portion thereof.

(10) The operator shall ensure that all portable toilets are of sound construction (such as non-absorbent polyethylene), easily cleanable, and durable.

[I][11] Each portable toilet must shall be secured against vandalism and adverse weather conditions by tie-downs, anchors or other similar effective means.

(J)[12] The operator shall contract with a liquid waste hauler that is permitted by the local health department in accordance with Rule R317-550, Rules for Liquid Waste Operations.

(K)[13] The operator shall ensure that all wastewater is removed from each portable toilet at least once every 24 hours or more frequently as necessary.

(b) On a case by case basis, the local health officer may change this frequency because of the time of year, weather conditions, nature of the event or other public health related criteria.

(c) Any wastewater removed shall be disposed of at a wastewater treatment facility in accordance with [S]state and local wastewater disposal laws.

(L)[14] The operator shall ensure that each portable toilet is serviced and sanitized as necessary to maintain sanitary conditions.

(M)[15] At the conclusion of the gathering, each portable restroom unit must shall be serviced then removed within 48 hours. The local health officer may extend or shorten this time because of the time of year, weather conditions, nature of the event, or to meet other public health related criteria.


(1) Any person who violates any provision of this rule may be assessed a penalty as provided in [Subsection] Section 26-23-6.

(2) Each day such violation is committed or permitted to continue shall constitute a separate violation.

(3) In addition to other penalties imposed, any person who violates any requirement of this rule shall be liable for all expense incurred by the department and local health department in removing or abating any nuisance, source of filth, cause of sickness or infection, health hazard, or sanitation violation.

R392-400-17. Severability.

If a provision, clause, sentence, or paragraph of this rule or the application thereof to any person or circumstances shall be ruled invalid, such ruling shall not affect the other provisions or applications of this rule, and to this end the provisions of this rule are severable. If a provision of this rule, or its application to any person or circumstance is declared invalid, the application of such provisions to other persons or circumstances, and the remainder of this rule shall be given effect without the invalidated provision or application.

KEY: public health, temporary mass gatherings, special events
Date of Last Change: 2022 November 1, 2016
Notice of Continuation: November 1, 2021
Authorizing, and Implemented or Interpreted Law: 26-15-2, 26-1-5, and 26-1-30
NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin Code Ref (R no.): R392-501 Filing ID 54165

Agency Information

1. Department: Health
Agency: Disease Control and Prevention, Environmental Services
Room no.: Second Floor
Building: Cannon Health Building
Street address: 288 N 1460 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 142102
City, state and zip: Salt Lake City, UT 84114-2102
Contact person(s):
Name: Karl Hartman Phone: 801-538-6191 Email: khartman@utah.gov

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

General Information

2. Rule or section catchline:
R392-501. Temporary Labor Community Sanitation

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):

Executive Order No. 2021-12 requires state agencies to amend rules that are inconsistent with the current edition of the Administrative Rulewriting Manual for Utah. As required, the amendments to Rule R392-501 provide technical and conforming changes in accordance with the Rulewriting Manual for Utah.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Technical and conforming amendments were made to all sections of this rule to align with the Rulewriting Manual for Utah and remove superfluous and repetitive language, including the following: Tables 1, 2, and 3 were reformatted.

A new Section R392-501-19 was added to include a severability clause.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
No anticipated cost or savings because the changes do not affect existing operations.

B) Local governments:
No anticipated cost or savings because the changes do not affect existing operations.

C) Small businesses ("small business" means a business employing 1-49 persons):
No anticipated cost or savings because the changes do not affect existing operations.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
No anticipated cost or savings because the changes do not affect existing operations.

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):
No anticipated cost or savings because the changes do not affect existing operations.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
No anticipated cost or savings because the changes do not affect existing operations.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
There is no fiscal impact on business because the changes do not affect existing business operations.
Nathan Checketts, Interim Executive Director

6. A) 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

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</table>
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Nathan Checketts, Interim Executive Director | Date: 12/01/2021 |


R392-501-1. Authority and Purpose.

(1) This rule is authorized under Sections 26-1-5, 26-1-30(9), 26-1-30(23), 26-7-1, and 26-15-2. This rule establishes minimum standards for the sanitation, operation, and maintenance of a temporary labor community, as defined by this rule, and provides for the prevention and control of health hazards associated with a temporary labor community that are likely to affect individuals dwelling temporarily therein including risk factors contributing to injury, sickness, death, and disability.


(1) This rule applies to any person who owns or operates a temporary labor community [in Utah], unless specifically exempted.

(2) This rule applies to the repair, maintenance, use, operation, and occupancy of a temporary labor community designed, intended for use, or otherwise used for temporary human habitation in Utah.

(3) This rule does not apply to any recreational camping, recreational vehicle park[s], or manufactured home community.


For the purposes of this rule, the following terms, phrases, and words shall have the meanings herein expressed:


2. (a) "Housing unit" means any living quarter[s], including a housing accommodation[s], rooming house[s], dormitory[s], and manufactured home[s] maintained, directly or indirectly, in connection with any work of or place where work is being performed by a seasonal or temporary worker[s], whether or not rent is paid or reserved for use or occupancy.

(b) The term includes the any facility necessary to or associated with the buildings; and any area or site set aside and provided for camping of seasonal or temporary workers.

(c) The term "Housing unit" does not include a building[s] reserved exclusively for the personal use of the landowner or employer, including the primary residence, which may serve as housing for family members and friends of the family.

3. "Local health department" has the same meaning as provided in Subsection 26A-1-102(5).

4. "Local health officer" means the health officer of the local health department having jurisdiction, or designated representative.

5. "Manufactured home" means a factory assembled structure equipped with the necessary service connections.
and made so as to be readily movable as a unit or units on its own running gear and designed to be used as a dwelling unit without a permanent foundation. A modular home transported on wheels to its foundation is not a manufactured home.

(6) "Nuisance" means a condition or hazard, or the source thereof, which may be deleterious or detrimental to the health, safety, or welfare of the public.

(7) "Operator" means a person with ownership or overall responsibility for managing or operating a labor community.

(8) "Pest" means a noxious, destructive, or troublesome organism whether plant or animal, when found in and around places of human occupancy, habitation, or use that threatens the health or well-being of the public.


(10) "Plumbing fixture" means a receptacle or device that is connected to the water supply system of the premises; or discharges wastewater, liquid-borne waste materials, or sewage to the drainage system of the premises.

(11) "Premises" means any lot, parcel, or plot of land, including any buildings or structure.

(12) "Sanitary" means the condition of being free from infective, physically hurtful, diseased, poisonous, unwholesome, or otherwise unhealthful substances and being completely free from vermin, vectors, and pests and from the traces of either, and free of harborage for vermin, vectors, or pests.

(13) "Service building" means a structure located within a labor community that contains a toilet, hand sink, bathing, laundry, or recreational facilities.

(14) "Temporary labor community" or "Labor community" means one or more buildings, structures, tents or related facilities together with surrounding grounds designed, constructed, or used or intended for use as living quarters or housing facilities to temporarily accommodate groups such as seasonal migrant laborers or construction, exploration, mining, or demolition workers[...].

(15) "Toilet fixture", as defined in this rule, means:

(a) a water flush toilet that discharges to a public sanitary sewer system or an approved onsite wastewater disposal system;

(b) a privy seat in a vault privy; or

(c) a chemical toilet in a portable restroom.

(16) "Vault privy" - means a toilet facility wherein the waste is deposited without flushing into a permanently-installed, watertight vault or receptacle. Vault wastes is periodically removed and disposed of in accordance with Rule R317-560.

(17) "Vector" means any organism such as an insect or rodent that transmits a pathogen that can adversely affect public health.

(18) "Vermin" means rats, mice, cockroaches, bedbugs, flies, or any other pest or vector as determined by the local health officer to be harmful to the life, health, or welfare of the public.

(19) "Wastewater" discharges from any plumbing facility[ies] including[...], kitchen, and laundry fixtures, either separately or in combination.


(1) Except as in Subsection (2) this rule does not require a construction change in any portion of a labor community if the community was in compliance with the law in effect[...].

(2) The local health officer may require construction changes if it is determined the labor community or portion thereof is dangerous, unsafe, unsanitary, a nuisance or menace to life, health, or property.

(3) The operator shall ensure any temporary labor community meets the requirements of this rule.

(4) The operator shall comply with[...].

(5)(a) An operator shall select or construct a location for the labor community which will provide adequate surface drainage.

(b) Each site[es] used for a labor community[ies] shall be adequately drained.

(c) The location may not be subject to[...]

(d) The labor community shall be located so the drainage from and through the community will not endanger any domestic or public water supply.

(e) Each site[es] shall be graded, ditched, and rendered free from depressions in which water may become a nuisance.

(f) The operator shall make a reasonable effort to locate the labor community away from any known existing public health nuisance.

(6) For a labor community employing and housing ten or more individuals, the operator shall be on duty within the community premises or on call at[...].

(7) [No labor community shall be operated] A labor community may not operate for longer than one year without approval of the local health officer.

(8) In a labor community[ies] where any dormitory type housing facility[ies] is provided or where any occupied housing unit is not equipped with operable plumbing fixtures, the operator shall construct and maintain a service building according to the requirements of Section R392-501-11.


(1) Housing for workers and their families shall be limited to one of the following:

(a) a building used exclusively for[...];

(b) a fully-partitioned room in a building used for purposes other than human habitation, provided that persons may not be housed in buildings used for the shelter of livestock;

(c) a manufactured home approved by the local health officer; or

(d) a dormitory or sleeping room shared by workers, which shall be separate for each sex gender.

(2) Every housing foundation, exterior and interior wall, floor, ceiling, roof, gutter, leader and downspout, stairway, door and appurtenances[...].

(a) constructed in accordance with Building Code; and

(b) maintained in sound condition and in good repair.

(3) The[...]

(a) Wooden floors shall be elevated a minimum of 12 inches above ground level at all points[...].
NOTICES OF PROPOSED RULES


(1)(a) The operator shall provide each occupant of the labor community with:

(i) a bed and mattress with an impermeable mattress cover; or
(ii) a cot.

(b) Each [provided] bed or cot shall be maintained in a sanitary condition and in good repair.

(c) The operator shall ensure that each mattress[es], mattress cover[s], quilt[s], blanket[s], pillow[s], pillowcase[s], sheet[s], bedcover[s], and other bedding [are] kept clean and in good repair.

(d) Beds or cots shall be elevated at least 12 inches from the floor.

(2)(a) [In] Except in Subsections (2)(b) and (2)(c), an open bay type sleeping area containing four or more beds, the operator shall separate beds by a horizontal distance of at least five feet, reducible to three feet if beds are alternated head to foot.

(b) [In] Except in the case of double stacked bunks, which shall have a minimum horizontal separation of six feet under all circumstances, if a double stacked bunk is used, the minimum horizontal separation shall be a minimum of six feet.

(c) If a partition[es] is utilized to preclude face-to-face exposure between beds, spacing requirements may be modified to a minimum separation distance of three feet between adjacent beds upon approval of the local health officer.

(d) Triple deck bunks may not be used.

(3) If water is not piped directly to a housing unit, each service building shall have at least one drinking fountain for each 100 occupants or fraction thereof, except as described in Subsection R392-501-4(8).

(4) Each outlet[s] for non-potable water, [such as water for laundry,] shall be provided with a [alternative process for the disposal of human waste.

(b) The operator shall have a backup water supply plan, [which shall] provide for at least one drinking fountain for each 100 occupants or fraction thereof, except as described in Subsection R392-501-4(8).

(c) The operator shall provide each labor community occupant with suitable storage facilities in the sleeping room area. The following are acceptable:

(i) a locker[s] or closet[s];
(ii) three feet of rod and shelving;
(iii) a dresser;
(iv) an equivalent storage space.


(1)(a) The operator shall ensure that the labor community and each service building is supplied with [adequate and convenient potable water for drinking, cooking, washing of foods, washing of cooking or eating utensils, washing of food preparation or processing areas, hand washing, and bathing] potable water adequate and convenient for the use of each plumbing fixture.

(b) A water supply shall be capable of delivering a minimum of 35 gallons per person per day.

(c) Water outlets shall be distributed throughout the community in such a manner that no housing unit is more than 100 feet from a water faucet (i.e. spigot) if water is not piped directly to the housing unit. If water is not piped directly to a housing unit, each housing unit shall have available a water faucet no more than 100 feet away.

(2) Potable water supply systems for use by labor community occupants shall be designed, installed, and operated according to the requirements set forth by:

(a) Plumbing Code;
(b) The Utah Department of Environmental Quality, Division of Drinking Water under Title R309, Drinking Water; and
(c) local health department regulations.

(3) If a labor community experiences or will experience a disruption of potable water or sewer service for more than four hours, for any reason the operator shall:

(a) [The operator shall] notify the local health officer within one hour of becoming aware of the service disruption, and;
(b) [The operator shall] have a backup water supply plan[es], which shall:

(i) provide for two liters of water per day per person for drinking[es]; and
(ii) include[s] a strategy for either relocating laborers or providing the following services, as approved by the local health officer:

(A) [An] alternative source of potable water; and
(B) an alternative process for the disposal of human waste.

(4) [In] Each outlet[s] for non-potable water, [such as water used] for any industrial or firefighting purposes, shall be posted or otherwise marked in a manner that will [indicate] clearly show that the water is unsafe and is not to be used for any purpose detailed in Subsection R392-501-7(6).

(5) [In] Except as in Subsection (6), a labor community[ies] as described in Subsection R392-501-4(8)[es] shall be provided with at least one drinking fountain for each 100 occupants or fraction thereof.
NOTICES OF PROPOSED RULES

(a) [Drinking fountains shall be] equipped with a pressure regulating valve; and
(b) [shall be] maintained in a sanitary manner.
(6)[(a) If the provision of a drinking fountain is impractical as determined by a local health officer, if a local health officer determines that the provision of a drinking fountain is impractical, the operator shall provide:
   (i) commercially bottled water; or
   (ii) [an adequate] supply of single service drinking cups to be used in conjunction with a drinking water dispenser as follows:
   (1) Common drinking cups are prohibited.
   (2) A suitable waste container[s] shall be provided for discarded single service drinking cups.
   (3) Each drinking water dispenser[s] shall be:
      (i) filled only with potable drinking water;
      (ii) designed, constructed, and serviced so that sanitary conditions are maintained;
      (iii) capable of being closed;
      (iv) [equipped with a tap]; and
      (v) clearly marked as to the nature of its contents and not used for any other purpose.
   (b) An alternative method of providing drinking water as described in Section R392-501-6 may not use any common drinking cup or open container[s] [such as including any barrel[s], pail[s], or tank[s] for drinking water] from which the water must be dipped or poured, are prohibited, whether or not they are fitted with a removable cover.
(7) The operator may be required to sample water systems operated on a seasonal basis for bacteriologic analysis, as determined by the local health officer. The local health officer may require an operator to sample a water system operated on a seasonal basis for bacteriologic analysis.


(1)[(a) The operator shall make sewer service available to a labor community.
   (b) A sewer system[s] for use by community occupants shall be designed, installed, and operated according to the requirements set forth by:
      (1) Plumbing Code;
      (2) The Utah Department of Environmental Quality, Division of Water Quality under Title R317, Water Quality;
      (3) local health department regulations; and
      (4) the local sewer district having jurisdiction.
   (2)[(a) Wastewater shall be discharged to a public sanitary sewer system when practicable.
   (b) Where connection to a public sanitary sewer is not practicable, wastewater shall be discharged to:
      (1) an approved onsite wastewater disposal system;
      (2) a permitted holding tank; or
      (3) a vault privy which shall be located, constructed, and maintained according to the requirements of Rule R317-560, Rules for the Design, Construction, and Maintenance of Vault Privies and Earthen Pit Privies, and local health department regulation in such a manner that:
         (i) users do not contact waste matter deposited;
         (ii) access to the privy interior or vault is minimizes for flies, insects, rats, and other animals;
         (iii) surface or ground water cannot enter the vault, either as runoff or as flood water;
         (iv) the waste material in the vault privy cannot contaminate a water supply, stream, or body of water; and
      (v) odors are minimized both inside and outside the privy structure.
   (5) The operator shall submit all required plans for the construction or alteration of a wastewater disposal system in accordance with Title R317, Water Quality, before or prior to commencing construction or alteration.


(1) The operator shall provide:
   (a) one mechanical washing machine or one double laundry tray or two tubs for each 30 workers, or fraction thereof;
   (b) transportation at least weekly to nearby laundromat; or
   (c) a contract with a commercial linen service.
(2) The operator shall provide:
   (a) one service sink in the same area as each laundry facility;
   (b) The operator shall provide facilities for drying clothes.
(4) The operator shall ensure that each building containing laundry facilities is maintained in a clean and sanitary condition.

R392-501-10. Toilet and Bath Requirements.

(1) The operator shall make sure that each of the following plumbing fixtures is available to each labor community occupant:
   (a) a toilet fixture;
   (b) a shower or bath fixture; and
   (c) a hand sink installed at a ratio of one per six workers in a convenient location, as approved by the local health officer.
(2) The number of toilet fixtures or privy seats provided for each sex shall be based on the maximum number of workers of that sex which the labor community is designed to house at any one time, and shall be calculated from Section R392-501-11 Table [H].
(3) The number of shower or bathing facilities provided for each sex shall be based on the maximum number of workers of that sex which the labor community is designed to house at any one time, and shall be calculated from Section R392-501-11 Table [H].
(4) When all plumbing fixtures in Subsection R392-501-10(1) are a toilet or bath fixture is located within a housing unit, the toilet or bath area shall be provided with:
   (a) a toilet and bathing room shall have:
      (i) a window not less than six square feet in area opening directly to the outside area; or
      (ii) [mechanical ventilation.
   (b) Toilet facilities and toilet rooms shall be easily cleanable.
   (c) The operator shall ensure that each toilet facility, toilet room[s], and bathroom[s] is easily cleanable and maintained in a clean and sanitary condition.


(1) The operator shall ensure that each labor community having housing units as described in R392-501-4(3)[(a)] shall be provided with at least one service building or buildings for the use of labor community occupants that meets the following requirements:
   (a) [It shall have] Interior walls shall be constructed of smooth, moisture-resistant material to facilitate frequent washing and cleaning.
(b) [All] Each outer opening[s] shall be effectively screened.
(c) [It shall be provided with a] A minimum of 10 foot candles of exterior lighting shall be provided to [indicate] show the location of the building and entrance doorway[s].
(d) [There] Each toilet or privy room[s] and laundry facility[ies] shall be provided with a minimum of 10 foot candles of interior lighting.
(e) [A] Any approach[es] to any [a] service building shall be free from obstruction.
(f) Any common-use potable water faucet inside or connected to a service building [shall may] not have a threaded spigot.

(3) Except for Subsection (3), the number of toilets or privy seats provided in a service building for each [sex]gender shall be based on the maximum number of workers of that [sex]gender which the labor community is designed to house at any one time, and shall be calculated from Table [I].

<table>
<thead>
<tr>
<th>TABLE I</th>
<th>Required Minimum Toilet Fixtures in a Labor Community</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Workers of Same Sex</td>
<td>Required Toilet Fixtures</td>
</tr>
<tr>
<td>1 - 5</td>
<td>1 toilet or privy seat</td>
</tr>
<tr>
<td>6 - 30</td>
<td>2 toilets or privy seats</td>
</tr>
<tr>
<td>31 - 45</td>
<td>3 toilets or privy seats</td>
</tr>
<tr>
<td>46 - 60</td>
<td>4 toilets or privy seats</td>
</tr>
</tbody>
</table>

(4) Labor communities employing fewer than six workers, irrespective of [sex]gender, only require one toilet or privy if located in a single occupancy toilet room that can be locked from the inside.

(5)(a) [A] A urinal[s] may be provided on the basis of one unit for each 18 men or fraction thereof, provided the urinal is installed in addition to a toilet at the same location.

(b) The required number of toilet fixtures for men may be reduced by up to 1/3 by installing urinals in this ratio.
(c) The floor from the wall and for a distance not less than 15 inches measured from the outward edge of the urinals shall be constructed of materials impervious to moisture.

(6) Each [Toilet facility[ies]] and toilet room[s] shall be easily cleanable.

(b) Except as provided in Subsection R392-501-44[(16)(c)], a separate toilet room[s] within the service building shall be provided for each [sex]gender.

(b) [These areas] Each toilet room shall be distinctly marked "for men" [and for women] by a sign printed in English and in the native languages of the persons occupying the temporary labor community, or marked with easily understood pictures or symbols.

(a) Where a toilet room will be occupied by no more than one person at a time, can be locked from the inside, and contains at least one toilet, separate toilet rooms for each [sex]gender need not be provided.

(7)(a) A service building toilet room shall:
(i) have a window not less than [6] six square feet in area opening directly to the outside area; or
(ii) [shall be] otherwise satisfactorily ventilated in a manner approved by the local health officer.

(b) Outside openings shall be screened with 16 mesh material.
(c) Each vault privy room shall be ventilated with a properly screened opening or openings of at least two square feet.

(9)(a) A vault privy room may not be located closer than 100 feet to a sleeping room, dining room, designated lunch area, or kitchen.

(10) [A] A sink[s] shall be located in the same room as a toilet fixture[es] or immediately adjacent to the toilet room or service building.

(11) The operator shall provide soap and toilet tissue in [suitable] dispensers in each service building.

(12) The operator shall provide at least one solid, easily cleanable, covered waste receptacle for the collection of solid waste for each toilet room within a service building.

(13) Except where an alternate hand drying method is approved by the local health officer, the operator shall provide clean individual disposable towels at each sink.

(14) The number of shower or bathing facilities provided in a service building for each [sex]gender shall be based on the maximum number of workers of that [sex]gender which the labor community is designed to house at any one time, and shall be calculated from Table [II].

<table>
<thead>
<tr>
<th>TABLE II</th>
<th>Required Minimum Shower or Bathing Facilities in a Labor Community</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Workers of Same Gender</td>
<td>Required Shower or Bathing Facility</td>
</tr>
<tr>
<td>1 - 5</td>
<td>1 shower or bath</td>
</tr>
<tr>
<td>6 - 30</td>
<td>2 showers or baths</td>
</tr>
<tr>
<td>31 - 45</td>
<td>3 showers or baths</td>
</tr>
<tr>
<td>46 - 60</td>
<td>4 showers or baths</td>
</tr>
</tbody>
</table>

(15) Labor communities employing fewer than six workers, irrespective of [sex]gender, only require one shower or bath if located in a single occupancy room that can be locked from the inside.

(16)(a) Except as provided in Subsection R392-501-44[(16)(c)], separate bathing or shower area[s] as except as in Subsection (16)(c), separate bathing or shower area[s] shall be provided for each [sex]gender.

(b) [These areas] Each bathing or shower area shall be distinctly marked "MEN" or "WOMEN" by signs printed in English and in the native languages of the persons occupying the temporary labor community, or marked with easily understood pictures or symbols.

(17) Labor communities employing fewer than six workers, irrespective of [sex]gender, only require one shower or bath if located in a single occupancy room that can be locked from the inside.

(18) Except as provided in Subsection R392-501-44[(18)(c)], separate bathing or shower area[s] as except as in Subsection (18)(c), separate bathing or shower area[s] shall be provided for each [sex]gender.

(b) [These areas] Each bathing or shower area shall be distinctly marked "MEN" or "WOMEN" by signs printed in English and in the native languages of the persons occupying the temporary labor community, or marked with easily understood pictures or symbols.

(19) A separate shower or bathing area[s] for each [sex]gender need not be provided if:

NOTICES OF PROPOSED RULES


(1) (a) [Except in Subsection (1)(d), at any offsite labor location where a worker is employed or permitted to work for a period of three hours or more, the operator shall provide within a convenient distance of the work area sufficient, suitable and separate toilet and handwashing facilities. The operator shall use the following standards to determine the number of toilet and handwashing facilities needed, and the distance to each]

[(a)(b) For one to 20 workers, male or female, one toilet facility and one handwashing facility shall be provided within a one-quarter-mile walk of the work area(s).]

[(b)(c) For work crews of 21 or more workers, one toilet facility for every 20 males or fraction thereof and one toilet facility for every 20 females or fraction thereof. These toilet facilities shall be provided within a one-quarter-mile walk of the work area(s).]

[(e)(d) (As) If approved by the local health officer and through a written agreement with the workers, in the native language of the workers, informing them of such, the operator may develop a written agreement in the native language of the workers that shall state that the operator will furnish readily available transportation that provides readily available transportation with prompt access, within 10 minutes, to a toilet facility once during any continuous four hours of work.]

(2) Each [T]toilet and associated handwashing facility[ies] shall be accessible, located in close proximity to each other.

(3) The operator shall notify each employee of the location of the nearest available toilet[s] and handwashing facility[ies], and drinking water, and shall allow each employee reasonable opportunities during the workday to use them.

(4) Each [P]portable toilet facility[ies] shall be operational and maintained in a clean and sanitary condition.

(5) Each portable handwashing facility[ies] shall be:

(a) refilled with potable water as necessary to ensure an adequate supply; and

(b) maintained in a clean and sanitary condition.

(6) The [D]isposal of any waste[s] from a toilet [and/or] handwashing facility[ies] shall not cause an unsanitary condition[s].

(7) The operator shall provide an adequate supply of disposable toilet tissue and single use towels for worker use.


(1) [All] Each building[s] and associated grounds, rooms, equipment, and furnishings shall be maintained in a clean and operable condition.

(2) [All] Reasonable means shall be employed to eliminate or control infestations of vermin within [all] each part[s] of any community. This shall include approved screening or other approved control of outside openings in structures intended for occupancy or food service facilities.

(3) Each labor community shall be equipped with at least a 24-unit ANSI compliant first aid kit. The operator shall ensure that each first aid kit is:

(a) properly stocked;

(b) readily accessible; and

(c) conveniently located.

(4) The operator of a community with onsite staff shall employ at least one individual who is adequately trained to [render] provide first aid. This individual should and possess at least a certificate of completion of the Basic First Aid Course as presented by the American National Red Cross or its equivalent.


When food service is provided for labor community members, any food service, storage, and preparation shall comply with the FDA Model Food Code as incorporated and amended in Rule R392-100, Food Service Sanitation, and local health department regulations.


(1) (a) The operator shall provide adequate containers to prevent the accumulation of solid waste in the labor community.

[(b) Solid waste generated at a labor community shall be stored in a container that is:

(1) [leak-proof];

(2) non-absorbent; and

(3) kept covered with a tight-fitting lid.]

[(e)(d) [All] Solid waste[s] shall be disposed of with sufficient frequency and in such a manner as to prevent insect breeding, rodent harborage, or a public health nuisance.


The operator shall comply with Rule R392-302, Design, Construction, and Operation of Public Pools as well as other and local health department regulations for any pool[s] or spa[s] made available to labor community members or staff.

R392-501-17. Inspections and Investigations.

(1) (a) Except as in Section R392-501-2, and upon presenting proper identification, the operator shall permit the local health officer to enter the premises of a labor community to perform inspections, investigations, reviews, and other actions as necessary to ensure compliance with Rule R392-501.

[(b)(2) The local health officer may not enter an occupied tent or other structure designed or intended for temporary human habitation without the express permission of the occupant except when a warrant is issued to an authorized public safety officer which authorizes the local health officer to enter, or when the operator and the local health officer determine that there exists an imminent risk to the life, health, or safety of the occupant.

R392-501-18. Closing or Restricting of Temporary Labor Communities or Housing Units.

(1) [If the] the local health officer deems a temporary labor community, housing unit, or portion thereof, to be an imminent risk to the life, health, or safety of the public, the temporary labor community or unit area or portion thereof may be closed or its use may be restricted, as determined by the local health officer.

(2) The operator shall restrict public access to the impacted area of any temporary labor community or housing unit closed or restricted to use by a local health officer within a reasonable time as ordered by the local health officer.

(3) It shall be unlawful for an operator to The operator may not allow the public to utilize any temporary labor community, housing unit, or portion thereof that has been deemed unfit for use until written approval of the local health officer is given.
NOTICES OF PROPOSED RULES

R392-501-19. Severability. If any provision of this rule or its application to any person or circumstance is declared invalid, the application of such provision to other person or circumstances, and the remainder of this code, shall not be affected thereby.

KEY: public health, oil-gas-and mining camp, labor camp, migrant camp
Date of Last Change: 2022[September 10, 2018]
Notice of Continuation: October 21, 2021
Authorizing, and Implemented or Interpreted Law: 26-15-2; 26-1-5; 26-1-30(9); 26-1-30(23); 26-7-1

NOTICE OF PROPOSED RULE

<table>
<thead>
<tr>
<th>TYPE OF RULE:</th>
<th>Repeal and Reenact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utah Admin. Code Ref (R no.):</td>
<td>R392-700</td>
</tr>
</tbody>
</table>

Agency Information
1. Department: Health
Agency: Disease Control and Prevention, Environmental Services
Room no.: Second Floor
Building: Cannon Health Building
Street address: 288 N 1460 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 142102
City, state and zip: Salt Lake City, UT 84114-2102
Contact person(s):
Name: Karl Hartman
Phone: 801-538-6191
Email: khartman@utah.gov

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

General Information
2. Rule or section catchline: R392-700. Indoor Tanning Bed Sanitation

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Executive Order No. 2021-12 requires state agencies to amend rules that are inconsistent with the current edition of the Administrative Rulewriting Manual for Utah. As required, the amendments to Rule R392-700 provide technical and conforming changes in accordance with the Rulewriting Manual for Utah.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
No anticipated cost or savings because the substantive changes do not result in a change in current practice or procedures at the Department.

B) Local governments:
No anticipated cost or savings because the substantive changes do not result in a change in current practice or procedures at the local health departments.

C) Small businesses ("small business" means a business employing 1-49 persons):
substantive differences between the repealed rule and the reenacted rule): The amendments to Rule R392-700 provide nonsubstantive technical and conforming changes throughout this rule and remove superfluous and repetitive language.

Section R392-700-1 is expanded to explain the purpose of this rule.

Section R392-700-2 is modified to remove cumbersome, superfluous language.

In Section R392-700-3: 1) added definitions for Clean, Guardian, Local health department, Local health officer, and Minor; 2) amended definitions for Patron, Phototherapy device, Tanning device, and Tanning facility.

In Sections R392-700-4 through R392-700-12, the Department of Health (Department) has made mostly nonsubstantive revisions including the rewording and restructuring of these sections to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. The Department also created new sections and moved existing provisions from other sections in the rule to improve readability and flow.

Substantive changes include: 1) Subsection R392-700-6(7)(i) is amended to remove "regarding skin cancer" to clarify that the information a patron may receive by contacting the local health department is not limited to skin cancer; 2) Subsection R392-700-10 is amended to require the operator to disinfect reusable protective eyewear with an EPA registered disinfectant after each use rather than sanitizing eyewear because a sanitizer is not sufficiently strong to control the spread of communicable diseases like conjunctivitis and impetigo. This amended language is now located in Section R392-700-7; and 3) Section R392-700-12 is a severability clause that is added to be consistent with other rules promulgated under Title R392.
No anticipated cost or savings because the substantive changes reflect current industry practice.

D) Non-small businesses (*non-small business* means a business employing 50 or more persons):
No anticipated cost or savings because the substantive changes reflect current industry practice.

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*):
No anticipated cost or savings because the substantive changes reflect current industry practice.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
No anticipated cost or savings because the substantive changes reflect current industry practice.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
There is no fiscal impact to business because the substantive changes reflect current industry practice. Nathan Checketts, Interim Executive Director

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
<th>Fiscal Cost FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Government</td>
<td>$0</td>
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<td>$0</td>
</tr>
<tr>
<td>Local Governments</td>
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<td>$0</td>
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</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>
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</tr>
<tr>
<td>Total Fiscal Cost</td>
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<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

| Fiscal Benefits         | State Government   | $0     | $0     | $0     |
| Local Governments       | $0                 | $0     | $0     |

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 26-15-2  Section 26-1-5  Section 26-1-30  Section 26-15-13

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. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Nathan Checketts, Interim Executive Director  Date: 11/21/2021

R392. Health, Disease Control and Prevention, Environmental Services.
R392-700-1. Authority and Purpose.
This rule establishes tanning facility standards. It is authorized by Section 26-15-2 and 26-15-13.
This rule applies to places where consideration is given in exchange for access to a tanning device. This rule does not apply to private, non-commercial use of tanning equipment exclusively for non-commercial use. A tanning facility may not operate in Utah unless the facility owner has obtained a permit to do so from the local health department with jurisdiction.

As used in this rule:

(1) "Department" means the Utah Department of Health.
(2) "Operator" means any person who owns, leases, or manages a business operating a tanning facility.
(3) "Patron" means any person who enters a tanning facility with the intent to use a tanning device.
(4) "Phototherapy Device" means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease when used at the health care professional's health care office or clinic.
(5)(a) "Tanning device" means equipment to which a tanning facility provides access that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and is used for tanning of the skin including:
(i) a sunlamp; and
(ii) a tanning booth or bed.
(b) "Tanning device" does not include a phototherapy device.
(6) "Tanning Facility" means a commercial location, place, area, structure, or business that provides access to a tanning device.
(7) "Timing Device" means a device that is capable of ending the emission of ultraviolet radiation from tanning device after a preset period of time.
(8) "Ultraviolet Radiation" means electromagnetic radiation that has a wavelength interval of 200 nanometers to 400 nanometers in air.

The operator of a tanning facility shall post a warning sign that meets the requirements of this rule in a conspicuous location that is readily visible to a person about to use a tanning device.

(a) The operator shall place the warning sign so that all patrons are alerted to the hazard and informed before being exposed to UV radiation. At a minimum, the operator shall post the warning sign:
(i) in the line of sight of a person presenting at the reception or sales counter and no more than 10 feet from where a patron checks in or pays for the tanning session;
(ii) on a vertical surface in the reception area so that the top border of the writing is between five and six feet above the patron floor level at the reception or sales counter area.

(b) The warning sign required by R392-700-5 shall meet the requirements of this section. An Adobe Acrobat Portable Document Format (.pdf) file that meets the requirements of this section is available from the Department or the local health department.

(2) The sign shall be in a landscape format 11 inches high by 17 inches wide on a white background.

(3) All lettering shall be in Arial font as produced in Adobe Acrobat. In addition, the letters shall be:
(a) black in color
(b) all uppercase
(c) adequately spaced and not crowded

(4) There must be a panel at the top of the sign. The background of the panel shall be safety orange in color and shall:
(a) be 3.3 centimeters, high and 42 centimeters wide, including a black line border that is 0.16 centimeter wide surrounding the safety orange background;
(b) have the word "WARNING" in capital letters that are 80 points in size (approximately two centimeters high); and
(c) have an internationally recognized safety alert symbol that is two centimeters high and placed immediately to the left of the word "WARNING".

(5) The safety alert symbol shall be black with a yellow field.

(6) The word "WARNING" and the symbol shall be vertically and horizontally centered within the orange panel.

(7) Immediately below the orange panel shall appear the words: "UV RADIATION HEALTH RISK" in letters that are 61 points in size (approximately 1.5 centimeters high) and centered between the vertical margins. The vertical space between the "WARNING" panel and the top of the words "UV RADIATION HEALTH RISK" shall be approximately 1.6 centimeters. The vertical space between the bottom of the words "UV RADIATION HEALTH RISK" and the top of the words of the first bulleted statement required in subsection (9) shall be approximately 1.6 centimeters.

(8) Beneath the "UV RADIATION HEALTH RISK" line shall appear the body wording of the sign in letters that are 39 points in size (approximately one centimeter high).

(9) The body of the sign shall be the following four bulleted statements:

- TANNING DEVICES MAY CAUSE SEVERE EYE AND SKIN DAMAGE AND MAY CAUSE CANCER
- TALK TO A DOCTOR IF YOU ARE PREGNANT OR ON ORAL CONTRACEPTIVES OR OTHER DRUGS
- WAIT AT LEAST 48 HRS BEFORE RE-TANNING
- REQUIRED FOR ALL PERSONS UNDER 18 YEARS FOR EACH TANNING SESSION. IN PERSON WRITTEN CONSENT BY PARENT OR LEGAL GUARDIAN OR PHYSICIAN'S WRITTEN ORDER

(10) The vertical spacing between each of the bulleted statements shall be approximately 1.6 centimeters. The margins to the right and left of the bulleted statements shall be no less than 4.4 centimeters.

(11) The vertical spacing between the last bulleted statement and the bottom margin of the paper shall be no less than two centimeters.

(12) Local health departments may add additional warning requirements that are applicable to all patrons of all tanning facilities.

(1) It is unlawful for any operator of a tanning facility to allow a person younger than 18 years old (hereinafter "minor") to use a tanning device, unless the person either:

(a) has a written order from a physician as a medical treatment that includes the frequency and duration of tanning sessions; or

(b) at each time of use is accompanied at the tanning facility by a parent or legal guardian who signs a written consent form authorizing the minor to use the tanning device (the parent or legal guardian is not required to remain at the facility for the duration of the use).

(2) The operator shall not allow a minor to exceed a physician's order for tanning in either frequency or duration of the tanning sessions.
NOTICES OF PROPOSED RULES

(3) The consent form for use of a tanning device by a minor shall conform to the Utah Department of Health Tanning Consent Form, July 2012, which is incorporated by reference.

(4) Before allowing a patron to use a tanning device, the operator shall require the patron to provide proof of age.

(5) The operator or designee shall not allow any person to use a tanning device without providing the information listed under (6) to the patron (or parent or legal guardian in the case of a minor).

(6) Before allowing any patron to use a tanning device, the operator shall upon a patron's initial visit to the tanning facility and annually thereafter:

(a) provide the patron (or parent or legal guardian in the case of a minor) a written paper health risk warning notice containing the health risk information in subsection (7);

(b) provide the patron (or parent or legal guardian in the case of a minor) an opportunity to read the notice and ask questions;

(c) obtain the patron's (or parent's or legal guardian's in the case of a minor) dated signature signifying that the patron (or parent or legal guardian in the case of a minor) has read and understands the notice;

(d) give the patron (or parent or legal guardian in the case of a minor) a copy of the notice.

(7) The notice required in subsection (3) shall include the following:

(a) a representative list of potential photosensitizing drugs and agents and the importance of consulting a physician before tanning if the patron is taking certain medicines, has a history of skin problems, is pregnant, or is sensitive to sunlight;

(b) information regarding potential negative health effects related to ultraviolet exposure including:

(i) the increased risk of skin cancer and increased risk for those patrons with health problems who sunburn easily, have a family history of melanoma, or often get cold sores;

(ii) the increased risk of skin thinning, wrinkling, and premature aging;

(iii) the possible adverse effect on some viral conditions or medical condition, such as lupus when using a tanning device.

(c) information on how to determine skin sensitivity and information on how different skin types respond to the tanning facilities different tanning devices and the importance of adhering to the time limit the manufacturer recommends for each skin type;

(d) an explanation of Ultraviolet-A (UVA) and Ultraviolet-B (UVB) light's effect on the body, the need to use proper protective eye wear with both UV-A and UV-B systems, and that closing the eyes is not sufficient to prevent possible eye damage;

(e) information on the capacity of devices, including proper exposure times and intensity;

(f) information on the risk of tanning too frequently and on overexposure including advice to space tanning sessions 48 hours apart and information on how long it takes before skin burns may develop;

(g) the importance of the use of protective eye wear including the possibility of eye damage if the eye wear is not used and the tanning device's recommendations on how to properly use eye wear while using the tanning device;

(h) information that tanning may be inadvisable during pregnancy; and

(i) other relevant medical information as determined by the local health department, but at a minimum, the local health department contact information to enable the patron to obtain additional information regarding skin cancer.

(8) The operator shall retain the signed patron notices at the tanning facility and make them readily available for inspection by the Department and local health department.

(9) The operator shall provide a separate enclosed area for each tanning device that ensures patron safety and privacy.

(10) The operator shall ensure that only one person enters tanning area during a tanning session.

(11) The operator shall not allow an animal, except for a service animal, to be in a tanning area during a tanning session. The operator shall ensure that service animals allowed in tanning areas be provided eye protection from UV exposure.


(1) A tanning facility may use only commercially available tanning devices manufactured and certified in compliance with 21 CFR 801.4, 21 CFR 1010.2 and 1010.3, and 21 CFR 1040.20.

(a) The operator shall follow all manufacturer safety instructions applicable to each tanning device.

(b) The operator shall not:

(i) operate any tanning device that has an ineffective or inoperable timing device or for which the timing device is missing;

(ii) exceed the manufacturer's maximum recommended exposure time; or

(iii) exceed the exposure time recommended by the manufacturer in compliance with 21 CFR 1040.20(b)(1)(ii)(c).

(2) The operator shall maintain at the tanning facility the manufacturer's operating instructions, exposure recommendations, and safety instructions for each tanning device.

(3) The operator shall centrally install and locate the timing device controls for each tanning device so that a patron may not set or reset the exposure time on any tanning device.

(4) The operator shall control the temperature of the consumer contact surfaces of a tanning device and the surrounding area so that it will not exceed 100 degrees Fahrenheit.

(5) The operator shall control the temperature of the consumer contact surfaces of a tanning device and the surrounding area so that it will not exceed 100 degrees Fahrenheit.

(6) The operator shall maintain the tanning devices in good repair.

(7) The operator shall provide physical barriers to protect patrons from possible injury which may be induced by touching or breaking tanning equipment lamps.

(8) The operator shall provide physical barriers or other methods, such as handrails or floor markings to indicate the proper exposure distance between ultraviolet lamps and the patron's skin.

(9) The operator shall provide a separate enclosed area for each tanning device that ensures patron safety and privacy.

(10) The operator shall ensure that only one person enters tanning area during a tanning session.

(11) The operator shall track each patron's usage to ensure that a patron does not use a tanning device more frequently than once each calendar day, or in excess of the manufacturer's recommended exposure.

(12) The operator shall allow each patron to exit the tanning device without assistance from the operator.

(13) The operator shall advise each patron of the caution related to the intensity of the radiation output of the tanning devices in the tanning facility when assigning a patron to use a particular tanning device.

Prior to each tanning session, the operator shall offer protective eye wear to each patron, instruct the patron on proper use and the importance of proper use of eye wear, and notify the patron of possible damage that might occur to the patron if the patron does not wear it. Protective eye wear shall be eye wear that is supplied by the manufacturer for use with the tanning device or that is the equivalent to the protective eye wear supplied by the manufacturer.


(1) The operator shall provide a room or space that includes a flushing toilet and a hand-washing sink with hot and cold running water accessible to patrons at each tanning facility. The operator shall ensure that the facility is maintained in a clean and sanitary condition. The internal ambient air temperature of the facility shall not exceed 85 degrees F. The operator shall ensure that all areas of the tanning facility and temporary tanning facility are properly ventilated. The internal ambient air temperature of the facility shall not exceed 85 degrees F.

(2) The operator shall ensure that all rooms of a tanning facility and temporary tanning facility are capable of being illuminated to allow for proper cleaning and sanitizing.

(3) The operator shall ensure that all rooms of a tanning facility and temporary tanning facility are capable of being illuminated to allow for proper cleaning and sanitizing.

(4) To prevent patron slip injury, the operator shall ensure that the floor adjacent to each tanning device is clean and slip resistant to allow for safe entry and exit from the tanning device.


(1) The operator shall maintain in good repair and in a sanitary condition all portions of the tanning facility, including walls, floors, ceilings, and equipment.

(2) The operator shall clean and sanitize before each use, all:

(a) reusable protective eye wear;

(b) body contact surfaces of the tanning device; and

(c) body contact surfaces of the tanning booth, including all seating surfaces and door knobs.

(3) The operator shall clean the items in subsection (2) using a detergent or other agent able to emulsify oils and hold dirt in suspension using a concentration as indicated by the detergent or other agent manufacturer's use directions included on the product labeling. The operator shall sanitize the items in subsection (2) with a chlorine sanitizer or a quaternary ammonia compound using a concentration as indicated by the sanitizer or compound manufacturer's use directions included on the product labeling.

(4) If the operator cleans the items in a separate process from sanitizing the items, the operator shall clean the items prior to sanitizing them. The operator may use a single product to both clean and sanitize if that product meets the requirements of subsection (3) for the cleaning and sanitizing of the items in subsection (2).

(5) The operator shall ensure that restroom facilities are maintained in a clean and sanitary condition. The operator shall provide hand soap and single use hand drying towels or a hand drying mechanism for patron use.

(6) The operator shall clean and sanitize towels or other linens after each use.


(1) A tanning facility may not operate in Utah unless it has first obtained a permit to operate from the local health department with jurisdiction.

(2) In order to obtain a permit, the facility must fill out the required local health department form, submit the form to the local health department, and pay the associated fee. A permit, unless revoked, is good for one year.

(3) Before the facility is eligible for a permit, the tanning facility operator must demonstrate to the local health department that the facility can meet the tanning physical facility requirements, notification requirements, operational requirements, and sanitization requirements in this rule. The tanning facility operator must also demonstrate that the facility has systems in place to meet the written consent requirements, information notification requirements, eye wear requirements, and operational requirements in this rule.

(4) The tanning facility operator must be able to demonstrate to the local health department initially and upon subsequent inspections sufficient knowledge of safe operation of the tanning device in accordance with manufacturer recommendations.


A person who violates a provision of this rule that is also a provision of Section 26-15-13 may be subject to a class C misdemeanor, and revocation of the permit to operate. A person who violates a provision of this rule that is also a provision of Section 26-15-13 is subject to a civil penalty as provided in Section 26-23-6.


R392-700-1. Authority and Purpose.

(1) This rule is authorized by Sections 26-1-5, 26-1-30, 26-15-2 and 26-15-13.

(2) This rule establishes minimum standards for the sanitation, operation, and maintenance of an indoor tanning facility, as defined by this rule, and provides for the prevention and control of hazards associated with indoor tanning that are likely to adversely affect public health and wellness including risk factors to injury, sickness, death, disability, and the spread of disease.


This rule applies to a tanning facility where a member of the public is provided access to a tanning device. This rule does not apply to private use of a tanning device when operated exclusively for non-commercial use.


As used in this rule:

(1) "Clean" means the condition of an object visibly free from dirt, soil stain, or other materials not intended to be a part of the object.

(2) "Department" means the Utah Department of Health.

(3) "Guardian" means the parent of a minor, or a person who has qualified as a guardian of a minor pursuant to Title 75, Chapter 5, Part 2, Guardians of Minors.

(4) "Local health department" has the same meaning as provided in Subsection 26A-1-102(5).

(5) "Local health officer" means the health officer of the local health department having jurisdiction or the local health officer's designated representative.

(6) "Minor" means a person under 18 years of age.

(7) "Operator" means any person who, whether permitted or not, controls, operates, owns, or manages a tanning facility as defined, or any individual who has been designated by the operator as the person in charge.

(8) "Patron" means any person who enters a tanning facility with the intent to use a tanning device. In Section R392-700-5, the term "patron" includes a parent or guardian in the case of a minor.

(9) "Phototherapy device" has the same meaning as provided in Subsection 26-15-13(1)(b).
NOTICES OF PROPOSED RULES

(10) "Tanning device" has the same meaning as provided in Subsection 26-15-13(1)(c).

(11) "Tanning facility" has the same meaning as provided in Subsection 26-15-13(1)(d).

(12) "Timing Device" means a device that is capable of ending the emission of ultraviolet radiation from tanning device after a preset period.

(13) "Ultraviolet radiation" means electromagnetic radiation that has a wavelength interval of 200 nanometers to 400 nanometers in air.


(1)(a) The operator shall post a warning sign that meets the requirements of Subsection (2) in a conspicuous location that is readily visible to a person who intends to use a tanning device.

(b) The operator shall place the warning sign so that the patron is alerted to the hazard and informed before being exposed to UV radiation.

(c) At a minimum, the operator shall post the warning sign:

(i) in the line of sight of a person presenting at the reception or sales counter and no more than 10 feet from where a patron checks in or pays for the tanning session; and

(ii) on a vertical surface in the reception area so that the top border of the writing is between five and six feet above the floor level at the reception or sales counter area.

(2) The operator shall ensure that:

(a) the warning sign required in Subsection (1) is in a landscape format 11 inches high by 17 inches wide on a white background;

(b) warning sign lettering is in Arial font as produced in Adobe Acrobat, and the letters are:

(i) black in color;

(ii) uppercase; and

(iii) adequately spaced and not crowded;

(c) the top of the sign includes a panel that is safety orange in color and:

(i) is 3.3 centimeters high and 42 centimeters wide, including a black line border that is 0.16 centimeters wide surrounding the safety orange background;

(ii) includes the word, "warning" in capital letters that are 80 points in size; and

(iii) has an internationally recognized safety alert symbol that is two centimeters high and placed immediately to the left of the word, "warning";

(d) the safety alert symbol is black with a yellow field;

(e) the word, "warning" and the symbol are vertically and horizontally centered within the orange panel;

(f) immediately below the orange panel appear the words, "UV radiation health risk" in letters that are 61 points in size and centered between the vertical margins;

(g) the vertical space between the "warning" panel and the top of the words, "UV radiation health risk" is about 1.6 centimeters;

(h) the vertical space between the bottom of the words, "UV radiation health risk" and the top of the words of the first bulleted statement required in Subsection (2)(k) are about 1.6 centimeters;

(i) beneath the "UV radiation health risk" line appear the body wording of the sign in letters that are 39 points in size;

(j) the body of the sign includes the following four statements:

(i) "Tanning devices may cause severe eye and skin damage, and may cause cancer;"

(ii) "Talk to a doctor if you are pregnant or on oral contraceptives or other drugs;"

(iii) "Wait at least 48 hours before tanning again;" and

(iv) "In person written consent by parent or legal guardian or physician's written order is required for any person under 18 years for each tanning session;"

(k) the vertical spacing between each of the bulleted statements is about 1.6 centimeters;

(l) the margins to the right and left of the bulleted statements are no less than 4.4 centimeters; and

(m) the vertical spacing between the last bulleted statement and the bottom margin of the paper is no less than two centimeters.

(3) A local health officer may add additional warning requirements that apply to each patron.


(1) The operator shall prohibit a minor from using a tanning device except if the minor:

(a) has a written order from a physician as a medical treatment that includes the frequency and duration of tanning sessions; or

(b) at each time of use, is accompanied at the tanning facility by a parent or guardian who signs a written consent form authorizing the minor to use the tanning device.

(2) The parent or guardian of a minor is not required to remain at the tanning facility during the minor's use of a tanning device.

(3) The operator may not allow a minor to exceed a physician's order for tanning in either frequency or duration of a tanning session.

(4) The consent form for use of a tanning device by a minor shall conform to the Department's Tanning Consent Form, July 2012, which is incorporated by reference.

(5) Before using a tanning device, the patron shall provide proof of age to the operator.

(6) Before the patron's use of a tanning device, the operator shall provide the patron with the information listed under Subsection (7).

(7) Upon a patron's initial visit to the tanning facility and annually thereafter, the operator shall:

(a) provide the patron with a written paper health risk warning notice containing the health risk information listed in subsection (8);

(b) provide the patron an opportunity to read the notice and ask questions;

(c) have the patron sign and date the notice to signify that the patron has read and understands; and

(d) give the patron a copy of the notice.

(8) The health risk warning notice required in subsection (7)(a) shall include:

(a) a representative list of potential photosensitizing drugs and agents;

(b) a statement on the importance of consulting a physician before tanning if the patron;

(i) is taking certain medicines;

(ii) has a history of skin problems;

(iii) is pregnant; or

(iv) is sensitive to sunlight;

(c) information regarding potential negative health effects related to ultraviolet exposure including:

(i) the increased risk of skin cancer and increased risk for patrons with:

(A) health problems who sunburn easily;

(B) a family history of melanoma; or

(C) frequent cold sores;

(ii) the increased risk of skin thinning, wrinkling, and premature aging; and
(iii) the possible adverse effect on some viral or medical conditions, like lupus, when using a tanning device;
(d) information on:
(i) how to determine skin sensitivity;
(ii) how different skin types respond to different tanning devices;
(iii) the importance of adhering to the time limit the manufacturer recommends for each skin type;
(iv) how ultraviolet-A (UVA) and ultraviolet-B (UVB) affect the human body;
(v) the required use of proper protective eyewear with both UVA and UVB systems, and a statement that closing the eyes is not sufficient to prevent possible eye damage;
(vi) the use of protective eyewear including the possibility of eye damage if the eyewear is not used;
(vii) the tanning device manufacturer's recommendations on how to properly use eyewear while using the tanning device;
(viii) the capacity of each tanning device, including proper exposure time and intensity;
(ix) the risk of tanning too frequently and on over exposure including advice to space tanning sessions 48 hours apart;
(x) the typical amount of time for a sunburn to develop;
(xi) the inadvisability of tanning during pregnancy; and
(xii) additional relevant medical considerations as determined by the local health officer; and
(e) how to contact the local health department to get additional information.
9. The operator shall keep each signed patron consent form at the tanning facility and shall make the forms readily available for review by the local health officer upon request.

R392-700-6. Tanning Devices.
(b) The operator shall follow the manufacturer's safety instructions applicable to each tanning device;
(2) The operator shall:
(a) maintain at the tanning facility the manufacturer's operating instructions, exposure recommendations, and safety instructions for each tanning device;
(b) centrally install and locate the timing device controls for each tanning device so that a patron may not set or reset the exposure time on any tanning device;
(c) control the temperature of each body contact surface of a tanning device and the surrounding area to ensure that the surface does not exceed 100 degrees Fahrenheit;
(d) maintain each tanning device in good repair;
(e) provide a physical barrier to protect a patron from possible injury that could occur by touching or breaking a tanning device lamp;
(f) provide a physical barrier or other method, such as a handrail or floor marking to show the patron the proper exposure distance between an ultraviolet lamp and the patron's skin;
(g) replace each defective or burned-out lamp or filter with a lamp or filter that is clearly identified by brand and model designation by the lamp or filter manufacturer;
(h) maintain lamp manufacturer's labeling and user instructions at the tanning facility that demonstrate the compatibility equivalence of any replacement lamp or filter;
(i) track each patron's usage to ensure that a patron does not use a tanning device more frequently than once each calendar day or in excess of the manufacturer's recommended exposure;

(i) ensure that each tanning device allows a patron to exit the tanning device without assistance from the operator;
(k) assess each patron's skin type and sensitivity and consider the intensity of the radiation output of the tanning devices in the tanning facility when assigning a patron to use a particular tanning device;
(l) provide a separate enclosed tanning area for each tanning device that ensures patron safety and privacy; and
(m) ensure that only one person enters an enclosed tanning area during a tanning session;
(3) The operator may not:
(a) operate any tanning device that has an ineffective or inoperable timing device or for which the timing device is missing;
(b) exceed the manufacturer's maximum recommended exposure time;
(c) exceed the exposure time recommended by the manufacturer in compliance with 21 CFR 1040.20(d)(1)(iv);
(d) advertise or promote the use of any tanning equipment using wording such as "safe," "safe tanning," "no harmful rays," "no adverse effect," "free from risk," or similar wording or concept; and
(e) allow an animal, except for a service animal, to be in an enclosed tanning area during a tanning session.

The operator shall ensure that:
(1) protective eyewear is offered to each patron before each tanning session;
(2) each patron is instructed on proper use of protective eyewear and warned of possible damage to the eyes if the protective eyewear is not worn;
(3) provided protective eyewear compatible with the tanning device being used;
(4) reusable protective eyewear is cleaned and disinfected with EPA registered disinfectant after each use; and
(5) a service animal allowed in an enclosed tanning area is provided with protective eyewear.

The operator shall ensure that:
(1) a restroom is provided for patron use that includes:
(a) a flushing toilet;
(b) a handwashing sink with hot and cold running water; and
(c) hand soap and single use hand drying towels or a hand drying mechanism;
(2) each floor and wall in the toilet room and handwashing area is constructed of smooth, non-absorbent material;
(3) each tanning facility area is properly ventilated;
(4) the internal ambient air temperature of the facility does not exceed 85 degrees F;
(5) each tanning facility room is capable of being illuminated to allow for proper cleaning and sanitizing; and
(6) the floor adjacent to each tanning device is clean and slip resistant to allow for safe entry and exit from the tanning device.

(1) The operator shall maintain walls, floors, ceilings, restrooms, and equipment of a tanning facility in good repair and in a clean and sanitary condition;
(2) The operator shall clean each body contact surface of a tanning device, including each seating surface and doorknob:
(a) before each use;
(b) using a detergent or other agent able to emulsify oils and hold dirt in suspension; and
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(c) using a concentration as indicated by the chemical manufacturer's use directions included on the product label;

(3) The operator shall sanitize each body contact surface of the tanning device, including each seating surface and doorknob:
   (a) before each use;
   (b) with a chlorine sanitizer or a quaternary ammonia compound; and
   (c) using a concentration as indicated by the chemical manufacturer's use directions included on the product label;

(4) The operator may use a single product to both clean and sanitize if that product meets the requirements of Subsections (2) and (3) for the cleaning and sanitizing of body contact surfaces of the tanning device.

(5) The operator shall wash and dry towels and other linens between each use.

(1) A tanning facility may not operate unless the operator has first obtained a permit to operate from the local health department having jurisdiction.
(2) To get a permit, the operator shall complete an application provided by the local health department and pay the associated fee. A permit, unless revoked, is valid for one year.
(3) Before the tanning facility is eligible for a permit, the operator shall demonstrate to the local health officer that:
   (a) the tanning facility can meet the requirements of Sections R392-700-4, R392-700-6, and R392-700-8; and
   (b) the facility has the systems in place to meet the requirements of Sections R392-700-5, R392-700-7, and R392-700-9.
(4) The operator shall be able to demonstrate to the local health officer, initially and upon subsequent inspections, that the operator has sufficient knowledge to safely operate each tanning device in accordance with manufacturer's directions.

(1) A person who violates a requirement of this rule that is also a requirement of Section 26-15-13 may be subject to a class C misdemeanor, and revocation of the permit described in Section R392-700-10.
(2) A person who violates a requirement of this rule that is not also a requirement of Section 26-15-13 is subject to a civil penalty as provided in Section 26-23-6.

If any provision of this rule, or its application to any person or circumstance is declared invalid, the application of such provisions to other persons or circumstances, and the remainder of this rule shall be given effect without the invalidated provision of the application.

KEY: tanning beds, [salons] indoor tanning, sanitation, ultraviolet light safety
Date of Last Change: 2022[October 15, 2012]
Notice of Continuation: January 16, 2018
Authorizing, and Implemented or Interpreted Law: 26-15-2; 26-15-13; 26-1-5; 26-1-30
room with more than one individual; or with individuals over the age of 22 years, unless they are members of the individual's immediate family. Outdated language and formatting issues were also modified in this amendment.

The Health Facility Committee reviewed and approved this rule amendment on 05/12/2021.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

State government small health care facility survey process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys. No change to the state budget is expected.

B) Local governments:

Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures. Small health care facilities are regulated by the state health department and not local governments. There will be no change in local business licensing or any other items with which local government is involved.

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

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small business Small Health Care Facilities. There are 15 ICF/IID's, as determined by the Department's licensing data system. (North American Industry Classification System (NAICS) codes used – Residential Mental Health Facilities 6232, reports 33 small businesses). None of the Department licensed ICF/IID's are listed as a small business.

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

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for non-small business Small Health Care Facilities. There are 15 ICF/IID's, as determined by the Department's licensing data system. (NAICS) codes used – Residential Mental Health Facilities 6232, reports 33 non-small businesses). Six of the Department licensed ICF/IID's are listed as non-small businesses. Employee training is currently provided in these facilities and the additional of specialized training to the facilities that serve individuals under 22 years of age, would be negligible. In addition, no cost would be associated with room placement requirements for individuals under 22 years of age.

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):

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 adds employee training requirements and room placement requirements for individuals residing in an ICF/IID and therefore, would not add cost for persons, businesses, or local government entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

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 adds employee training requirements and room placement requirements for individuals residing in an ICF/IID and therefore, would not add cost for persons, businesses, or local government entities.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

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 adds employee training requirements and room placement requirements for individuals residing in an ICF/IID and therefore, would not add cost for persons, businesses, or local government entities.

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
<th>Fiscal Cost</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
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<td>Other Persons</td>
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</table>
NOTICES OF PROPOSED RULES

Total Fiscal Cost  $0  $0  $0

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

Total Fiscal Benefits  $0  $0  $0

Net Fiscal Benefits  $0  $0  $0

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Title 26, Chapter 21

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

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Nate Checketts, Executive Director Date: 120/01/2021

R432-152. [Mental Retardation Facility] Intermediate Care Facility for Individuals with Intellectual Disabilities.
R432-152-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21 Health Care Facility Licensing and Inspection Act.

R432-152-2. Purpose.

It is the purpose of the rule to meet the intent of the Legislature as expressed in Section 26-21-13.5.

R432-152-3. Definitions.
(a) "Administrator" means the person in charge of the daily operations of the Intermediate Care Facility for Individuals with Intellectual Disabilities. [Significantly Subaverage General Intellectual Functioning] is operationally defined as a score of two or more standard deviations below the mean on a standardized general intelligence test.
(b) "Developmental Period" means the period between conception and the 18th birthday.
(c) "Direct Care Staff" means personnel who provide care, training, treatment or supervision of residents.
(d) "QMRP" means a Qualified [Mental Retardation] Intellectual Disabilities Professional as defined in 42 CFR 483.403(a), (b).
(e) "Sub-average General Intellectual Functioning" is operationally defined as a score of two or more standard deviations below the mean on a standardized general intelligence test.

R432-152-4. Licensure.

These rules apply to [all] Intermediate Care Facilities for [the Mentally Retarded] Individuals with Intellectual Disabilities licensed [prior to] before July 1, 1990, pursuant to Section 26-21-13.5.


Intermediate Care Facilities for [the Mentally Retarded] Individuals with Intellectual Disabilities shall be constructed and maintained in accordance with Rule R432-5 Nursing Facility Construction.

(1) The licensee shall identify an individual or group to constitute the governing body of the facility.
(2) The governing body shall:
(a) exercise general policy, budget[,] and operating direction over the facility; and
(b) set the qualifications[,] in addition to the requirements of Title 58, Chapter 15[,] for the administrator of the facility.
(3) The licensee shall comply with [all] applicable [provisions of:] federal, state and local laws, regulations and codes pertaining to health, safety[,] and sanitation.
(4) The licensee shall appoint, in writing, an administrator professionally licensed by the Utah Department of Commerce as a nursing home administrator. The administrator shall supervise no more than one licensed [nursing care facility or mental retardation facility] Intermediate Care Facility for Individuals with Intellectual Disabilities.
(a) The administrator shall be on the premises of the facility [a sufficient number of] enough hours in the business day, and at other times as necessary, to permit attention to the management and administration of the facility.

Checketts, has reviewed and approved this fiscal analysis.
NOTICES OF PROPOSED RULES

(b) The administrator shall designate, in writing, the name and title of a person to act as administrator in any temporary absence of the administrator. This designated person shall have sufficient power, authority, and freedom to act in the best interests of client safety and well-being. It is not the intent of this paragraph to permit an unlicensed de facto administrator to supplant or replace the designated, licensed administrator.

(5) The administrator's responsibilities shall be included in a written job description on file in the facility and available for Department review. The job description shall include at least the following responsibilities:

(a) complete, submit[, and file [all] records and reports required by the Department;
(b) function as liaison between the licensee, qualified [mental retardation][intellectual disabilities professional][,] and other supervisory staff of the facility;
(c) respond appropriately to recommendations made by the facility committees;
(d) assure that employees are oriented to their job functions and receive appropriate and regularly scheduled in-service training;
(e) implement policies and procedures for the operation of the facility;
(f) hire and maintain the required number of licensed and non-licensed staff, as specified in these rules, to meet the needs of clients;
(g) maintain facility staffing records for at least the preceding 12 months;
(h) secure and update contracts for required professional and other services not provided directly by the facility;
(i) verify [all] required licenses and permits of staff and consultants at the time of hire or effective date of contract; and
(j) review [all] incident and accident reports and take appropriate action.

(6) The administrator, [QMRP][Qualified Intellectual Disabilities Professional][,] and facility department supervisors shall develop job descriptions for each position including job title, job summary, responsibilities, qualifications, required skills and licenses, and physical requirements.

(a) The administrator or designee shall conduct and document periodic employee performance evaluations.
(b) [All] personnel shall have access to facility policy and procedure manuals and other information necessary to effectively perform duties and carry out responsibilities.

(7) The administrator shall establish policies and procedures for health screening that meet Subsection R432-150-10[-4].


(1) The administrator is responsible to ensure the rights of [all] clients. The administrator or designee shall:

(a) inform each client, parent, if the client is a minor, or legal guardian, of the client's rights and the rules of the facility;
(b) inform each client or legal guardian of the client's medical condition, developmental and behavioral status, attendant risks of treatment, and of the right to refuse treatment;
(c) allow and encourage individual clients to exercise their rights as clients of the facility, and as citizens of the United States, including the right to file complaints, voice grievances, and recommend changes in policies and procedures to facility staff and outside representatives of personal choice, free from restraint, interference, coercion, discrimination[,] or reprisal;
(d) allow individual clients to manage their financial affairs and teach them to do so to the extent of their capabilities;
(e) ensure that clients are not subjected to physical, verbal, sexual or psychological abuse or punishment;
(f) ensure that clients are free from unnecessary [drug]medications and physical restraints and are provided active treatment to reduce dependency on [drug]medications and physical restraints;
(g) provide each client with the opportunity for personal privacy and ensure privacy during treatment and care of personal needs;
(h) ensure the clients are not compelled to participate in publicity events, fund raising activities, movies or anything that would exploit the client;
(i) ensure that clients are not compelled to perform services for the facility and ensure that clients who do work for the facility are compensated for their efforts at prevailing wages commensurate with their abilities;
(j) ensure clients the opportunity to communicate, associate and meet privately with individuals of their choice, including legal counsel and clergy, and to send and receive unopened mail;
(k) ensure that clients have access to telephones with privacy for incoming and outgoing local and long distance calls except as contraindicated by factors identified within their individual program plans;
(l) ensure clients the opportunity to participate in social and community group activities and the opportunity to exercise religious beliefs and to participate in religious worship services without being coerced or forced into engaging in any religious activity;
(m) ensure that clients have the right to [retain]keep and use appropriate personal possessions and clothing, and ensure that each client is dressed in [his or her] their own clothing each day; and
(n) permit a married couple [both of whom reside in the facility] to reside together as a couple.

(2) The administrator shall establish and maintain a system that assures a [full and] complete accounting of clients' personal funds entrusted to the facility on behalf of clients and precludes any commingling of client funds with facility funds or with the funds of any person other than another client.

(a) The client's financial record shall be available on request to the client or client's legal guardian.
(b) The administrator[licensee must] shall ensure that [all] monies entrusted to the facility on behalf of clients are kept in the facility or are deposited within five days of receipt in an insured interest-bearing account in a local bank, credit union or savings and loan association authorized to do business in Utah.
(c) When the amount of a client's money entrusted to the facility exceeds $150, [all] monies in excess of $150 [must] shall be deposited in an interest-bearing account [as specified in R432-152-7(2)(b) above].
(d) Upon discharge of a client, [all] monies and values of that client [which][that] have been entrusted to the licensee shall be surrendered to the client in exchange for a signed receipt. Money and values kept within the facility [must][shall] be surrendered upon demand and those kept in an interest-bearing account [must][shall] be obtained and surrendered to the client in a timely manner.
(e) Within 30 days following the death of a client, except in a medical examiner case, [all] monies and values of that client [which][that] have been entrusted to the licensee[must][shall] be surrendered to the person responsible for the client or to the executor or the administrator of the estate in exchange for a signed receipt. If a client dies without a representative or known heirs, the licensee[must][shall] immediately notify in writing the local probate court[and the Department].
(3) The administrator [must] shall promote communication[ ] and encourage participation of clients, parents and guardians in the active treatment process. Facility staff shall:
(a) promote participation of parents [if the client is a minor] and legal guardians, if the client is a minor, in the process of providing active treatment to a client unless their participation is unobtainable or inappropriate;
(b) answer communications from clients' families and friends promptly and appropriately;
(c) promote visits by individuals with a relationship to the client, such as family, close friends, legal guardians and advocates, at any reasonable hour, without prior notice, consistent with the right of the client's and other clients' privacy, unless the interdisciplinary team determines that the visit would not be appropriate for that client;
(d) promote visits by parents or guardians to any area of the facility that provides direct client care services to the client, consistent with right of that client's and other clients' privacy;
(e) promote frequent and informal leaves from the facility for visits, trips[ ] or vacations; and
(f) promptly notify the client's parents or guardian of any significant incidents[ ] or changes in the client's condition including,[ but not limited to,] serious illness, accident, death, abuse[ ] or unauthorized absence.
(4) The administrator [is responsible to] shall develop and implement written policies and procedures that prohibit abuse, neglect[,] or exploitation of clients.
(a) Any person, including a social worker, physician, psychologist, nurse, teacher[,] or employee of a private or public facility serving adults, who has reason to believe that any disabled or elder adult has been the subject of abuse, emotional or psychological abuse, neglect[,] or exploitation, shall immediately notify the nearest peace officer, law enforcement agency[,] or local office of Adult Protective Services pursuant to Section 62A-3-302.
(i) The administrator [must] shall document that [all] alleged violations are thoroughly investigated and shall prevent further potential abuse while the investigation is in progress.
(ii) The administrator [shall is responsible to] report the results of [all-investigations within five working days of the incident. If the alleged violation is verified, the administrator shall take appropriate corrective action.
(iii) The administrator or designee shall plan and document annual in-service training of [all] staff on the reporting requirements of suspected abuse, neglect[,] and exploitation.
(b) A licensee shall not retaliate, discipline[,] or terminate an employee who reports suspected abuse, neglect[,] or exploitation for that reason alone.
(5) Clients under the age of 22 years shall not live in the same room with:
(a) more than one individual; or
(b) individuals over the age of 22 years, unless they are members of the individual's immediate family.
(6) The administrator shall develop written policies and procedures to implement Subsection R432-200-7(5) and shall obtain written approval from the Department for any exceptions.

(1) A Qualified [Mental Retardation] Intellectual Disabilities Professional [must] shall integrate, coordinate and monitor each client's active treatment program.
(2) Each client shall receive the professional services required to implement the active treatment program defined by each client's individual program plan.
(a) Professional program staff shall work directly with clients and with other staff who work with clients.
(b) The licensee shall have available enough qualified professional staff to carry out and monitor the various professional interventions in accordance with the stated goals and objectives of every individual program plan.
(c) Professional program staff shall participate in on-going staff development and training of other staff members.
(d) Professional program staff [must] shall be licensed and provide professional services in accordance with each respective professional practice act as outlined in Title 58 Occupations and Professions. A copy of the current license, registration or certificate [must] shall be posted or maintained in employee personnel files.
(e) Those professional program staff designated as a human services professional who do not fall under the jurisdiction of [state] licensure, certification[,] or registration requirements[,] specified in Title 58 Occupations and Professions, shall have at least a bachelor's degree in a human services field[,] including, but not limited to, sociology, special education, rehabilitation counseling, and psychology.
(f) If the client's individual program plan is being successfully implemented by facility staff, professional program staff meeting the qualifications of Subsection R432-152-8(2)(d) are not required:
(i) except for [a]Qualified [mental retardation] Intellectual Disabilities [p]Professionals;
(ii) except for the requirements of Subsection [R432-152-8](2)(b) of this section concerning the facility's provision of requiring enough qualified professional program staff; and
(iii) as otherwise specified by [State] licensure and certification requirements.
(3) There shall be responsible direct care staff on duty and awake on a 24-hour basis, when clients are present, to take prompt, appropriate action in case of injury, illness, fire or other emergency, in each defined residential living unit housing as follows:
(a) for clients for whom a physician has ordered a medical care plan;
(b) for clients who are aggressive, assaultive or are security risks;
(c) when there are more than 16 clients; or
(d) with each unit of [sixteen]16 or fewer clients within a multi-unit building.
(4) There shall be a responsible direct care staff person on duty on a 24-hour basis, when clients are present, to respond to injuries and symptoms of illness and to handle emergencies in each defined residential living unit housing as follows:
(a) for clients for whom a physician has not ordered a medical care plan;
(b) for clients who are not aggressive, assaultive or security risks; or
(c) with residential living units housing [sixteen]16 or fewer clients.
(5) Sufficient support staff [must] shall be available so that direct care staff are not required to perform support services to the extent that these duties interfere with the exercise of their primary direct client care duties.
(6) Clients or volunteers may not perform direct care services for the facility.
(7) The licensee shall employ sufficient direct care staff to manage and supervise clients in accordance with their individual program plans.
(a) Direct care staff shall meet the following minimum ratios of direct care staff to clients:
(i) for each defined residential living unit serving children under the age of 12, with severe[ly] and profoundly retarded clients intellectual disabilities, clients with severe physical disabilities[;] or clients who are aggressive, assaultive[;] or security risks, or who manifest severely hyperactive or psychotic-like behavior, the staff to client ratio is 1 to 3.2, [4] 2.5 hours per client per 24 hour period[;]
(ii) for each defined residential living unit serving individuals with moderate[ly] retarded clients intellectual disabilities, the staff to client ratio is 1 to 4, [4] [2] 4 hours per client per 24 hour period[;] and
(iii) for each defined residential living unit serving clients who function within the range of mild retardation[;] intellectual disabilities, the staff to client ratio is 1 to 6.4, [4] 1.25 hours per client per 24 hour period[.]

(b) When there are no clients present in the living unit, a responsible staff member shall be available by telephone.

(8) Each employee shall have initial and ongoing training to include the necessary skills and competencies required to meet the clients' developmental, behavioral[;] and health needs.

(9) When there are clients under the age of 22 years, each employee shall receive specialized training regarding the care of children and youth with intellectual disabilities.


(1) Volunteers may be included in the daily activities with clients, but may not be included in the staffing plan or staffing ratios.

(2) Volunteers shall be supervised by staff and oriented to clients' rights and the facility's policies and procedures.

R432-152-10. Services Provided Under Agreements with Outside Sources.

(1) If a service required under this rule is not provided directly, the licensee shall have a written agreement with an outside program, resource[,] or service to furnish the necessary service, including emergency and other health care.

(2) The agreement under Subsection (1) shall:
(a) contain the responsibilities, functions, objectives[,] and other terms agreed to by both parties; and
(b) [provide that require the licensee is] to be responsible for assuring that the outside services meet the standards for quality of services contained in this rule.

(3) If living quarters are not provided in a facility owned by the licensee, the licensee shall be responsible for the standards relating to physical environment that are specified in Rule R432-5.


(1) An interdisciplinary team shall develop an individual program plan for each client that represents the professions, disciplines or service areas that are relevant to:
(a) identifying the client's needs, as described by the comprehensive functional assessments required in Subsection R432-152-12[;]
(b) designing programs that meet the client's needs.

(2) Interdisciplinary team meetings shall include the following participants:
(a) representatives of other agencies who may serve the client; and
(b) the client and the client's legal guardian unless participation is unobtainable or inappropriate.

(3) Within 30 days after admission, the interdisciplinary team shall prepare for each client an individual program plan that states the specific objectives necessary to meet the client's needs, as identified by the comprehensive assessment required by Section R432-152-12[, and the planned sequence for dealing with those objectives.

(a) The program objectives shall:
(i) be stated separately, in terms of a single behavioral outcome;
(ii) be assigned projected completion dates;
(iii) be expressed in behavioral terms that provide measurable indices of performance;
(iv) be organized to reflect a developmental progression appropriate to the individual; and
(v) be assigned priorities.
(b) Each written training program designed to implement the objectives in the individual program plan shall specify:
(i) the methods to be used;
(ii) the schedule for use of the method;
(iii) the person responsible for the program;
(iv) the type of data and frequency of data collection necessary to be able to assess progress toward the desired objectives;
(v) the inappropriate client behavior, if applicable; and
(vi) [provide for] the appropriate expression of behavior and the replacement of inappropriate behavior, if applicable, with behavior that is adaptive or appropriate.
(c) The individual program plan shall:
(i) describe relevant interventions to support the individual toward independence;
(ii) identify the location where program strategy information, which is to be accessible to any person responsible for implementation, can be found;
(iii) include, for those clients who lack them, training in personal skills essential for privacy and independence, including toilet training, personal hygiene, dental hygiene, self-feeding, bathing, dressing, grooming[,] and communication of basic needs, until it has been demonstrated that the client is developmentally incapable of acquiring them;
(iv) identify mechanical supports, if needed, to achieve proper body position, balance[,] or alignment, including the reason for each support, the situations in which that each is to be applied, and a schedule for the use of each support;
(v) provide that clients who have multiple disabling conditions spend a major portion of each waking day out of bed and outside the bedroom area, moving about by various methods and devices when possible; and
(vi) include opportunities for client choice and self-management.

(4) The facility shall make available a copy of each client's individual program plan[,] which shall be made available to all relevant staff, staff of other agencies who work with the client or a legal guardian.

(5) As soon as the interdisciplinary team has formulated a client's individual program plan, each client shall receive a continuous active treatment program consisting of needed interventions and services in sufficient number and frequency to support the achievement of the objectives identified in the individual program plan.

(a) The facility shall develop an active treatment schedule that outlines the current active treatment program and that is readily available for review by relevant staff.

(b) Staff who work with the client shall implement each client's individual program plan, except for those facets of the individual program plan that may be implemented only by licensed personnel, and each client's individual program plan shall be implemented by all staff who work with the client.
(6) The facility [must] shall document, in measurable terms, data and significant events relative to the accomplishment of the criteria specified in individual client program plans.

(7) The individual program plan shall be reviewed at least by the interdisciplinary team. The Qualified Intellectual Disabilities Professional shall review and revise the individual program plan and adopted as necessary, including situations in which the client:
(a) has successfully completed an objective or objectives identified in the individual program plan;
(b) is regressing or losing skills already gained;
(c) is failing to progress toward identified objectives after reasonable efforts have been made; or
(d) is being considered for training towards new objectives.

(1) Within 30 days after admission, the interdisciplinary team [must] complete accurate assessments or reassessments as needed to supplement the preliminary evaluation referred to in Subsection R432-152-14(3).
(2) The comprehensive functional assessment in Subsection (1) shall take into consideration the client's age and the implications for active treatment and shall:
(a) identify the presenting problems and disabilities and, where possible, their causes;
(b) identify a client's specific developmental strengths;
(c) identify a client's specific developmental and behavioral management needs;
(d) identify a client's need for services without regard to the actual availability of the services needed; and
(e) include physical development and health, nutritional status, sensorimotor development, affective development, speech and language development, auditory functioning, cognitive development, social development, adaptive behaviors and independent living skills necessary for a client to be able to function in the community and as applicable, vocational skills.

(3) The interdisciplinary team shall annually review the comprehensive functional assessment of each client [shall be reviewed annually by the interdisciplinary team and updated the plan as needed including the identified assessments] required in Section R432-152-14(3).

(1) The facility shall designate and use a specially constituted committee or committees consisting of members of the facility staff, parents, legal guardians, clients as appropriate, qualified persons who have experience or training in contemporary practices to change inappropriate client behavior and persons with no ownership or controlling interest in the facility to:
(a) review, approve or monitor individual programs designed to manage inappropriate behavior and other programs that, in the opinion of the committee, involve risks to client protection and rights;
(b) [must] ensure that these programs are conducted only with the written informed consent of the client, parent, if the client is a minor, or legal guardian; and
(c) review, monitor and make suggestions to the facility about its practices and programs as they relate to medication usage, physical restraints, time-out rooms, application of painful or noxious stimuli, control of inappropriate behavior, protection of client rights and funds and any other area that the committee believes need to be addressed.

(1) The facility may only admit clients who need active treatment services.
(2) The facility shall base its admission decision on a preliminary evaluation of the client. The preliminary evaluation may be conducted or updated by the facility or an outside source and [must] determine that the facility can provide for the client's needs and that the client is likely to benefit from placement in the facility.
(3) A preliminary evaluation under Subsection (2) shall contain background information as well as current valid assessments of the following:
(a) developmental and health status;
(b) behavioral status;
(c) social status; and
(d) health and nutritional status.

(4) The facility shall not admit clients under the age of 22 years without express permission of the Department.

(5) Client transfers and discharges [must] comply with the requirements of Section R432-150-22.

(1) The facility shall develop and implement written policies and procedures for the management of conduct between staff and clients.
(2) The policies and procedures under Subsection (1) shall:
(a) promote the growth, development, and independence of the client;
(b) address the extent to which client choice will be accommodated in daily decision-making, emphasizing self-determination and self-management to the extent possible;
(c) specify client conduct to be allowed or not allowed; and
(d) [must] be available to staff, clients, parents of minor children and legal guardians.

(3) To the extent possible, clients shall participate in the formulation of the policies and procedures under Subsection (1).

(4) Clients shall not discipline other clients, except as part of an organized system of self-government, as set forth in facility policy.

(5) The facility shall develop and implement written policies and procedures that govern the management of inappropriate client behavior.

(a) The policies and procedures shall be consistent with the provisions of Subsection R432-152-15(2).

(b) The policies and procedures shall:
(i) specify all facility-approved interventions to manage inappropriate client behavior;
(ii) designate these interventions on a hierarchy to be implemented, ranging from most positive or least intrusive, to least positive or most intrusive; and
(iii) ensure, prior to the use of more restrictive techniques, that less restrictive measures have been implemented with the results documented in the client's record.

(c) The policies and procedures shall address the following:
(i) the use of time-out rooms;
(ii) the use of physical restraints;
(iii) the use of chemical restraints to manage inappropriate behavior;
(iv) the application of painful or noxious stimuli;
(v) the staff members who may authorize the use of specified interventions; and
(vi) a mechanism for monitoring and controlling the use of such interventions.
(d) Interventions to manage inappropriate client behavior shall be employed with safeguards and supervision to ensure that the safety, welfare and civil and human rights of clients are adequately protected.

(e) A facility may not utilize [pro or ]"as needed" programs to control inappropriate behavior.

(6) A client may be placed in a time-out room [from which egress is prevented only if the following conditions are met:
(a) [T]he placement is part of an approved systematic time-out program as required by Subsection R432-152-15(5)[.]
(b) [T]he client is under the direct constant visual supervision of designated staff[.]
(c) [T]he door to the room is held shut by staff or by a mechanism requiring constant physical pressure from a staff member to keep the mechanism engaged[.]
(d) [P]lacement of a client in a time-out room shall not exceed one hour per incident of maladapted behavior[.]
(e) [C]lients placed in time-out rooms shall be protected from hazardous conditions including sharp corners and objects, uncovered light fixtures[,] and unprotected electrical outlets[,] and
(f) [T]he facility [must] shall maintain a log for each time-out room.

(7) A facility may [emplo y] use physical restraints only:
(a) as an integral part of an individual program plan that is intended to lead to less restrictive means of managing and eliminating the behavior [for which] that the restraint is applied for;
(b) as an emergency measure, but only if absolutely necessary to protect the client or others from injury; or
(c) as a health-related protection prescribed by a physician, but only if absolutely necessary during the conduct of a specific medical or surgical procedure, or only if absolutely necessary for client protection during the time that a medical condition exists.

(8) A facility may apply emergency restraints for initial or extended use for no longer than 12 consecutive hours for the combined initial and extended use time period provided that authorization is obtained as soon as the client is restrained or stable.

(9) A facility may not issue orders for restraint on a standing or as needed basis.

(10) Facility staff [must] shall check clients placed in restraints at least every 30 minutes and maintain documentation of these checks.
(a) Restraints [must] shall be applied to cause the least possible discomfort and may not cause physical injury to the client.
(b) Facility staff [must] shall provide and document opportunity for motion and exercise for a period of not less than 10 minutes during each two hour period [in which] that a restraint is employed.
(c) Barred enclosures shall not be more than three feet in height and shall not have tops.

(11) The facility shall not administer [drugs]medications at a dose that interferes with a client's daily living activities.
(a) The interdisciplinary team shall approve [Drugs]medications used for the control of inappropriate behavior [must be approved by the interdisciplinary team] and be used only as an integral part of the client's individual program plan that is directed specifically towards the reduction of and eventual elimination of the behaviors [for which] that the [Drugs]medications are employed for.
(b) [Drugs]Medications used for control of inappropriate behavior shall be:
(i) monitored closely, in conjunction with the physician and the [drug]medication review requirement; and
(ii) gradually withdrawn at least annually in a carefully monitored program conducted in conjunction with the interdisciplinary team, unless clinical evidence justifies that this is contraindicated.

(1) The facility shall ensure the availability of physician services 24 hours a day.
(a) The physician shall develop, in coordination with facility licensed personnel, a medical care plan of treatment for a client if the physician determines that the client requires 24-hour licensed nursing care.
(b) The care plan shall be integrated into the client's program plan.
(c) Each client requiring a medical care plan of treatment shall be admitted by and remain under the care of a health practitioner licensed to prescribe medical care for the client.
(d) The facility shall obtain written orders for medical treatment [documented telephone orders are acceptable] at the time of admission.
(e) The facility shall provide or obtain preventive and general medical care as well as annual physical examinations of each client that [at a minimum] includes:
   (i) an evaluation of vision and hearing;
   (ii) immunizations, using as a guide the recommendations of the American Academy of Pediatrics;
   (iii) routine screening laboratory examinations, as determined necessary by the physician[; and special studies when needed]; and
   (iv) tuberculosis control in accordance with Rule R388-804, Tuberculosis Control[.]
(2) A physician shall participate in the establishment of each newly admitted client's initial individual program plan as required by Section R432-152-11.
(a) If appropriate, physicians shall participate in the review and update of an individual program plan as part of the interdisciplinary team process either in person or through written report to the interdisciplinary team.
(b) A physician shall participate in the discharge planning of clients under a medical care plan of treatment. In cases of discharge against medical advice, the facility [must] shall immediately notify the attending physician.

R432-152-17. Nursing Services.
(1) The facility shall provide nursing services in accordance with client needs. Nursing services shall include:
(a) participation as appropriate in the development, review[,] and update of an individual program plan as part of the interdisciplinary team process;
(b) the development, with a physician, of a medical care plan of treatment for a client if the physician has determined that an individual client requires such a plan; and
(c) for those clients certified as not needing a medical care plan, a documented quarterly health status review by direct physical examination conducted by a licensed nurse including identifying and implementing nursing care needs as prescribed by the client's physician.
(2) Nursing services shall coordinate with other members of the interdisciplinary team to implement appropriate protective and preventive health measures that include:
NOTICES OF PROPOSED RULES

(a) training clients and staff as needed in appropriate health and hygiene methods;
(b) control of communicable diseases and infections, including the instruction of other personnel in methods of infection control; and
(c) training direct care staff in detecting signs and symptoms of illness or dysfunction, first aid for accidents or illness[,] and basic skills required to meet the health needs of the clients.

3 Nursing practice and delegation of nursing tasks [must] shall comply with Section R156-31b-701[., Delegation of Nursing Tasks].

(a) If the facility utilizes only licensed practical nurses to provide health services, there [must] shall be a formal arrangement for a registered nurse to provide verbal or on-site consultation to the licensed practical nurse.
(b) Non-licensed staff who work with clients under a medical care plan [must] shall be supervised by licensed nursing personnel.
(4) The administrator shall employ and designate, in writing, a nursing services supervisor.
(a) The nursing services supervisor may be either a registered nurse or a licensed practical nurse.
(b) The nursing services supervisor shall designate, in writing, a licensed nurse to be in charge during any temporary absence of the nursing services supervisor.
(5) The nursing services supervisor shall/is responsible to ensure that the following duties are carried out:
(a) establish a system to assure nursing staff implement physician orders and deliver health care services as needed;
(b) plan and direct the delivery of nursing care, treatments, procedures, and other services to assure that each client's needs are met;
(c) review each client's health care needs and orders for care and treatment;
(d) review client individual program plans to assure necessary medical aspects are incorporated;
(e) review the medication system for completeness of information, accuracy in the transcription of physician's orders, and adherence to stop-order policies;
(f) instruct the nursing staff on the legal requirements of charting and ensure that a nurse's notes describe the care rendered and include the client's response;
(g) teach and coordinate rehabilitative nursing to promote and maintain optimal physical and mental functioning of the client;
(h) inform the administrator, attending physician[s] and family of significant changes in the client's health status;
(i) when appropriate, plan with the physician, family, and health-related agencies for the care of the client upon discharge;
(j) develop, with the administrator, a nursing services procedure manual including [all] procedures practiced in the facility;
(k) coordinate client services through appropriate quality assurance and interdisciplinary team meetings;
(l) respond to the pharmacist's quarterly medication report;
(m) develop written job descriptions for [all] levels of nursing personnel and orient [all] new nursing personnel to the facility and their duties and responsibilities;
(n) complete written performance evaluations for each member of the nursing staff at least annually; and
(o) plan or conduct documented training programs for nursing staff and clients.

R432-152-18. Dental Services.
(1) The facility shall provide or arrange for comprehensive dental diagnostic services and comprehensive dental treatment for each client.
(a) "Comprehensive dental diagnostic services" means:
(i) a complete extra-oral and intra-oral examination, using [all diagnostic aids necessary to properly evaluate the client's oral condition, [not later than] before one month after admission to the facility, unless the client's record contains an examination that was completed within [twelve] 12 months before admission;
(ii) periodic examination and diagnosis performed annually, including radiographs when indicated and detection of manifestations of systemic disease; and
(iii) a review of the results of examination and entry of the results in the client's dental record.
(b) "Comprehensive Dental Treatment" means:
(i) the available emergency dental treatment on a 24-hour[,[ day]] basis by a licensed dentist; and
(ii) dental care needed for relief of pain and infection, restoration of teeth[,] and maintenance of dental health.
(2) If appropriate, a dental professional shall participate in the development, review and update of the individual program plan as part of the interdisciplinary process, either in person or through written report to the interdisciplinary team.
(3) The facility shall provide education and training for clients and responsible staff in the maintenance of clients' oral health.
(4) If the facility maintains an in-house dental service, the facility shall keep a permanent dental record for each client with a dental summary maintained in the client's living unit.
(5) If the facility does not maintain an in-house dental service, the facility shall obtain a dental summary of the results of dental visits and maintain the summary in the client's record.

(1) The facility shall provide routine and emergency [drug] medications and biologicals.
(a) Medications[Drugs] and biologicals may be obtained from community or contract pharmacists, or the facility may maintain a licensed pharmacy.
(b) Pharmacy services shall be under the direction and responsibility of a qualified, licensed pharmacist. The pharmacist may be employed full time by the facility or may be retained by contract.
(c) The pharmacist shall develop pharmacy service policies and procedures in conjunction with the administrator. Pharmacy policies shall address:
(i) medication[drug] orders;
(ii) labeling;
(iii) storage;
(iv) emergency medication[drug] supply;
(v) administration of medications;
(vi) pharmacy supplies; and
(vii) automatic-stop orders.
(2) The pharmacist, with input from the interdisciplinary team, shall review the medication[drug] regimen of each client at least quarterly.
(a) The pharmacist shall report any irregularities or errors in a client's medication[drug] regimen to the prescribing physician and interdisciplinary team.
(b) The pharmacist shall develop and review a record of each client's medication [drug] regimen.

(3) The facility shall maintain an individual medication administration record [shall be maintained] for each client.

(4) As appropriate, the pharmacist shall participate in the development, implementation, and review of each client's individual program plan, either in person or through written report to the interdisciplinary team.

(5) The facility shall have an organized system for medication [drug] administration that identifies each medication [drug] up to the point of administration. The system shall assure that [all medications and treatments:

(a) are administered in compliance with the physician's orders;
(b) are administered without error; and
(c) are administered by licensed medical or licensed nursing personnel.

(6) The facility shall teach clients [shall be taught] how to administer their own medications if the interdisciplinary team determines that self-administration of medications is an appropriate objective.

(a) The facility shall inform the client's physician [shall be informed] of the interdisciplinary team's recommendation that self-administration of medications is an objective for the client.

(b) No client may self-administer medications until [he or she] demonstrates proficiency to do so.

(7) The facility shall immediately record each telephone order [for] for medications [shall be recorded immediately], including the date and time of the order and the receiver's signature and title. The person who prescribes the order must [shall be] countersigned [and dated] and the order within 15 days of writing the order by the person who prescribed the order.

(8) The facility shall maintain records of the receipt and disposition of [all controlled medications [drugs].

(a) The facility shall maintain [R]ecords of [S]chedule III and IV [D]rugs [shall be maintained] in such a manner that the receipt and disposition are readily traced.

(b) The facility shall, on a sample basis, periodically reconcile the receipt and disposition of [all controlled drugs in schedules II through IV, drugs subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 801 et seq.,] as implemented by 42 CFR Part 308.

(9) The facility shall store medications [drugs] under proper conditions of sanitation, temperature, light, humidity, and security.

(a) [All] The facility shall store controlled substances [shall be secured] in a manner consistent with applicable [state] pharmacy laws.

(b) [ Provision: The facility shall make the facility self-contained and secure the storage of all non-medications items such as poisonous and caustic materials.

(c) Medication containers shall be clearly labeled.

(d) Only persons authorized by facility policy shall have access to medications.

(e) The facility shall store medication intended for internal use [shall be stored separately from medication intended for external use.

(f) The facility shall maintain medications stored at room temperature [shall be maintained within] between 59 [-and 80 degrees Fahrenheit (15 to 30 degrees Celsius)] and shall maintain refrigerated medications [shall be maintained within] between 36 and 46 degrees Fahrenheit (2 to 8 degrees Celsius).

(g) The facility shall store medications and similar items that require refrigeration [shall be stored] securely and segregated from food items.

(h) The facility shall keep medications [shall be kept] in the original pharmacy container and shall not be transferred to other containers. Medications [drugs] taken out of the facility for home visits, workshops, school [etc.] or other activities shall be packaged and labeled by a person authorized to package medications in accordance with [State law by a person authorized to package medications].

(i) Clients who have been trained to self-administer [drugs] medications in accordance with Subsection R432-152-19(6) may have access to their individual [drug] medication supply.

(10) Labeling of medications [drugs] and biologicals shall:

(a) be based on currently accepted professional principles and practices; and
(b) include the appropriate accessory and cautionary instructions, as well as the expiration date, if applicable.

(11) The facility shall remove from use outdated medications [drugs] and medication [drugs] containers with worn, illegible or missing labels.

(12) The facility shall immediately remove medications [drugs] and biologicals packaged in containers designated for a particular client [shall be immediately removed] from the client's current medication supply if the medication is discontinued by the physician.

(13) Medications [drugs] may be sent with the client upon discharge if so ordered by the discharging physician, provided [that the medications [drugs] are released in compliance with Utah pharmacy law and rules and a record of the medications [drugs] sent with the client is documented in the client's health record.

(14) Within one month of a medication being discontinued, the facility shall destroy the [Discontinued] individual client medications [drugs] supplied by prescription or those [which that] remain in the facility after discharge or death of the client [shall be destroyed within one month by the facility] in the following manner:

(a) All medications shall be destroyed by the facility in the presence of the staff pharmacist or consulting pharmacist and an appointed licensed nurse employed by the facility.

(b) If one or both of these persons are not available within the month, a licensed nurse and an individual appointed by the administrator may serve as witnesses.

(c) The facility shall rotate periodically among responsible staff members; and

(d) The name of the client, the name and strength of the medication, the prescription number, the amount destroyed, the method of destruction, the date of destruction, and the signatures of the witnesses required above shall be recorded in the client's record or in a separate log and retained for at least three years.

(15) Unless otherwise prohibited under applicable federal or state laws, individual client [drugs] medications supplied in sealed containers may be returned, if unopened, to the issuing pharmacy for disposition provided that:

(a) no controlled [drugs] medications are returned;

(b) all such drugs medications are identified as to lot or control number; and

(c) the signatures of the receiving pharmacist and a licensed nurse employed by the facility are recorded and retained for at least three years in a separate log which lists the name of the client, the name, strength, prescription number, if applicable, the amount of the [drug] medication returned and the date of return.
NOTICES OF PROPOSED RULES


(1) The facility shall develop and implement detailed written plans and procedures to meet all potential emergencies and disasters such as fire, severe weather[,] and missing clients.

(a) The facility shall periodically review and update written emergency procedures.

(b) The emergency plan must be made available to the staff.

(c) Facility staff must receive periodic training on emergency plan procedures.

(d) The emergency plan shall address the following:

(i) evacuation of occupants to a safe place within the facility or to another location;

(ii) delivery of essential care and services to facility occupants by alternate means;

(iii) delivery of essential care and services when additional persons are housed in the facility during an emergency;

(iv) delivery of essential care and services to facility occupants when the staff is reduced by an emergency; and

(v) maintenance of safe ambient air temperatures within the facility. Ambient air temperature of at least 58 degrees Fahrenheit. [Must] shall be maintained during emergencies.

(e) Emergency heating must be approved by the local fire department.

(2) The facility's emergency plan shall identify:

(a) the person with decision-making authority for fiscal, medical[,] and personnel management;

(b) on-hand personnel, equipment[,] and supplies and how to acquire additional [help, supplies, and equipment resources after an emergency or disaster;]

(c) assignment of personnel to specific tasks during an emergency;

(d) methods of communicating with local emergency agencies, authorities[,] and other appropriate individuals;

(e) the individuals who shall be notified in an emergency, in order of priority;

(f) method of transporting and evacuating clients and [staff to other locations; and]

(g) conversion of the facility for emergency use.

(3) Emergency telephone numbers shall be posted near telephones accessible to staff.

(4) The facility shall hold simulated disaster drills [shall be held] semi-annually for all staff, in addition to fire drills. Documentation shall be maintained for Department review.

(5) The licensee and administrator shall develop a written fire emergency and evacuation plan in consultation with qualified fire safety personnel.

(a) The evacuation plan shall delineate evacuation routes and location of fire alarm boxes and fire extinguishers.

(b) The written fire[-]emergency plan shall include fire-containment procedures and how to use the facility alarm systems and signals.

(c) Fire drills and fire drill documentation shall be in accordance with Buildings [Under the [Jurisdiction of the [State [Fire Prevention Board][2710-4].

(d) The facility shall evacuate clients during at least one drill each year on each shift that shall include:


in accordance with these rules and local ordinances.

Smoking policies shall comply with [UCA]Title 26, Chapter 38, Utah Indoor Clean Air Act and Sections 12-7.4 and 12-2.4 of the 1997 Life Safety Code.

R432-152-24. Pets in Long-Term Care Facilities.
(1) Each facility shall develop a written policy regarding pets in accordance with these rules and local ordinances.
(2) The facility shall adhere to the requirements of Section R432-150-21.

(1) The facility shall provide housekeeping services to maintain a clean, sanitary, and healthy environment in the facility.
(2) If the facility contracts for housekeeping services with an outside agency, there shall be a signed and dated agreement that details services provided.
(3) The housekeeping service shall meet the requirements of Section R432-150-26.

The facility shall adhere to the requirements of Section R432-150-27.

The facility shall adhere to the requirements of Section R432-150-28.

The facility shall adhere to the requirements of Section R432-150-24.

R432-152-29. Client Records.
(1) The facility shall develop and maintain a record keeping system that includes a separate record for each client with documentation of the client's health care, active treatment, social information, and protection of the client's rights.
(a) The facility shall keep confidential information contained in the client's records, regardless of the form or storage method of the records.
(b) The facility shall develop and implement policies and procedures governing the release of any client information, including consent necessary from the client or client's legal guardian.
(c) All entries into client records shall be legible, dated and signed by the individual making the entry.
(d) The facility shall provide a legend to explain any symbol or abbreviation used in a client's record.
(e) The facility shall insure each identified residential living unit has available on-site pertinent information of each client's record.
(f) Client's records shall be complete and systematically organized according to facility policy to facilitate retrieval and compilation of information.
(2) The client record department shall be under the direction of a Registered Administrator, RRA, Health Information Administrator or an accredited record technician, ART, Registered Health Information Technician through employment or consultation.
(3) The facility shall safeguard client records from loss, defacement, tampering, fires, and floods.
(4) The facility shall protect client records against access by unauthorized individuals.
(5) The facility shall retain client records for at least seven years after the last date of client care.
   (a) The facility shall retain records of minors as follows:
      (i) at least two years after the minor reaches age 18 or the age of majority;
      (ii) a minimum of seven years.
   (b) The facility shall retain client records within the facility upon change of ownership.
   (c) If a facility ceases operation, the facility shall arrange for appropriate safe storage and prompt retrieval of client records, client indices, and discharges for the period specified.
   (d) The facility may arrange storage of client records with another facility or may return client records to the attending physician who is still in the community.

R432-152-30. Respite Care.
(1) Mental Retardation Facilities Intermediate Care Facilities for Individuals with Intellectual Disabilities may provide respite services that comply with the following requirements:
   (a) The purpose of respite is to provide intermittent, time-limited care to give primary caretakers relief from the demands of caring for a person;
   (b) Respite services may be provided at an hourly rate or daily rate, but shall not exceed 14-days for any single respite stay; stays which exceed 14 days are a mental retardation facility admission, and shall be subject to the requirements of this rule applicable to non-respite residents;
   (c) The facility shall coordinate the delivery of respite services with the recipient of services, case manager, and the family member or primary caretaker;
   (d) 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;
   (e) The facility shall complete a service agreement to serve as the plan of care;
   (f) The service agreement must identify the prescribed medications, physician treatment orders, need for assistance for daily living and diet orders;
   (g) The facility shall have written policies and procedures available to staff regarding the respite care clients that include:
      (i) medication administration;
      (ii) notification of a responsible party in the case of an emergency;
      (iii) service agreement and admission criteria;
      (iv) behavior management interventions;
      (v) philosophy of respite services;
      (vi) post-service summary;
      (vii) training and in-service requirement for employees; and
      (viii) handling personal funds;
   (h) The facility shall provide persons receiving respite services a copy of the Resident Rights documents upon initial day of service and updated annually.
NOTICES OF PROPOSED RULES

(h) [T]he facility shall maintain a record for each person receiving respite services [which that includes:
   (i) [R]etention and storage of records shall comply with Subsections R432-152-29(3) and (4)[];
   (ii) [C]onfidentiality and release of information shall comply with Subsection R432-150-25(3)[];
   (iii) [T]he record shall contain the following:
      (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[.]; and
   (i) [I]f a [person] client has an advanced directive[.] a copy shall be filed in the record and inform staff
      if a [person] client has an advanced directive[.]; and

R432-152-31. 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 Last Change: 2022[July 6, 1999]
Notice of Continuation: February 13, 2017
Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-16;
21-13.5

NOTICE OF PROPOSED RULE

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Agency Information

1. Department: Health
Agency: Family Health and Preparedness, Licensing
Room no.: 4th Floor
Building: Cannon Health Building
Street address: 288 N 1460 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 144103
City, state and zip: Salt Lake City, UT 84114-4103
Contact person(s):
Name: Kristi Grimes
Phone: 385-214-9187
Email: kristigrimes@utah.gov

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There are currently no pediatric respite care facilities. When such a facility applies for licensure, construction will begin, and it is unlikely they will be operational in the year 2022. A relicensure survey inspection may be needed in 2023, and each year thereafter, for one facility. This relicensure survey will require two staff, along with support staff. The estimated cost to the state budget for a relicensure survey is $950.

B) Local governments:

Local government city business licensing requirements were considered. This proposed rule should not impact local governments’ revenues or expenditures. Pediatric Respite Care Facilities will be regulated by the state health department and not local governments. There will be no change in local business licensing or any other items with which local government is involved.
C) Small businesses ("small business" means a business employing 1-49 persons):

This is a new rule and there are currently no small businesses operating as a pediatric respite care facility. When such a facility applies for licensing, it is unlikely they will fall within a small business category.

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

This is a new rule and there are currently no non-small businesses operating as a pediatric respite care facility. When such a facility applies for licensure, the proposed rule will result in a fiscal impact to the facility. The facility will incur licensing fees, to include: New Provider Fee of $747.50, Initial License Fee of $260, and Per Bed Fee of $19.50. The facility will incur license renewal fees every two years following the first year to include: Base Fee of $520, and a per bed fee of $39. The Department is aware of one facility that plans to apply for licensure, and an estimated 15 beds is used for anticipated cost analysis.

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):

After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to affected persons other than non-small businesses.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

After conducting a thorough analysis, it was determined that this proposed rule will not result in compliance costs for affected persons.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

Because this is a new rule, there are currently no small businesses operating as a pediatric respite care facility. When such a facility applies for licensing, it is unlikely they will fall within a small business category. This is a new rule and there are currently no non-small businesses operating as a pediatric respite care facility. When such a facility applies for licensure, the proposed rule will result in a fiscal impact to the facility. The facility will incur licensing fees, to include: New Provider Fee of $747.50, Initial License Fee of $260 and Per Bed Fee of $19.50. The facility will incur license renewal fees every two years following the first year to include: Base Fee of $520, and a per bed fee of $39. The Department is aware of one facility that plans to apply for licensure, and an estimated 15 beds is used for anticipated cost analysis. Nate Checketts, Executive Director

6. A) 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             | FY2022 | FY2023 | FY2024 |
| State Government        | $0     | $950   | $950   |
| Local Governments       | $0     | $0     | $0     |
| Small Businesses        | $0     | $0     | $0     |
| Non-Small Businesses    | $0     | $1300  | $1105  |
| Other Persons           | $0     | $0     | $0     |
| Total Fiscal Cost       | $0     | $2250  | $2055  |

Fiscal Benefits

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B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Title 26, Chapter 21

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. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee: Nate Checketts, Executive Director
Date: 11/08/2021

R432-153. Pediatric Respite Care Facility.
R432-153-1. Legal Authority.
This rule is adopted pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

This rule establishes health and safety standards to provide for the physical and psycho-social well-being of individuals receiving services in pediatric respite care facilities.

Pediatric Respite Care Facilities shall be constructed and maintained in accordance with Rule R432-5, Nursing Care and Respite Care Facility Construction.

(1) The definitions found in Section R432-1-3 apply to this rule;
(2) The following definitions apply to pediatric respite care facilities.
(a) "Administrator" means the person in charge of the daily operations of the pediatric respite care facility.
(b) "Certification in Cardiopulmonary Resuscitation" (CPR) refers to certification issued after completion of an in-person course, to include skills testing and evaluation on-site with a licensed instructor.
(c) "Chemical Restraint" means any medication administered to a client to control or restrict the client's physical, emotional, or behavioral functioning for the convenience of staff, for punishment, discipline, or as a substitute for direct client care.
(d) "Facility" means a pediatric respite care facility.
(e) "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.
(f) "Nurse Aide" means any individual, other than an individual licensed in another category, providing nurse related services to clients under the direction of a licensed nurse. This definition does not include an individual who volunteers to provide such services without pay.
(g) "Pediatric Respite Care Facility" means a facility that provides respite care to pediatric clients up to age 17.
(h) "Registered Nurse" as defined in the Title 58, Chapter 31b, Nurse Practice Act.
(i) "Respite Care" means to provide intermittent, time-limited care to give primary caretakers relief from the demands of caring for a person. Respite services shall not exceed 14 days for any single respite stay.

R432-153-5. Scope of Services.
(1) The facility shall provide 24-hour licensed nursing services.
(a) The facility shall ensure that nurses are present on the premises at all times to meet the needs of clients.
(b) The facility shall provide at least one registered nurse either by direct employ or by contract to act as the director of nursing.
(c) The facility shall employ a registered nurse for at least eight consecutive hours a day, seven days a week.
(d) A licensed nurse shall serve as charge nurse on each shift.
(2) The facility shall provide medical supervision and dietary services.
(3) The following services shall be provided as required in the client service agreement:
(a) physical therapy;
(b) occupational therapy;
(c) speech therapy;
(d) respiratory therapy; and
(e) other therapies as indicated.
(4) The facility shall coordinate the delivery of respite services with the recipient of services, the case manager if one exists, and the family member or primary caregiver.
(5) The facility shall document the client's response to the respite placement and coordinate with each provider agency to ensure an uninterrupted service delivery program.
(6) The facility shall complete a service agreement to serve as the plan of care, which shall identify the prescribed medications, primary care provider treatment orders, need for assistance with activities of daily living and diet orders.
(7) The facility shall have access to supplemental services such as laboratory and pharmacy as needed.

(1) The facility shall have a governing body or designated persons functioning as a governing body.
(2) The governing body or designated persons in Subsection (1) shall:
(a) establish and implement policies regarding the management and operation of the facility;
(b) institute bylaws, policies and procedures relative to the general operation of each facility service, including the health care of the clients and the protection of client rights; and
(c) appoint the administrator in writing.

(1) The administrator shall have the following qualifications:
(a) be 21 years of age or older;
(b) have knowledge of applicable laws and rules; and
(c) is able to deliver, or direct the delivery of, appropriate care to clients; and
(2) The administrator shall have at least one of the following:
   (a) a 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 degree and four years or more management experience in a health care field.
(3) The administrator shall supervise no more than one facility.
(4) The administrator shall 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.
(5) The administrator shall designate, in writing, the name and title of the person who shall act as administrator in any temporary absence of the administrator. This person shall have the authority and freedom to act in the best interests of client safety and well-being. It is not the intent of this subsection to permit a de facto administrator to replace the designated administrator.
(6) The administrator's responsibilities shall be defined in a written job description on file in the facility. The job description shall include at least the following responsibilities:
   (a) act as a liaison between the licensee, medical and nursing staff, and other supervisory staff of the facility;
   (b) respond to recommendations made by the Quality Assurance Committee;
   (c) implement policies and procedures governing the operation of each function of the facility;
   (d) review each incident and accident report and document the corrective action taken or reason for no action;
   (e) complete and document an investigation whenever there is reason to believe that a client has been subject to abuse, neglect, or exploitation; and
   (f) report any suspected abuse, neglect, or exploitation in accordance with Section 62A-3-305, and document appropriate action taken if the alleged violation is verified.
(7) The administrator shall secure and update contracts for required services not provided directly by the facility.

R432-153-8. Medical Director.
The administrator shall retain by formal agreement a licensed physician to serve as medical director or advisory physician according to client and facility needs.

(1) Direct-care personnel shall be on the facility premises 24 hours a day to meet clients' needs as determined by the clients' assessment and service agreements.
   (a) The administrator shall develop job descriptions for each position, including job title, job summary, responsibilities, qualifications, required skills and licenses, and physical requirements.
   (b) The administrator shall ensure all personnel are licensed, certified, or registered as required by the Utah Department of Commerce. A copy of the license, certification or registration shall be maintained for Department review.
(2) The facility shall maintain staffing records for the preceding 12 months.
(3) The facility shall establish a personnel health program through written personnel health policies and procedures.
(4) The facility shall complete a health evaluation and inventory for each employee upon hire. The health inventory shall obtain at least the employee's history of the following:
   (a) conditions that predispose the employee to acquiring or transmitting infectious diseases;
   (b) conditions that may prevent the employee from performing certain assigned duties satisfactorily; and
   (c) health screening and immunizations.
(5) Employee skin testing by the Mantoux method or other Food and Drug Administration approved in-vitro serologic test and follow up for tuberculosis shall be done in accordance with Section R388-804, Special Measures for the Control of Tuberculosis.
   (a) The licensee shall ensure that each employee is skin-tested for tuberculosis within two weeks of:
      (i) initial hiring;
      (ii) suspected exposure to a person with active tuberculosis; and (iii) development of symptoms of tuberculosis.
   (b) Skin testing shall be exempted for each employee with known positive reactions to skin tests.
(6) The facility director of nursing shall report any infection and communicable disease reportable by law to the local health department in accordance with Section R386-702-3.
(7) Each employee shall receive documented orientation to the facility and the job for which they are hired. Orientation shall include the following:
   (a) job description;
   (b) ethics, confidentiality and client rights;
   (c) fire and disaster plan;
   (d) policy and procedures; and
   (e) reporting responsibility for abuse, neglect, and exploitation.
(8) Each employee shall receive documented in-service training. The training shall be tailored to annually include the following subjects that are relevant to the employees' job responsibilities:
   (a) fire prevention;
   (b) review and drill of emergency procedures and evacuation plan;
   (c) the reporting of client abuse, neglect, or exploitation to the proper authorities;
   (d) prevention and control of infections;
   (e) accident prevention and safety procedures, including instruction in body mechanics for each employee required to lift, turn, position or ambulate clients;
   (f) proper use and documentation of restraints;
   (g) client rights;
   (h) a basic understanding of the various types of mental illness, including symptoms, expected behaviors and intervention approaches;
   (i) confidentiality of client information;
   (j) first aid; and
   (k) prevention and control of infections.
(9) Any person who provides nursing care activities, including nurse aides, shall work under the supervision of an RN or LPN and shall demonstrate competency and dependability in client care.
   (10) Personnel who provide care to clients shall be certified nurse aides or complete a state-certified nurse aide program within four months of the date of hire.
NOTICES OF PROPOSED RULES

(11) There shall always be one staff person on duty that has current training in basic first aid, the Heimlich maneuver, certification in cardiopulmonary resuscitation and emergency procedures to ensure that each client receives prompt first aid as needed.

(12) The facility may utilize volunteers in activities in the facility, provided that volunteers are not included in the facility's staffing plan in lieu of facility employees. Volunteers shall be supervised and familiar with clients' rights and the facility's policies and procedures.

(13) An employee who reports suspected abuse, neglect, or exploitation may not be subject to retaliation, disciplinary action or termination by the facility for making the report.

(14) The facility shall develop and implement policies and procedures governing an infection control program to protect clients, family and personnel; that includes appropriate task related employee infection control procedures and practices.


(1) The administrator shall implement a quality assurance program to include a Quality Assurance Committee. The committee shall:

(a) consist of at least the facility administrator and either the medical director or the director of nursing;

(b) meet at least quarterly to identify and act on quality issues;

(c) review medication errors; and

(d) review incident reports.

(2) The facility shall have written incident and injury reports to document client 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 clients. The reports shall be kept on file for at least three years.


(1) The facility shall establish written client rights.

(2) The facility shall make a copy of the client rights document available to the clients, the client guardian or responsible person, and to the public and the Department upon request.

(3) The facility shall ensure that each client admitted to the facility has the right to:

(a) be informed, prior to or at the time of admission and for the duration of stay, of client rights and each rule and regulation governing client conduct;

(b) be informed, prior to or at the time of admission and for the duration of stay, of services available in the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate;

(c) be transferred or discharged only for medical reasons, for personal welfare or that of other clients, or for nonpayment for the stay, and to be given reasonable advance notice to ensure orderly transfer or discharge;

(d) be free from mental and physical abuse, neglect, and exploitation;

(e) be assured confidential treatment of personal and medical records, including photographs, and to approve or refuse their release to any individual outside the facility, except in the case of transfer to another health facility, or as required by law or third party payment contract;

(f) be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs;

(g) not be required to perform services for the facility that are not included for therapeutic purposes in the service agreement;

(h) associate and communicate privately with persons of the client's choice, and to send and receive personal mail unopened;

(i) meet with social, religious, and community groups and participate in activities provided that the activities do not interfere with the rights of other clients in the facility;

(j) retain and use personal clothing and possessions as space permits, unless to do so would infringe upon rights of other clients;

(k) have members of the clergy admitted at the request of the client or responsible person at any time;

(l) allow relatives, responsible persons or individuals designated by the responsible person to visit critically ill clients at any time;

(m) be allowed privacy for visits with family, friends, clergy or social workers;

(n) have confidential access to telephones for communication;

(o) choose activities, schedules, and health care consistent with individual interests, assessments and service agreement;

(p) interact with members of the community both inside and outside the facility;

(q) make choices about each aspect of life in the facility that is significant to the client;

(r) be informed of complaint or grievance procedures; and

(s) access to each record pertaining to the client, upon oral or written request.

(4) The facility shall accommodate client needs and preferences, except when the health and safety of the individual or other clients may be endangered. A client shall be given at least a 24-hour notice before an involuntary room move is made in the facility.

(5) In an emergency when there is actual or threatened harm to others, property or self, the 24-hour notice requirement for an involuntary room move may be waived. The circumstances requiring the emergency room change shall be documented for Department review.

(6) The facility shall make and document efforts to accommodate the client's adjustment and choices regarding room changes.

(7) The facility shall have available in a public area the results of the current facility survey and any plans of correction.

(8) The facility shall notify the client's responsible party within 24 hours of any incidents, accidents with injuries or change in medical condition. Notification of medical emergencies shall be made immediately.

R432-153-12. Assessment and Service Agreement.

(1) The facility shall assess each client prior to admission to ensure that the needs of the client can be met.

(2) The licensed healthcare professional shall complete and sign the client assessment.

(3) The facility shall develop a service agreement to outline services to be provided during the respite stay.

(4) The service agreement in Subsection (3) shall include:

(a) medication administration;

(b) emergency contact information for the responsible party; and

(c) outline services to be provided during the respite stay.

(d) review incident reports.

(e) review incident reports.

(f) review incident reports.

(g) review incident reports.

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NOTICES OF PROPOSED RULES

(1) Each client has the right to be free from physical or chemical restraints used for discipline, convenience or not required to treat the client's medical symptoms.
(2) The facility shall have written policies and procedures regarding the proper use of restraints, which shall include:
   (a) restraints shall only be used to assist clients to attain and maintain optimum levels of physical and emotional functioning;
   (b) restraints shall not be used as substitutes for direct client care, activities or other services;
   (c) restraints shall not unduly hinder evacuation of the client in the event of fire or other emergency; and
   (d) if use of a physical or a chemical restraint is implemented, the facility shall inform the client and their responsible party of the reasons for the restraint.
(3) Physical and chemical restraint policies under Subsection (2)(d) shall incorporate and address at least the following:
   (a) appropriateness of use;
   (b) procedures for use; and
   (c) less restrictive alternatives prior to the use of more restrictive measures.
(4) Emergency use of physical and chemical restraints shall comply with the following:
   (a) a physician, a licensed health practitioner or the director of nursing shall authorize the emergency use of restraints; and
   (b) the facility shall document in the client's record the circumstances necessitating emergency use of the restraint and the client's response.

(1) The facility shall retain, store and safeguard the client medical record and its contents.
(2) The facility shall protect the client medical record against access by unauthorized individuals.
(3) The facility shall retain the client medical record for at least seven years. Medical records of minors shall be kept until the age of 18 plus four years, but in no case less than seven years.
(4) The facility shall maintain a record for each client receiving respite services that includes:
   (a) assessment and service agreement;
   (b) demographic information and client identification data;
   (c) contact information for the responsible party;
   (d) nursing notes;
   (e) physician treatment orders;
   (f) records made by staff regarding daily care of the client in service; and
   (g) a post-service summary.

(1) The facility shall develop a written policy regarding pets in accordance with local ordinances.
(2) The administrator or designee shall determine which pets may be brought into the facility. Family members may bring pets to visit provided they have approval from the administrator and offer assurance that the pets are clean, disease free and vaccinated.
(3) Pets are not permitted in food preparation or storage areas. Pets are not permitted in any area where their presence would create a health or safety risk.

(1) The facility shall provide each client with a safe, palatable, well-balanced diet that meets their daily nutritional and special dietary needs.
(2) There shall be adequate staff employed by the facility to meet the dietary needs of the clients.
(3) The facility shall employ a dietitian either full-time, part-time or on a consultant basis.
   (a) The dietitian shall be certified in accordance with Title 58, Chapter 49, Dietitian Certification Act.
   (b) If a dietitian is not employed full-time, the administrator shall designate a full-time person to serve as the dietetic supervisor.
   (c) The dietetic supervisor shall be available when the consulting dietitian visits the facility.
(4) Any personnel who prepares or serves food shall have a current food handler's permit.
(5) If the facility admits clients requiring therapeutic or special diets, the facility shall have an approved dietary manual for reference when preparing meals.
(6) The facility shall develop menus that meet the nutritional needs of clients. Menus shall be:
   (a) prepared in advance;
   (b) followed;
   (c) have different choices each day;
   (d) posted for each day of the week;
   (e) approved and signed by a certified dietitian; and
   (f) cycled no less than every two weeks.
(7) The facility shall retain documentation of any substitution to the menu for at least three months.
(8) The facility shall make available for Department review any food sanitation inspection reports of state or local health department inspections.
(9) The facility shall have no more than a 14-hour interval between the evening meal and breakfast, unless a substantial snack is served in the evening.
(10) The facility shall provide special eating equipment and assistive devices for clients who need them.
(11) The facility shall maintain a one-week supply of nonperishable staple foods and a three-day supply of perishable foods to complete the established menu.
(12) The facility may use trained dining assistants to aid clients in eating and drinking if:
   (a) a licensed practical nurse, registered nurse, advance practice registered nurse, speech pathologist, occupational therapist, or dietitian has assessed that the client does not have complicated feeding problems, such as recurrent lung aspirations, behaviors which interfere with eating, difficulty swallowing, or tube or parenteral feeding; and
   (b) the service agreement documents that the client needs assistance with eating and drinking and defines who is qualified to offer the assistance.
(13) If the facility uses a dining assistant, the facility shall assure that the dining assistant:
   (a) has completed a dietary assistant training course; and
   (b) performs duties only for those clients who do not have complicated feeding problems.
NOTICES OF PROPOSED RULES

(1) The facility shall provide a safe, clean, comfortable environment, allowing the client to use personal belongings to create a homelike environment.
(2) The facility shall store in a locked area all cleaning agents, bleaches, insecticides, poisonous, dangerous, or flammable materials to prevent unauthorized access.

(1) The facility shall provide laundry services to meet the needs of the clients, including a sufficient supply of linens.
(2) The facility shall inform the client and family of facility laundry policy for personal clothing.
(3) Soiled linen shall be handled, stored, and processed in a manner to prevent contamination and the spread of infections.
(4) The laundry area shall be separate from any room where food is stored, prepared or served.

(1) The facility shall ensure that buildings, equipment and grounds are maintained in good repair and in a clean and sanitary condition for the safety and well-being of clients, staff and visitors.
(2) The facility shall ensure that the premises are free from vermin and rodents.
(3) The facility shall maintain entrances, exits, steps, ramps and outside walkways in a safe condition with regard to snow, ice and other hazards.
(4) Facilities shall make provision for emergency lighting and heat.
(5) The facility shall deliver hot water to public and client care areas at temperatures between 105-120 degrees.
(6) The facility shall have at least one first aid kit available at a specified location in the facility.
(7) 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.
(8) The facility shall have a clean-up kit for blood-borne pathogens.

(1) The facility shall ensure the safety and well-being of clients and make provisions for a safe environment in the event of an emergency or disaster.
(2) The facility shall develop an emergency and disaster plan to delineate:
   (a) the names of persons in charge and persons with decision-making authority;
   (b) on-hand personnel, equipment, and supplies and how to acquire additional help, supplies and equipment after an emergency or disaster;
   (c) assignment of personnel to specific tasks during an emergency;
   (d) evacuation routes, location of fire alarm boxes, fire extinguishers;
   (e) the names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police and other appropriate agencies;
   (f) individuals who shall be notified in an emergency in order of priority;
   (g) methods of transporting and evacuating clients and staff to other locations; and
   (h) instructions on how to contain a fire and how to use the facility alarm systems.
(3) The facility shall conduct and document simulated disaster drills semi-annually.
(4) The facility shall conduct and document simulated fire drills quarterly on each shift.

Any person who violates any provision of this rule may be subject to the penalties enumerated in Sections 26-21-11 and R432-3-7 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: 2022
Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-16

NOTICE OF PROPOSED RULE

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<th>Amendment</th>
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<td>R432-700</td>
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Agency Information

1. Department: | Health |
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<tr>
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<td>Family Health and Preparedness, Licensing</td>
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<tr>
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<tr>
<td>Building:</td>
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<tr>
<td>Street address:</td>
<td>288 N 1460 W</td>
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<tr>
<td>City, state and zip:</td>
<td>Salt Lake City, UT 84116</td>
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| Mailing address: | PO Box 144103 |
| City, state and zip: | Salt Lake City, UT 84114-4103 |

Contact person(s):

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<th>Name:</th>
<th>Phone:</th>
<th>Email:</th>
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<tr>
<td>Kristi Grimes</td>
<td>385-214-9187</td>
<td><a href="mailto:kristigrimes@utah.gov">kristigrimes@utah.gov</a></td>
</tr>
<tr>
<td>Joel Hoffman</td>
<td>801-273-2804</td>
<td><a href="mailto:jhoffman@utah.gov">jhoffman@utah.gov</a></td>
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</table>

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

General Information

2. Rule or section catchline:
R432-700. Home Health Agency Rule

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
The purpose of this amendment is to expand the definition of "physician" to include other practitioners. This is in response to the Centers for Medicare and Medicaid Services (CMS) rule change to allow other practitioners to give orders for home health patients. This will allow for better and faster care for patients receiving care from home health agencies, especially in rural areas where practitioners are fewer.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule): The amendment removes "physician" and adds "primary care provider" to the definitions. This will be defined to include physicians as well as advanced practice registered nurses who are the primary care providers for patients and those on-call for the primary care provider. The Health Facility Committee reviewed and approved this rule amendment on 05/12/2021.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
State government home health agency survey process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys. No change to the state budget is expected.

B) Local governments:
Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures. Home health agencies are regulated by the state health department and not local governments. There will be no change in local business licensing or any other items with which local government is involved.

C) Small businesses ("small business" means a business employing 1-49 persons):
After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small business Licensed Home Health Agencies. There are 126 home health agencies, as determined by the Department's licensing data system. (North American Industry Classification System (NAICS) codes used – Home Health Care Services 621610, reports 54 small businesses).

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected non-small businesses because this amendment removes the definition of "physician" and adds the definition of "primary care provider" and therefore, would not add cost for persons, businesses, or local government entities.

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):
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 removes the definition of "physician" and adds the definition of "primary care provider" and therefore, would not add cost for persons, businesses, or local government entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
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 removes the definition of "physician" and adds the definition of "primary care provider" and therefore, would not add cost for persons, businesses, or local government entities.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
There is no fiscal impact on business because the expanded definition will not create any additional requirements for providers or facilities. Nate Checketts, Executive Director

6. A) 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.)

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R432-700. Purpose.
The purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards. This rule sets standards for the operation of home health agencies.

Terms used in this rule are defined in Section 26-21-2, and section R432-1-3. In addition:

(1) [See common definitions rule R432-1-3.

(2) Special definitions:

(a) "Branch Office" means a location from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is a part of the parent home health agency and shares administration and services.

(b) "Certification in Cardiopulmonary Resuscitation" (CPR) refers to certification issued after completion of an in-person course, to include skills testing and evaluation on-site with a licensed instructor that is consistent with the most current version of the American Heart Association Guidelines for Health Care Provider CPR.

(c) "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 patient.

(d) "Primary Care Provider" means the physician, physician assistant, or advanced practice registered nurse who is the primary care provider of the patient, and who has education and experience to assess and evaluate the health care needs of the patient.

(e) "Service Agreement" means a written agreement for services between the client and the personal care provider which outlines how the services are to be provided according to the requirements of Section R432-700-24.

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Title 26, Chapter 21

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

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Nate Checketts, Executive Director Date: 10/11/2021

R432-700. Home Health Agency Rule.
R432-700-1. Authority.
This rule is adopted pursuant to Title 26, Chapter 21 Health Care Facility Licensing and Inspection Act.

R432-700-2. Purpose.
The purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards. This rule sets standards for the operation of home health agencies.

[All] Home health agencies shall comply with these rules and their own policies and procedures.

Terms used in this rule are defined in Section 26-21-2, and section R432-1-3. In addition:

(1) [See common definitions rule R432-1-3.

(2) Special definitions:

(a) "Branch Office" means a location from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is a part of the parent home health agency and shares administration and services.

(b) "Certification in Cardiopulmonary Resuscitation" (CPR) refers to certification issued after completion of an in-person course, to include skills testing and evaluation on-site with a licensed instructor that is consistent with the most current version of the American Heart Association Guidelines for Health Care Provider CPR.

(c) "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 patient.

(d) "Primary Care Provider" means the physician, physician assistant, or advanced practice registered nurse who is the primary care provider of the patient, and who has education and experience to assess and evaluate the health care needs of the patient.

(e) "Service Agreement" means a written agreement for services between the client and the personal care provider which outlines how the services are to be provided according to the requirements of Section R432-700-24.

B) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Title 26, Chapter 21

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

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

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Agency Authorization Information
Agency head or designee, and title: Nate Checketts, Executive Director Date: 10/11/2021

R432-700. Home Health Agency Rule.
R432-700-1. Authority.
This rule is adopted pursuant to Title 26, Chapter 21 Health Care Facility Licensing and Inspection Act.
R432-700-7. Licensure Required.

(1) R432-700 Home Health Agency Rule does not apply to a single individual providing professional services under the authority granted by a professional license or registration.

(2) The home health agency shall comply with Rule R432-2 General Licensing Provisions.


(1) The home health agency shall be organized under a governing body that assumes full legal responsibility for the conduct of the home health agency.

(2) The governing body shall develop an organization chart that shows the administrative structure of the home health agency.

(3) The governing body shall assume responsibility to:
   (a) [C] complete, submit, and file all records and reports required by the Department;
   (b) [R] review home health agency policies and procedures at least annually and revise as necessary and document the date of review;
   (c) [H] implement home health agency policies and procedures;
   (d) [D] organize and coordinate functions of the home health agency by delegating duties and establishing a formal means of staff accountability;
   (e) [A] appoint a physician primary care provider, or registered nurse, or health care professional to provide general supervision, coordination, and direction for professional services of the home health agency;
   (f) [A] appoint a registered nurse to be the director of nursing services;
   (g) [A] appoint the members and their terms of membership in the interdisciplinary quality assurance committee;
   (h) [A] appoint other committees as deemed necessary, describe committee functions and duties, and make provision for selection, term of office, and responsibilities of committee members;
   (i) [D] designate a person responsible for maintaining a clinical record system on each patient;
   (j) [M] maintain current written designations or letters of appointment in the home health agency;
   (k) [E] employ or contract with competent personnel whose qualifications are commensurate with job responsibilities and authority, and who have the appropriate license or certificate of completion;
   (l) [D] develop job descriptions that delineate functional responsibilities and authority;
   (m) [D] develop a staff communication system that coordinates implementation of plans of treatment, utilizes services or resources to meet patient needs, and promotes an orderly flow of information within the organization;
   (n) [P] provide staff orientation as well as continuing education in applicable policies, rules, regulations, and resource materials;
   (o) [S] secure contracts for services not directly provided by the home health agency;
   (p) [H] implement a program of budgeting and accounting; and
   (q) [E] establish a billing system which itemizes services provided and charges submitted to the payment source.


(1) The administrator is the individual the home health agency's governing body appoints to be responsible for the overall functions of the home health agency designated by the governing body and shall be responsible for the overall management of the agency.

(2) The administrator shall have at least one year of managerial or supervisory experience.

(3) The administrator shall designate in writing a qualified person who shall act in his absence. The administrator's designated [person] shall have sufficient power, authority, and freedom to act in the best interests of patient safety and well-being.

(4) The administrator or designee shall be available during the home health agency's hours of operation.

(5) The administrator shall have the responsibility to:
   (a) [C] complete, submit, and file all records and reports required by the Department;
   (b) [R] review home health agency policies and procedures at least annually and revise as necessary and document the date of review;
   (c) [H] implement home health agency policies and procedures;
   (d) [D] organize and coordinate functions of the home health agency by delegating duties and establishing a formal means of staff accountability;
   (e) [A] appoint a physician primary care provider, or registered nurse, or health care professional to provide general supervision, coordination, and direction for professional services of the home health agency;
   (f) [A] appoint a registered nurse to be the director of nursing services;
   (g) [A] appoint the members and their terms of membership in the interdisciplinary quality assurance committee;
   (h) [A] appoint other committees as deemed necessary, describe committee functions and duties, and make provision for selection, term of office, and responsibilities of committee members;
   (i) [D] designate a person responsible for maintaining a clinical record system on each patient;
   (j) [M] maintain current written designations or letters of appointment in the home health agency;
   (k) [E] employ or contract with competent personnel whose qualifications are commensurate with job responsibilities and authority, and who have the appropriate license or certificate of completion;
   (l) [D] develop job descriptions that delineate functional responsibilities and authority;
   (m) [D] develop a staff communication system that coordinates implementation of plans of treatment, utilizes services or resources to meet patient needs, and promotes an orderly flow of information within the organization;
   (n) [P] provide staff orientation as well as continuing education in applicable policies, rules, regulations, and resource materials;
   (o) [S] secure contracts for services not directly provided by the home health agency;
   (p) [H] implement a program of budgeting and accounting; and
   (q) [E] establish a billing system which itemizes services provided and charges submitted to the payment source.
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(b) [O]rientation for direct and contract employees;
(c) [E]criteria for, and frequency of, performance evaluations;
(d) [A] work schedules, method and period of payment, fringe benefits such as sick leave, vacation, and insurance;
(e) [F]requency and documentation of in-service training; and
(f) [C]ontents of personnel files.

(3) Each employee shall be licensed, certified or registered as required by the Utah Department of Commerce, Division of Occupational and Professional Licensing.

(4) Failure to ensure that all staff are licensed, certified or registered may result in sanctions to the home health agency license.

(5) The home health agency shall document that staff have been trained annually in the reporting requirements for suspected abuse, neglect and exploitation.


(1) The home health agency shall establish and implement a policy and procedure for health screening of all home health agency health care workers to identify any situation which would prevent the employee from performing assigned duties in a satisfactory manner.

(2) Employee health screening and immunization components of personnel health programs shall be developed by the home health agency in accordance with Rule R386-702, Communicable Disease Rules.

(3) Employees shall be tested for tuberculosis (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 Control of Tuberculosis.

(a) The licensee shall ensure that all employees are skin-tested for tuberculosis within two weeks of:
(i) initial hiring;
(ii) suspected exposure to a person with active tuberculosis; and
(iii) development of symptoms of tuberculosis.

(b) Skin testing shall be exempted for all employees with known positive reaction to skin tests.

(4) All infections and communicable diseases reportable by law shall be reported by the home health agency to the local health department in accordance with Section R386-702-3.


(1) The home health agency shall document that all employees are oriented to the home health agency and the job for which they are hired.

(2) Orientation under Subsection (1) shall include:
(a) [O] the functions of home health agency employees and the relationships between various positions or services;
(b) [J]ob descriptions;
(c) [D]uties for which persons are trained, licensed, or are licensed for;
(d) [E]thics, confidentiality, and patients' rights;
(e) [I]formation about other community agencies including emergency medical services;
(f) [O]pportunities for continuing education appropriate to the patient population served; and
(g) [R]eporting requirements for suspected abuse, neglect or exploitation.


(1) The administrator shall secure written contracts or agreements from other providers, or independent contractors, who provide patient services through the home health agency and shall arrange for an orientation to ensure that the contractor is prepared to meet the job expectations.

(2) The home health agency shall make any contract available for review by the Department.

(3) The contract shall include:
(a) [T]he effective and expiration dates;
(b) [A] description of goods or services to be provided; and
(c) [A] copy of the professional license must be available, upon Department request.


(1) The home health agency shall develop written acceptance criteria and shall make these policies available to the public upon request.

(2) The home health agency shall accept patients for treatment if the patient's needs can be met by the home health agency in the patient's place of residence. The home health agency shall base the acceptance determination on an assessment using the following criteria:
(a) [T]he patient needs skilled nursing services which meet the following criteria; to determine whether a service is skilled, the following criteria shall apply:
(i) the complexity of prescribed services can be safely or effectively performed only by, or under the close supervision of, technical or professional personnel;
(ii) care is needed to prevent, to the extent possible, deterioration of the condition or to sustain current capacities of a patient, such as one with terminal cancer; and
(iii) special medical complications necessitate service performance or close supervision by technical or professional persons, as in the care of a diabetic patient with impaired circulation, fragile skin, and a fractured leg in a cast;
(b) [T]he patient needs therapy services or support services;
(c) [T]he patient, responsible family members, guardians or legal representatives request care at home; or
(d) [T]he physical facilities in the patient's place of residence can be adapted to provide a safe environment for care.


(1) The home health agency may discharge a patient under one or more of the following circumstances:
(a) [A] licensed practitioner signs a discharge statement for termination of services;
(b) [T]reatment objectives are met;
(c) [E]ntry or discharge process has been completed;
(d) [T]he family situation changes and affects the delivery of services;
(e) [T]he patient or family is uncooperative in efforts to attain treatment objectives;
(f) [T]he patient moves from the geographic area served by the home health agency;
(g) [T]he primary care provider fails to renew orders as required by the rules for skilled nursing or therapy services, or the patient changes the primary care provider and the home health agency cannot obtain orders for continuation of services from the new primary care provider.

(1) Written patients' rights shall be established by the home health agency and made available to the patient, guardian, next of kin, sponsoring agency, representative payee, and the public.

(2) Home health agency policy shall determine how patients' rights information is distributed.

(3) The home health agency shall ensure that each patient receiving care has the following rights:

(a) To be fully informed of these rights and all rules governing patient care, as evidenced by documentation in the clinical record;
(b) To be fully informed of services and related charges for which the patient or a private insurer may be responsible, and to be informed of all changes in charges;
(c) To be fully informed of the patient's health condition, unless medically contraindicated and documented in the clinical record;
(d) To be afforded the opportunity to participate in the planning of home health services, including referral to health care institutions or other agencies, and to refuse to participate in experimental research;
(e) To refuse treatment to the extent permitted by law and to be informed of the medical consequences if treatment is refused;
(f) To be assured confidential treatment of personal and medical records, and to approve or refuse their release to any individual or agency, unless medically contraindicated and documented in the clinical record;
(g) To be treated with consideration, respect and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs;
(h) To be assured the patient and the family members or significant other(s) individuals providing care to the patient will be taught about required services, so the patient can develop or regain self-care skills and the family members or other(s) individuals providing care to the patient can understand and help the patient;
(i) To be assured that personnel who provide care demonstrate competency through education and experience to carry out the services for which they are responsible;
(j) To receive proper identification from the individual providing home health services; and
(k) To receive information concerning the procedures to follow to submit complaints about services being performed.

(2) The home health agency shall develop and implement recordkeeping policies and procedures that address use of patient records by authorized staff, content, confidentiality, retention and storage.

(3) Records in Subsection (1) shall be maintained in an organized format.

(4) An accurate, up-to-date record shall be maintained by the home health agency, for every patient receiving service through the home health agency.

(5) Each person who has patient contact or provides a service in the patient's place of residence shall enter a clinical note of that contact or service in the patient's record.

(6) Entries in Subsection (5) shall be dated and authenticated with the signature, or identifiable initials of the person making the entry.

(7) Services provided by the home health agency and outcomes of these services shall be documented in the individual patient record.

(8) Each patient's record shall contain at least the following information:

(a) Identification data including patient's name, address, age, date of birth, name and address of nearest relative or responsible individual, name and telephone number of the primary care provider with responsibility for patient care, and if applicable, the name and telephone number of the person or family member who, in addition to agency staff, provides care in the place of residence;
(b) Signed and dated plan of care;
(c) A signed and dated patient assessment which identifies pertinent information required to carry out the plan of care;
(d) Reasons for referral to the home health agency;
(e) Statement of the suitability of the patient's place of residence for the provision of home health services;
(f) Documentation of telephone consultation or case conferences with other individuals providing services;
(g) Signed and dated clinical notes for each patient contact or home visit including services provided; and
(h) A written termination of services summary which describes:

(i) The care or services provided;
(ii) The course of care and services;
(iii) The reason for discharge;
(iv) The status of the patient at time of discharge; and
(v) The name of the agency or facility if the patient was referred or transferred.

R432-700-17. [Physician's] Primary Care Provider Orders.

(1) [Physician's] Primary care provider orders shall be incorporated into the plan of care when skilled care is being provided.

(2) [Physician's] Primary care provider orders in Subsection (1) may include:

(a) Diet and nutritional requirements;
(b) Medications;
(c) Frequency and type of service;
(d) Treatments;
(e) Medical equipment and supplies; and
(f) Prognosis.


(1) The home health agency shall develop and implement recordkeeping policies and procedures that address use of patient records by authorized staff, content, confidentiality, retention and storage.

(2) Records in Subsection (1) shall be maintained in an organized format.

(3) To facilitate locating each patient's current or closed record, the home health agency shall maintain a patient record identification system to facilitate location of each patient's current or closed record.

(4) An accurate, up-to-date record shall be maintained by the home health agency, for every patient receiving service through the home health agency.

(5) Each person who has patient contact or provides a service in the patient's place of residence shall enter a clinical note of that contact or service in the patient's record.

(6) Entries in Subsection (5) shall be dated and authenticated with the signature, or identifiable initials of the person making the entry.

(7) Services provided by the home health agency and outcomes of these services shall be documented in the individual patient record.

(8) Each patient's record shall contain at least the following information:

(a) Identification data including patient's name, address, age, date of birth, name and address of nearest relative or responsible individual, name and telephone number of the primary care provider with responsibility for patient care, and if applicable, the name and telephone number of the person or family member who, in addition to agency staff, provides care in the place of residence;
(b) Signed and dated plan of care;
(c) A signed and dated patient assessment which identifies pertinent information required to carry out the plan of care;
(d) Reasons for referral to the home health agency;
(e) Statement of the suitability of the patient's place of residence for the provision of home health services;
(f) Documentation of telephone consultation or case conferences with other individuals providing services;
(g) Signed and dated clinical notes for each patient contact or home visit including services provided; and
(h) A written termination of services summary which describes:

(i) The care or services provided;
(ii) The course of care and services;
(iii) The reason for discharge;
(iv) The status of the patient at time of discharge; and
(v) The name of the agency or facility if the patient was referred or transferred.
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(9) For those patients who receive skilled services, the home health agency shall include the following items in the patient record in addition to the items under Subsection [R432-700-48](8):

(a) [O] Objective signs of illness, disorders[,] and body malfunction;
(b) [S] Subjective information from the patient and family;
(c) [G] General physical condition;
(d) [G] General emotional condition;
(e) [P] Positive or negative physical and emotional responses to treatments and services;
(f) [G] General behavior; and
(g) [G] General appearance.

(10) Clinical summaries or other documents obtained when necessary for promoting continuity of care, especially when a patient receives care elsewhere, such as:

(i) A hospital;
(ii) An ambulatory surgical center;
(iii) A nursing home;
(iv) A primary care provider or consultant's office; or
(v) Other home health agency; and

(11.6) Clinical notes to include a description of the patient condition and significant changes such as:

(i) [G] Objective signs of illness, disorders[,] and body malfunction;
(ii) [S] Subjective information from the patient and family;
(iii) [G] General physical condition;
(iv) [G] General emotional condition;
(v) [P] Positive or negative physical and emotional responses to treatments and services;
(vi) [G] General behavior; and

(1) Clinical summaries or other documents obtained when necessary for promoting continuity of care, especially when a patient receives care elsewhere, such as:

(a) A hospital;
(b) An ambulatory surgical center;
(c) A nursing home;
(d) A primary care provider or consultant's office;
(e) Other home health agency; and
(f) Clinical notes to include a description of the patient condition and significant changes such as:

(i) [G] Objective signs of illness, disorders[,] and body malfunction;
(ii) [S] Subjective information from the patient and family;
(iii) [G] General physical condition;
(iv) [G] General emotional condition;
(v) [P] Positive or negative physical and emotional responses to treatments and services;
(vi) [G] General behavior; and


1. The home health agency must develop and implement policies and procedures to safeguard patient records against loss, destruction[,] or unauthorized use.

2. The home health agency shall have written procedures for the use and removal of medical records. The release of information, including photographs, shall require the written consent of the patient.

3. The home health agency shall keep the patient records confidential. Information may be disclosed only to authorized persons in accordance with federal regulations, state rules[,] and local laws.

4. Authorized representatives of the Department shall be allowed to review records to determine compliance with licensure rules and standards.

5. When a patient is referred to another agency or facility, the home health agency may release information only with the written consent of the patient.

6. The home health agency shall make provisions for filing, safe storage[,] and easy access of medical records.


1. The quality, appropriateness[,] and scope of services rendered shall be reviewed and evaluated at least annually by the governing body to determine overall effectiveness in meeting home health agency objectives.

2. The administrator shall conduct an annual evaluation of the home health agency's overall program and submit a written report of the findings to the governing body.

3. The home health agency shall demonstrate concern for cost of care by evaluating the following:

(a) Relevance of health care services;
(b) Appropriateness of treatment frequency;
(c) Use of less expensive, but still effective[,] resources whenever possible; and
(d) Use of ancillary services consistent with patient needs.

4. An interdisciplinary quality assurance committee shall evaluate patient services on at least a quarterly basis. A written report of findings from each meeting shall be submitted to the administrator and shall be available in the home health agency.

(a) Each member of the quality assurance committee shall be appointed by the administrator for a given term of membership.

(b) The quality assurance committee shall have a minimum of three members who represent at least three different licensed or certified health care professions.

5. The methodology for evaluation by the quality assurance committee shall include:

(a) Review and evaluation of active and closed patient records to assure that established policies and procedures are being followed. The home health agency policy and procedure will determine the methods for selecting and reviewing a representative sample of records. Examples of methods of selection could either be a given percentage for both active and closed records, or a given number of records for each category of service provided during the review period;

(b) Review and evaluation of coordination of services through documentation of written reports, telephone consultation, or case conferences; and

(c) Review and evaluation of plans of treatment for content, frequency of updates[,] and whether clinical notes correspond to goals written in the plan of care.


1. Nursing services provided through a home health agency shall be under the supervision of a director of nursing services.

2. Nursing services shall be provided by or under the supervision of a registered nurse and according to the plan of care.

3. When a home health agency provides or contracts for services, the service shall be provided according to the plan of care and supervised by designated, qualified personnel.

4. The nursing staff of the home health agency shall observe, report[,] and record written clinical notes.

5. Nursing services provided through a home health agency shall recognize and use opportunities to teach health concepts to the patient and family.

6. Registered nurses or licensed practical nurses employed by[,] or contracted with[,] the home health agency shall have a valid license from the Utah Department of Commerce.[Title 58, Chapter 31B.]

7. A licensed nurse[s] of the home health agency shall include the following responsibilities:

(a) Administer prescribed medications and treatments according to law and as permitted within the scope of the individual's license;

(b) Perform nursing care according to the needs of the patient and as indicated in the written plan of care;
(c) [H]inform the [physician]primary care provider and other personnel of changes in the patient's condition and needs;
(d) [W]rite clinical notes in the individual patient record for each visit or contact;
(e) [T]each self-care techniques to the patient or family, or both;
(f) [D]evelop plans of care; and
(g) [P]articipate in in-service programs.
(8) The director of nursing services of the home health agency shall be responsible for and shall be accountable for the following functions:
(a) [D]esignate a registered nurse to act as director of nursing services during [his] their absence;
(b) [A]ssume responsibility for the quality of nursing services provided by the home health agency;
(c) [D]evelop nursing service policies and procedures that must be reviewed annually and revised as necessary;
(d) [E]stablish work schedules for nursing personnel according to patient needs;
(e) [A]ssist in development of job descriptions for nursing personnel;
(f) [C]omplete performance evaluations for nursing personnel according to home health agency policy, and
(g) [D]irect in-service programs for all nursing personnel.
(9) In addition to the [general] responsibilities in Subsection (7), a registered nurse of the home health agency shall include [have] the following responsibilities:
(a) [M]ake the initial nursing evaluation visit;
(b) [R]e-evaluate nursing needs based on the patient's status and condition;
(c) [I]nitiate the plan of care and make necessary revisions;
(d) [P]rovide services that [which] require specialized nursing skills;
(e) [E]stablish work schedules for nursing personnel;
(f) [S]upervise staff assignments based on specific patient needs, family capabilities, staff training and experience, and degree of supervision needed;
(g) [A]ssist in coordinating all services provided;
(h) [H]andbook of termination of services statements;
(i) [S]upervise and consult with licensed practical nurses as necessary;
(j) [P]rovide written instructions for a certified nursing aide to ensure provision of required services written in the plan of care;
(k) [S]upervise certified nursing aide in the patient's home, and be readily available for consultation by telephone; and
(l) [M]ake supervisory visits with or without the certified nursing aide's presence as follows:
(i) [I]ntial assessment;
(ii) [E]very two weeks to patients who receive skilled services;
(iii) [E]very three months to patients who require long-term maintenance services; and
(iv) [A]ny time there is a question of change in the patient's condition;
(10) The licensed practical nurse of the home health agency shall [have] include the following responsibilities:
(a) [W]ork under the supervision of a registered nurse;
(b) [O]bserve, record[,] and report to the immediate supervisor the general physical or mental condition of the patient;
(c) [A]ssist the registered nurse in performing specialized procedures; and
(d) [A]ssist in development of the plan of care.
R432-700-22. Certified Nursing Aide. (1) A certified nursing aide[s] of the home health agency may have the following responsibilities:
(a) [P]rovide only those services written in the plan of care and received as written instructions from the registered nurse supervisor[,] if the service is an extension of therapy, the instructions shall be written by the licensed therapist;
(b) [P]erform normal household services essential to health care at home;
(c) [M]ake occupied or unoccupied beds;
(d) [S]upervise the patient's self-administration of medication[;]
(i) Reminding the patient it is time to take medications;
(ii) Opening the bottle cap;
(iii) Reading the medication label to patients;
(iv) Checking the self-administered dosage against the label of the container;
(v) Reassuring the patient that the dose being taken is correct;
(vi) Observing the patient taking the medication[;]
(e) [O]bserve, record and report basic patient status;
(f) [P]erform activities of daily living as written in the plan of care;
(g) [G]ive nail care as described in the plan of care;
(h) [O]bserve and record food and fluid intake when ordered;
(i) [C]hange dry dressings as described in the plan of care;
(j) [A]dminister emergency first aid;
(k) [P]rovide escort and transportation to doctors' appointments and elsewhere as part of the patient's care services;
(l) [P]rovide social interaction and reassurance to the patient and family in accordance with the plan of care;
and
(m) [W]rite clinical notes in individual patient records.
(2) A certified Nursing Aide[s] shall be at least 18 years old.
(3) A certified Nursing Aide[s] shall have [received] a certificate of completion for the employment position within six months of the date of hire.
(4) A certified Nursing Aide[s] must be certified in CPR[cardiopulmonary resuscitation] and emergency procedures.
R432-700-23. Personal Care Aides. (1) A personal care aide[s] shall be at least 18 years of age and [have] include the following responsibilities:
(a) [R]ecieve written instructions from the supervisor;
(b) [P]erform only the tasks and duties outlined in the service agreement;
(c) [H]ave knowledge of home health agency policy and procedures;
(d) [B]e trained in first aid;
(e) [H]ave been oriented and trained in all aspects of care to be provided to clients;
(f) [B]e able to demonstrate competency in all areas of training for personal care;
and
(g) [M]aintain a minimum of six hours of in-service training per calendar year, prorated for the first year of employment[;]
(2) A personal Care Aide[s] may assist clients with the following activities:
(a) [S]elf-administration of medications by:
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(i) reminding the client to take medications, and
(ii) opening containers for the client;
(b) [H]housekeeping;
(c) [P]ersonal grooming and dressing;
(d) [E]ating and meal preparation;
(e) [O]ral hygiene and denture care;
(f) [T]oiletting and toilet hygiene;
(g) [A]rranging for medical and dental care including transportation to and from [the] appointments;
(h) taking and recording oral temperatures;
(i) [A]dministering emergency first aid;
(j) [P]roviding or arranging for social interaction; and
(k) [P]roviding transportation.

(3) A P[Personal Care Aide[s] shall document observations and services in the individual client record.


(1) For each patient, the home health agency shall:

(a) establish a plan of care for any care, services, or treatment provided by:
   (i) the home health agency; or
   (ii) any indirect contracted services;
(b) describe the plan of care under Subsection (a) in the patient's record;
   and
(c) document the activities of the home health agency or indirect contracted services to implement the plan of care under Subsection (1) in the patient's record. A plan of care shall be established and documented in the patient's record to describe any direct or contract services, care, or treatment provided by the home health agency.

(2) The plan of care under Subsection (1) shall be developed and signed by a licensed health care professional.

(3) The plan of care under Subsection (1) shall be developed with consultation, as needed, from other home health agency staff or contract personnel.

(4) Modifications or additions to the initial plan of care shall be made by a licensed health care professional as necessary.

(5) Each plan of care under Subsection (1) shall be reviewed and approved by the licensed health care professional as the patient's condition warrants, at intervals not to exceed 63 days.

(6) For patients receiving skilled services, the written plan of care under Subsection (1) shall be approved by a physician primary care provider at intervals not to exceed 63 days.

(7) The person who is assigned to supervise and coordinate care for a patient shall have the primary responsibility to notify the attending physician primary care provider and other home health agency staff of any significant changes in the patient's status.

(8) All care plans and notifications under Subsection (7) shall be made part of the patient's record.

(9) The plan of care under Subsection (1), usually developed in accordance with the referring physician's primary care provider's orders, shall include:

(a) [N]ame of the patient;
(b) [D]iagnoses [required for patients receiving skilled services];
(c) [T]reatment goals stated in measurable terms;
(d) [S]ervices to be provided, at what intervals, and by whom;
(e) [N]eeded medical equipment and supplies;
(f) [M]edications to be administered by designated, licensed home health agency personnel;
(g) [S]upervision of self-administered medication;
(h) [D]iet or nutritional requirements;

(i) [N]ecessary safety measures;
(j) [I]nstructions [required for patients receiving skilled services];
(k) [D]ate plan was initiated and dates of subsequent review.

R432-700-25. Medication and Treatment.

(1) Skilled treatments shall be administered only by licensed personnel to comply with signed orders from a person lawfully authorized to give the order. The order may be remotely given but shall be subsequently signed by the person giving the order within 31 days.

(2) Medications shall be administered according to signed orders from a person lawfully authorized to give the order. The order may be remotely given but shall be subsequently signed by the person giving the order within 31 days.

(3) All orders remotely given shall be received and verified only by licensed personnel lawfully authorized to accept the order. Remotely given orders shall be recorded in the patient's record.

(4) If medications are administered by home health agency personnel, the orders and subsequent changes in orders[s] shall be signed by the physician primary care provider and included in the patient's record.

(5) Unlicensed staff may administer medications only after delegation by a licensed health care professional under the professional scope of practice with the following requirements:

(a) [I]f a licensed health care professional delegates the task of medication administration to unlicensed assistive personnel, the delegation shall be in accordance with [the Nurse Practice Act and 
Section R56-31B-701];

(b) [T]he medications [must] shall be administered according to the prescribing order;

(c) [T]he delegating authority [must] shall provide and document supervision, evaluation, and training of unlicensed assistive personnel assisting with medication administration; and

(d) [T]he delegating authority or another registered nurse shall be readily available either in person or by telecommunication.

(4) Delegation to unlicensed staff shall not include delegating medication set up for subsequent medication administration.

(5) Orders for therapy services shall include the procedures to be used, the frequency of therapy, and the duration of therapy.

(6) Orders for therapy services shall be reviewed or renewed by the attending physician primary care provider at intervals not to exceed 63 days. [Physician] Primary care provider's signature and date shall be evidence of this review or renewal.

(7) [Physician] Primary care provider orders may be transmitted by facsimile machine. The home health agency must be able to obtain the original signature, upon request, if verification of the signature is requested.


(1) Physical, occupational, speech, and nutrition therapy services offered by the home health agency, as either direct or contract services, shall be provided by, or under the supervision of, a licensed or certified therapist in accordance with the plan of care under Title 58.

(2) The qualified therapist in Subsection (1) shall have the following general responsibilities:

(a) [P]rovide treatment as ordered and approved by the attending physician primary care provider;

(b) [E]valuate the home environment and make recommendations;

(c) [D]evelop the plan of care for therapy;

c(3) [A]rrange for and supervise the implementation of the plan of care.

(4) [O]rthotics [and] prosthetics [shall be] provided by the attending physician primary care provider or certified therapist in accordance with the plan of care.

(5) Any therapy service shall include the following general responsibilities:

(a) [P]rovide treatment as ordered and approved by the attending physician primary care provider;

(b) [E]valuate the home environment and make recommendations;

(c) [D]evelop the plan of care for therapy;

(6) Any therapy service shall include the following general responsibilities:

(a) [P]rovide treatment as ordered and approved by the attending physician primary care provider;

(b) [E]valuate the home environment and make recommendations;

(c) [D]evelop the plan of care for therapy;
(d) [O]bserve and report findings about the patient's condition to the attending [physician] [primary care provider] and other [home health agency staff[,] and document information in the patient's record;

(e) [A]dvise, consult[,] and instruct [when necessary,] other [home health agency personnel and family about the patient's therapy program;

(f) [P]rovide written instructions for the certified nursing aide to promote extension of therapy services;

(g) [S]upervise other [home health agency personnel when appropriate; and

(h) [P]articipate in in-service programs.

(3) In addition to the general responsibilities in Subsection (2), a physical, speech, or occupational therapist may perform the following:

(a) [P]rovide written instructions for personal care aides and certified nursing aides to ensure provision of required services written in the plan of care;

(b) [S]upervise aides in the patient's home as necessary, and be readily available for consultation by phone; and

(c) [M]ake supervisory visits with or without the aide's presence, as required.

R432-700-27. Medical Supplies and Equipment.

[44]—The home health agency shall develop and follow written medical supply policies and procedures which describe:

(a) [H]ome health agency provision of or use of durable medical equipment[,] and disposable [and semi-disposable—medical supplies;]

(b) [C]ategories of medical supplies and equipment available through the home health agency;

(c) [C]harges and reimbursement for medical supplies and equipment; and

(d) [P]rocesses for billing medical supplies and equipment to the patient, insurance carrier, or an other payment source.


Emergency and after-hours care shall be described in home health agency written policies and procedures and made available to the patient and family.

R432-700-29. Social Services.

(1) When medical social services are provided by the home health agency, the[se] services shall be provided by a certified social worker [(CSW)] or by a social service worker [(SSW)] supervised by a certified social worker, in accordance with the plan of care.

(2) The social worker in Subsection (1) shall be responsible to:

(a) [A]ssist team members in understanding significant social and emotional factors related to health problems;

(b) [P]articipate in the development of the plan of care;

(c) [E]nter clinical notes according to rules and home health agency policy;

(d) [L]ocalize community resources; and

(e) [P]articipate in in-service programs.


Any person who violates any provision of this rule may be subject to the penalties enumerated in Section 26-21-11 and Section R432-3-7 and be punished for violation of a class A misdemeanor as provided in Section 26-21-16.

KEY:  health care facilities
Date of Last Change:  2022[October 17, 2017]
Notice of Continuation:  August 13, 2021
Authorizing, and Implemented or Interpreted Law:  26-21-5; 26-21-2.1
NOTICES OF PROPOSED RULES

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to 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):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:
The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

<table>
<thead>
<tr>
<th>Section 62A-11-107</th>
<th>Section 62A-11-307.1</th>
<th>Section 62A-11-304.1</th>
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</table>
R527-40-1. Authority and Purpose.

(1) The Department of Human Services is authorized to create rules necessary for the provision of social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules as necessary pursuant to Section 62A-11-107.

(2) The purpose of this rule is to define [2] retained support[2] in regards to a child support case, and to provide details as to how the amount owed is calculated once a retained support case has been opened for an obligee who has retained payments that were assigned to the state.


(1) [The term "Retained [S]upport" refers to a situation in which when an obligee who has assigned support rights to the state has received child support but failed to forward the payment[s] to ORS.]

(2) [The agent will refer the case if support has been retained, a referral to recoup the retained support to the appropriate child support team with the supporting evidence may be sent to the appropriate ORS team to open a recovery case to support the referral.]

(3) In computing the amount owed, the obligee will be given credit for the $50 pass through payment for any months prior to March, 1997, in which support was retained by the client. For example, if the obligee received and kept a support payment of $200 in February, 1997, the referral will be made as a $150 debt. For support payments retained on or after March 1, 1997, no credit shall be given because there will be no pass through payments for support payments made after February 28, 1997.


For this subsection, the obligee who retained support on the child support case becomes the obligor on the new case to recover the retained support.

(1) If the [O]bligor is not receiving assistance[.]
(a) [T]he obligor will be asked to complete an income asset affidavit[.]
(b) [T]he total liability shall be reviewed with the obligor[.]
and,
(c) [T]he obligor will be requested to pay the[total] obligation in full.

(2) If total payment is not possible, the following will be reviewed: type of debt, the anticipated length of time to repay the debt, total income, assets and expenses of the obligor's household, and any anticipated changes in the household circumstances.

(a) type of debt;
(b) anticipated length of time to repay the debt;
(c) total income, assets, and expenses of the obligor's household; and,
(d) any anticipated changes in the household circumstances.

(2)3 If the [O]bligor is receiving assistance[.][]

(2) P payment may be made by assistance recoupment. The recoupment may be voluntary or may be recouped without consent[.]
General Information

2. Rule or section catchline:
R527-300. Income Withholding

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rulewriting Manual.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is being amended to meet the standards found in the Administrative Rulewriting Manual, pursuant to Executive Order No. 2021-12.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to 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):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to Persons.

F) Compliance costs for affected persons
(How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses
(Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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The purpose of this rule is to specify the responsibilities to use income withholding to collect child support by Section 62A-11-401. The Office of Recovery Services (ORS) is authorized pursuant to Section 62A-11-107. ORS is authorized to terminate income withholding pursuant to Section 62A-11-406, orders issued prior to October 13, 1990 and not otherwise modified after that date require ORS to establish that a delinquency occurred under the order prior to utilizing income withholding.

R527-300-3. Affidavit of Delinquency.
(1) The ORS verified statement or affidavit alleging that a delinquency has occurred pursuant to Section 62A-11-405 is satisfied in the following ways:
(a) for time periods when a statement of arrears was part of the child support application form, the Non-IV-A applicant's prepared month by month computation of the support debt with an attestation that the statement is true and accurate to the best knowledge and belief of the applicant;
(b) calculations of delinquencies provided by Title IV-D agencies in other states on incoming intergovernmental cases where the referring state requested the collection of delinquent support;

c) an obligor was ordered to pay on specific days of the month and failed to do so; or
(d) there was not a previous current support order but there is a judgment for arrears. Delinquency has occurred when the obligor fails to pay as agreed, provided the judgment was for at least one month's current support amount used to compute the judgment for arrears. If the judgment was by default and the judgment amount was for at least one month's current support amount used to compute the judgment, income withholding may begin immediately upon entry of the judgment.

R527-300-4. Income Subject To Withholding.
(1) In accordance with Section 62A-11-406, income subject to withholding is as follows:
(a) income withholding will be limited to withholding 50% of the obligor's disposable income; or
(b) if 50% does not result in withholding enough to cover the current support obligation, the office may review an obligor's circumstances under the provisions of the Consumer Credit Protection Act to determine whether a higher percentage is permitted.

R527-300-[§]2. Income Withholding Termination.
(1) Income witholding administratively initiated by ORS shall be terminated if:
(a) the obligor no longer has an obligation for current child support and:
[ (i) no longer has an obligation for current child support and] the obligor no longer has a debt to Utah or another state on whose behalf Utah is acting, or to a [N]on-IV-A obligee on whose behalf Utah is acting; or
(ii) successfully contests the withholding currently in effect through the court or administrative review process; or
(iii) has entered into an Automatic Payment Withdrawal plan with ORS pursuant to Rule R527-303.
(b) the [N]on-IV-A applicant:
(i) terminates the ORS(CS)S case; and
(ii) the obligor no longer owes child support to Utah or another state on whose behalf Utah is acting[.]
NOTICES OF PROPOSED RULES

R527-300-3. Income Withholding Reinstatement.

(a) income withholding was terminated based on a court or administrative order and the obligor later becomes delinquent, income withholding will be reinstated.
(b) ORS resumes collection of support on behalf of the state, another state or a non-IV-A obligee; or
(c) the obligor fails to abide by the Automatic Payment Withdrawal plan with ORS.

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment
Ref (R no.): R527-301  Filing ID 54167

Agency Information
1. Department: Human Services
Agency: Recovery Services
Street address: 515 E 100 S
City, state and zip: Salt Lake City, UT 84102-4211
Mailing address: PO Box 45033
City, state and zip: Salt Lake City, UT 84145-0033

Contact person(s): Name: Phone: Email:
Scott Weight 801-741-7435 sweigh2@utah.gov
Casey Cole 801-741-7523 cacole@utah.gov
Jonah Shaw 801-538-4225 jshaw@utah.gov

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

General Information
2. Rule or section catchline:
R527-301. Non-IV-D Income Withholding

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rulewriting Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is being amended to meet the standards found in the Administrative Rulewriting Manual, pursuant to Executive Order No. 2021-12.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to 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):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It
is not anticipated that this amendment would create a fiscal cost or savings to other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses because this rule is being amended. Tracy Gruber, Executive Director

6. A) 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.)

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7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

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<td>Section 62A-1-111</td>
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<td>Section 62A-11-504</td>
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8. 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. See Section 63G-3-302 and Rule R15-1 for more information.)

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<td>A) Comments will be accepted until:</td>
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9. This rule change MAY become effective on:

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<td>Agency head or designee, and title:</td>
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R527-301. Non-IV-D Income Withholding.
R527-301-1. Authority and Purpose.

1. The Department of Humans Services is authorized to create rules necessary for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules [as necessary] pursuant to Section 62A-1-107.

2. The purpose of this rule is to provide information about the requirements of the Office of Recovery Services in regards to Non-IV-D Income Withholding responsibilities, requirements and procedures for non-IV-D income withholding services through ORS. (The rule states who can request income withholding and the proper procedures to pursue income withholding.)

R527-301-2. Responsibilities[s] of the Office of Recovery Services in regard to Non-IV-D Income Withholding are limited to:

1. ORS will:

   a. receive[ing] the income withholding[s];

   b. process[ing] the payment[es];

   c. [necessary] for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules [as necessary] pursuant to Section 62A-1-107. The purpose of this rule is to provide information about the requirements of the Office of Recovery Services in regards to Non-IV-D Income Withholding responsibilities, requirements and procedures for non-IV-D income withholding services through ORS. (The rule states who can request income withholding and the proper procedures to pursue income withholding.)

   d. [necessary] for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules [as necessary] pursuant to Section 62A-1-107. The purpose of this rule is to provide information about the requirements of the Office of Recovery Services in regards to Non-IV-D Income Withholding responsibilities, requirements and procedures for non-IV-D income withholding services through ORS. (The rule states who can request income withholding and the proper procedures to pursue income withholding.)

   e. [necessary] for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules [as necessary] pursuant to Section 62A-1-107. The purpose of this rule is to provide information about the requirements of the Office of Recovery Services in regards to Non-IV-D Income Withholding responsibilities, requirements and procedures for non-IV-D income withholding services through ORS. (The rule states who can request income withholding and the proper procedures to pursue income withholding.)

[Either party to the support order may pursue] If the income withholding by order needs to be modified, a parent may [ filing for an Order/Notice to Withhold in the court, by -]

1. [Applying for IV-D child support enforcement services through ORS, or -]
2. [Receiving IV-A assistance] Take further judicial action in the court that issued the support order.


ORS Procedure if Custodial Parent’s Mailing Address is Unknown.

Child care expenses shall not be collected through Non-IV-D Income Withholding.

(1) The custodial parent should notify ORS of a change in their mailing address.

(2) If ORS determines that the custodial parent’s address is unknown, ORS will hold the payments received through income withholding for 60 days and during the 60-day period will use available resources to make at least one attempt to locate the custodial parent.

(3) If at the end of the 60-day period the custodial parent’s address remains unknown, ORS will refund the support payment to the non-custodial parent.

(4) The support will not accrue interest during the time it is being held to attempt to locate the custodial parent.

R527-301-5. Enforcement of Notice to Withhold When Payor Fails to Comply.

If a payor fails to comply with the Notice to Withhold, either the custodial parent or the non-custodial parent may proceed with judicial action against the employer to enforce the Notice to Withhold and to obtain a judgment in accordance with Subsections 62A-11-506(1)(d), (e) and (f).


If the Notice to Withhold needs to be modified for any reason, the parent must apply for IV-D services or file for an Order/Notice to Withhold in the court that issued the support order.

R527-301-7. Custodial Parent’s Failure to Keep Office Notified of Mailing Address.

The office shall hold income withholding payments for 60 calendar days after the office determines that the custodial parent’s address is unknown. During this 60-day period, the office shall make one attempt to locate the custodial parent using resources available to the office. If the custodial parent’s address is still unknown at the end of 60 calendar days, the office shall refund the support to the non-custodial parent. The support shall not accrue interest during the time it is being held to locate the custodial parent.

R527-301-8. Termination of Income Withholding.

At any time after the date income withholding begins, a party to the child support order may request a judicial hearing to determine whether income withholding should be terminated. If the court orders that income withholding shall be terminated, the obligee will provide written notice of termination to each payer of income.

KEY: child support
Date of Last Change: 2022[October 1, 2009]
Notice of Continuation: December 15, 2017
4. **Summary of the new rule or change** (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule is being amended to meet the standards found in the Administrative Rulewriting Manual, pursuant to Executive Order No. 2021-12.

---

**Fiscal Information**

5. **Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

**B) Local governments:**

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to 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):

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. **A) 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.)

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</tbody>
</table>

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

The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.
R527-305-1. Authority and Purpose.

(1).[.] The Department of Human Services is authorized to create rules necessary for the provision of social services by pursuant to Section 62A-11-107. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107. Section 62A-11-107 provides for collection with liens and the disposition of property acquired by the department.

(2).[.] This rule establishes procedures for High-Volume, Automated Administrative Enforcement in Interstate child support cases pursuant to Section 62A-11-305, and Subsection 466(a)(14) of the Social Security Act. The purpose of this rule is to establish procedures when a request is received from a IV-D child support agency of another state for high-volume, automated administrative enforcement of support orders pursuant to 42 U.S.C. 666(a)(14) and Section 62A-11-305.

R527-305-2. Purpose.

The purpose of this rule is to provide procedures for the Office of Recovery Services/Child Support Services (ORS/CSS), when a request is received from a IV-D child support agency of another state for high-volume, automated administrative enforcement of support orders.
NOTICES OF PROPOSED RULES

Agency Information
1. Department: Human Services
Agency: Recovery Services
Street address: 515 E 100 S
City, state and zip: Salt Lake City, UT 84102-4211
Mailing address: PO Box 45033
City, state and zip: Salt Lake City, UT 84145-0033
Contact person(s):
Name: Casey Cole
Phone: 801-741-7523
Email: cacole@utah.gov
Name: Jonah Shaw
Phone: 801-538-4225
Email: jshaw@utah.gov
Please address questions regarding information on this notice to the agency.

General Information
2. Rule or section catchline:
R527-430. Administrative Notice of Lien-Levy Procedures
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the Administrative Rulewriting Manual.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is being amended to meet the standards found in the Administrative Rulewriting Manual, pursuant to Executive Order No. 2021-12.

Fiscal Information
5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.
B) Local governments:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.
C) Small businesses (*small business* means a business employing 1-49 persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.
D) Non-small businesses (*non-small business* means a business employing 50 or more persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to 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):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.
G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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<td>Local Governments</td>
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</table>
### NOTICE OF PROPOSED RULES

| Small Businesses | $0 | $0 | $0 |
| Non-Small Businesses | $0 | $0 | $0 |
| Other Persons | $0 | $0 | $0 |
| **Total Fiscal Cost** | $0 | $0 | $0 |

| 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 |
| **Total Fiscal Benefits** | $0 | $0 | $0 |

| **Net Fiscal Benefits** | $0 | $0 | $0 |

B) Department head approval of regulatory impact analysis:

The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

### Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

| Section 62A-11-103 |

### 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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

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**NOTE:** The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

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**Agency Authorization Information**

<table>
<thead>
<tr>
<th>Agency head or designee, and title</th>
<th>Date</th>
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<tbody>
<tr>
<td>Tracy Gruber, Executive Director</td>
<td>11/29/2021</td>
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</table>

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**R527. Human Services, Recovery Services.**


R527-430-1. Authority and Purpose.

(1) The Department of Human Services is authorized to create rules necessary for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.

(2) The purpose of this rule is to provide a process for an unobligated spouse to contest a Notice of Lien-Levy placed by ORS on a jointly owned financial account or a non-means tested lump sum payment, judgment, settlement or lottery, where the unobligated spouse is a joint recipient. This rule establishes procedures for ORS to determine the amount that a financial institution or payor should release to the unobligated spouse.

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**R527-430-2. Purpose.**

The purpose of this rule is to provide procedures for the Office of Recovery Services/Child Support Services (ORS/CSS) to determine the amount that a financial institution or payor should release to an unobligated spouse who jointly owns a financial account, as defined in Subsection 62A-11-103(4), or who is a joint-recipient of a non-means tested lump sum payment, judgment, settlement, or lottery, when ORS/CSS has subjected the account, non-means tested lump sum payment, judgment, settlement, or lottery to a Notice of Lien-Levy, and the unobligated spouse has contested the action.

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**R527-430-3. Definitions.**


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2. In addition, “unobligated spouse” means a spouse and joint-owner of a financial account, joint-recipient of a non-means tested lump sum payment, judgment, settlement, or lottery who is not obligated by the child support order that is the basis for the action.

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2. Other terms used in this rule are defined in Sections 62A-11-103, 62A-11-303 and 62A-11-401.

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**R527-430-4. Procedures.**


The procedures below will apply when an unobligated spouse contests a Notice of Lien-Levy or a Notice of Lien-Levy, Lump Sum Payment upon a joint financial account or payor of a non-means tested payment, judgment, settlement, or lottery.
An unobligated spouse may contest a Notice of Lien-Levy by submitting a written request to ORS/CSS to review the action. The written request must be submitted within 15 days of the date the Notice of Lien-Levy was sent to the obligor and the unobligated spouse, pursuant to Subsection 62A-11-304.1(5)(b) at the last known address for the obligor.

2. In a case that involves amounts from financial institutions, the unobligated spouse must provide ORS/CSS with documentation of recent income, documentation of the sources of deposits made to the financial institution or payor based upon the proportionate share of the income earned by the unobligated spouse, or a combination of both. Examples of income documentation include: copies of tax returns for the prior year with W-2’s attached; or, copies of two or more recent pay records.


3. ORS/CSS will determine the amount that the financial institution should release to the unobligated spouse based upon the proportionate share of the income earned by the unobligated spouse, or the proportionate share of deposits made to the financial account by the unobligated spouse, or a combination of the two methods. In cases that involve amounts from a non-means tested lump sum payment, judgment, settlement, or lottery, ORS/CSS will determine the amount that the payor should release to the unobligated spouse based upon the validity of the documentation provided to ORS/CSS.

4. [1][1] If ORS/CSS determine that a portion of the property should be released to the unobligated spouse, ORS/CSS will notify the financial institution or payor pursuant to Subsection 62A-11-304.1(5)(b).

5. [2][2] In a case that involves financial institutions, ORS will determine the amount that the financial institution should release to the unobligated spouse based upon the proportionate share of the income earned by the unobligated spouse, or the proportionate share of deposits made to the financial account by the unobligated spouse, or a combination of the two methods.

6. In a case that involves amounts from a non-means tested lump sum payment, judgment, settlement, or lottery, ORS will determine the amount that the payor should release to the unobligated spouse based upon the validity of the documentation provided to ORS.

7. Upon receipt of a notice of release from ORS/CSS, the financial institution or payor shall release the property that is specified in the notice of release, but continue to secure the remaining property from unauthorized transfer or disposition until 21 days after the date the original Notice of Lien-Levy was sent, at which time the financial institution or payor shall surrender the remaining property to ORS/CSS pursuant to Subsection 62A-11-304.1(5)(b).

KEY: child support
Date of Last Change: 2022[March 18, 1999]
Notice of Continuation: December 15, 2017
NOTICES OF PROPOSED RULES

A) State budget:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to 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):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

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Net Fiscal Benefits:

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B) Department head approval of regulatory impact analysis:
The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

- Section 62A-1-111

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
R527-450. Federal Tax Refund Intercept.  
R527-450-1. Authority and Purpose.  
(1) The Department of Human Services is authorized to create rules necessary for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is adopted to amend, and enforce rules pursuant to Section 62A-11-107.  
(2) The purpose of this rule is to establish the steps for the interception of a federal tax refund intercept.  

The Office of Recovery Services (ORS) will refer qualified support debts to the federal Office of Child Support Enforcement (OCSE) for offset by federal tax refund intercepts in accordance with 45 CFR 303.72 (2003) and 42 U.S.C. [Section] 664.  
[1] Effective October 1, 2007, all IV-A and non-IV-A child support debts will be submitted for federal tax refund offset for past-due support owed to any child, whether or not the child is a minor at the time of certification or offset.  
[2] IV-A and non-IV-A debts [which] meet certification criteria may be certified and the federal tax refund may be intercepted, even if the obligor is paying on arrearages.  

(1) ORS/CSS will send an annual notice to the obligor notifying the obligor of the amount of the arrearage certified, outlining the obligor's rights, and directing the obligor to contact ORS/CSS if he has questions.  
(2) The annual notice will [advise notify] the obligor and an unobligated spouse of: [his]  
(a) the amount of the arrearage certified;  
(b) the rights of the unobligated spouse;  
(c) the obligor's right to contest the amount of past-due support;  
(d) [and of his] the obligor's right to an administrative review; and  
(e) how the obligor may contact ORS with questions.  
R527-450-34. Earned Income Credit.  
(1) ORS/CSS will refund the portion of the obligor's intercepted federal tax refund that results from an earned income credit[,] if the obligor makes a written request and includes a copy of the federal tax return.  
(2) If the intercept payment has been credited to a non-IV-A case and has disbursed to the family, the request will be denied.  

R527-450-45. Distribution of Collections.  
[1] Any money collected through the tax refund offset process can be applied only to the arrearage certified.  
[2] Collections received through federal tax refund intercept will be applied to satisfy certified IV-A and foster care arrearages before non-IV-A arrearages.  
[3] On non-IV-A cases, the federal tax intercept payments will be held for at least 30 days but not more than 180 days before being disbursed to the obligee.  
[4] In the event that the Department of the Treasury, Financial Management Service (FMS) Bureau of the Fiscal Service (BFS) reclaims money that has been refunded to a non-IV-A obligee, that obligee will be required to repay the state the amount reclaimed by FMS/BFS.  

R527-450-56. Deleting or Modifying a Federal Tax Certification.  
[1] If the total amount certified for IV-A and non-IV-A is reduced to zero after the certification, ORS/CSS will delete the obligor from the certification list.  
[2] If the obligor's arrearage increases or decreases, ORS/CSS will change the certification amount accordingly.  

KEY: alimony, child support.
NOTICES OF PROPOSED RULES

General Information

2. Rule or section catchline:
R527-920. Mandatory Disbursement to Obligee Through Electronic Funds Transfer

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Administrative Rulewriting Manual.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is being amended to meet the standards found in the Administrative Rulewriting Manual, pursuant to Executive Order No. 2021-12.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

B) Local governments:
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to 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):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons.

F) Compliance costs for affected persons
(How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

G) Comments by the department head on the fiscal impact this rule may have on businesses
(Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

6. A) 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.)

<table>
<thead>
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<tbody>
<tr>
<td><strong>Fiscal Cost</strong></td>
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<tr>
<td>State Government</td>
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<td>Local Governments</td>
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<td>Small Businesses</td>
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<td>Non-Small Businesses</td>
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<tr>
<td>Other Persons</td>
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<tr>
<td><strong>Total Fiscal Cost</strong></td>
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<tr>
<td><strong>Fiscal Benefits</strong></td>
</tr>
</tbody>
</table>
NOTICES OF PROPOSED RULES

R527-920-1. Authority and Purpose.
(1) [Section 62A-11-107 authorizes the Office of Recovery Services/Child Support Services (ORS/CSS) to adopt, amend, and enforce rules. Section 62A-11-704 authorizes ORS/CSS to make rules to allow exceptions to mandatory disbursements by electronic funds transfer. The Department of Human Services is authorized to create rules necessary for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.]

(2) The purpose of this rule is to outline the procedures for establishing electronic funds transfers to an obligee(s) and to specify appropriate exceptions to the requirement for ORS/CSS to make disbursements by electronic funds transfer [as allowed in] pursuant to Section 62A-11-704.


(1) ORS/CSS will notify an obligee(s) that have [has] an enforceable support order(s) of the available options for receiving electronic funds transfers. [Written information about electronic funds transfer options will be sent to the best available addresses for eligible obligees.]

(2) Written information about electronic funds transfer options will be sent to the best available address for an eligible obligee.

(3) [Written information about electronic funds transfer options will be sent at the following points in time if an obligee has not already arranged for electronic funds transfers: In a case where the obligee has not already arranged for an electronic funds transfer, written information about electronic funds transfer options will be sent when one of the following occurs:

(a) When Section 62A-11-704, mandating disbursement through electronic funds transfers, is implemented by ORS/CSS;

(b) When ORS establishes a first-time support order [is opened with ORS/CSS that is accompanied by an enforceable support order; or

(c) When ORS opens a new case [is opened with ORS/CSS] for an open case, [with ORS/CSS];

(d) When an established account for receiving electronic funds transfers is no longer appropriate for future transfers; or

(e) When a previously selected method for receiving electronic funds transfers will no longer be offered by ORS/CSS.]

(4) In a case where the obligee has previously enrolled in the electronic funds transfer service, written information about electronic funds transfer options will be [sent to obligees that have previously enrolled in the service] provided in the following situations:

(a) When a previously[established account for receiving electronic funds transfers is no longer available to the obligee for future transfers; or]

(b) When ORS no longer offers a [previously-selected, previously selected method for receiving electronic funds transfers, will no longer be offered by ORS/CSS.]

(5) The obligee may designate their preferred method to receive electronic payments by indicating their preference and returning the form to ORS. Upon receiving the written information about electronic funds transfer options, each obligee will be allowed to select from the available options and return the form to ORS/CSS to indicate his or her preferred method for receiving electronic payments. If an obligee fails to indicate a preference or fails to provide the necessary information to establish the preferred method of electronic funds transfer within sixty days of the date on the written notice, ORS/CSS has the option of enrolling the obligee in a plan to receive payments in an account that may be accessed through the use of an electronic access card.

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
Total Fiscal Benefits $0 $0 $0
Net Fiscal Benefits $0 $0 $0

B) Department head approval of regulatory impact analysis:

The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

Agency Authorization Information

Agency head or designee, and title: Tracy Gruber, Executive Director  

Date: 11/29/2021

R527-920. Mandatory Disbursement to Obligee Through Electronic Funds Transfer.
If, within 60 days of the date on the written notice, the obligee fails to show a preference of payment or fails to provide the necessary information to establish the preferred method of electronic funds transfer, ORS may enroll the obligee in a plan to receive payments in an account accessible by an electronic access card.

Until the electronic funds transfer account is established, payments will be disbursed by paper checks. Payments will be disbursed by paper checks while the method of electronic funds transfer is established.

R527-920-3. Exceptions.

(1) Exceptions to mandatory disbursements through electronic funds transfer are allowed as follows:
   (a) [F] for a period of no more than 60 days after a case is opened with an enforceable support order;
   (b) [F] for a period of no more than 60 days after a first-time support order is established;
   (c) [E] for a period of no more than 60 days while an obligee changes the account to be used for receiving future electronic funds transfers;[or,
   (d) [E] for an indefinite period of time if an obligee resides in a foreign country and an electronic funds transfer cannot be facilitated; or,
   (e) for an indefinite period of time if the obligee is not bankable by a financial institution or eligible for any electronic payment program or electronic access card offered by ORS.

(2) The ORS director or [ORS/CSS] deputy [D] director may approve additional exceptions to mandatory disbursements through electronic funds transfers on a case-by-case basis if the obligee presents a request in writing and can demonstrate that electronic funds transfers would result in an undue hardship to that obligee. The ORS director or [ORS/CSS] deputy [D] director will determine the duration of the exception based on the individual circumstances.

(3) Disbursements through electronic funds transfer will not be mandatory for ORS[CSS] if technical problems prevent successful electronic disbursement within the federally-mandated disbursement time frames found in 45 CFR 302.32.

KEY: electronic funds transfer, child support
Date of Last Change: 2022[June 27, 2008]
Notice of Continuation: March 23, 2018

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal and Reenact
Ref (R no.): R590-155
Filing ID 54149

Agency Information
1. Department: Insurance
   Agency: Administration
   Room no.: Suite 2300
   Building: Taylorsville State Office Building
   Street address: 4315 S 2700 W
   City, state and zip: Taylorsville, UT 84129

Mailing address: PO Box 146901
City, state and zip: Salt Lake City, UT 84114-6901

Contact person(s):
Name: Steve Gooch
Phone: 801-957-9322
Email: sgooch@utah.gov

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

General Information

2. Rule or section catchline:
R590-155. Utah Life and Health Insurance Guaranty Association Summary Document

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
This rule is being repealed and reenacted in compliance with Executive Order No. 2021-12. During the review of this rule, the Insurance Department (Department) discovered a significant number of minor issues that needed to be amended and determined that a repeal and replace was the proper method.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The majority of the changes are being done to fix style issues to bring the rule text more in line with current rulewriting standards. Other changes make the language of this rule more clear, update Section R590-155-5 to use the Department's current language, and remove Section R590-155-4 because penalties are already provided for in statute. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

   A) State budget:
   There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions.

   B) Local governments:
   There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.

   C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.

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

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and will not affect 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):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

6. A) 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.)

<table>
<thead>
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<th>Fiscal Cost</th>
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<tr>
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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
Total Fiscal Benefits $0 $0 $0
Net Fiscal Benefits $0 $0 $0

B) Department head approval of regulatory impact analysis:

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-2-201 | Section 31A-28-119

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

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Steve Gooch, Public Information Officer
Date: 11/22/2021

R590, Insurance, Administration.
Section 155.1. Authority.
This rule is promulgated pursuant to:
(1) Subsection 31A-2-201(3)(a), in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title; and
R590-155-2. Purpose and Scope.

(1) The purpose of this rule is to specify the form and content of the summary and disclaimer document for insurers to disclose to policy or contract holders the extent that contractual guarantees are not covered or have limited coverage by the Utah Life and Health Insurance Guaranty Association as required by Section 31A-28-119.

(2) The rule shall apply to all insurance transactions in this state involving life and health insurance policies and annuity contracts as specified in Section 31A-28-103.


(1) An insurer authorized to do business in this state, which is subject to the Utah Life and Health Insurance Guaranty Association Act, shall disclose to its policy or contract holders that its contractual guarantees may not be covered by the Utah Life and Health Insurance Guaranty Association.

(2) For the purpose of this rule, the term “policy or contract holder” shall also mean insureds, subscribers, or certificate holders of group policies.

(3) Disclosure shall be made in writing using the text in the Notice of Protection Provided by the Utah Life and Health Insurance Guaranty Association, which is available on the department website, https://insurance.utah.gov.

(4) Disclosure shall be given before or at the time of delivery of the policy, contract, or certificate. The summary and disclaimer document shall also be available upon request by a policyholder, an enrollee, or a contract holder.

(5) Each insurer shall file with the commissioner a copy of the summary and disclaimer document.

R590-155-4. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-155-5. Severability.

If any provision of this rule, Rule R590-155, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance
Date of Last Change: 2022 June 7, 2019
Notice of Continuation: December 8, 2017
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-28-119

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R600-2 Filing ID 54138

Agency Information

1. Department: Labor Commission
Agency: Administration
Room no.: Third Floor
Building: Heber M. Wells Bldg
Street address: 160 E 300 S
City, state and zip: Salt Lake City, UT 84111

Mailing address: PO Box 146600 City, state and zip: Salt Lake City, UT 84114-6600

Contact person(s):

Name: Chris Hill Phone: 801-530-6113 Email: chill@utah.gov

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

2. Rule or section catchline:
R600-2. Operations

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this rule change is to delete the reference to a St. George Office. The Labor Commission has closed the St. George Office and is handling filings online.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule change removes the reference of office hours for an office in St. George, Utah.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
There will be no cost or savings to the state budget since the St. George Office was closed in June 2021.

B) Local governments:
There will be no cost or savings to local governments since filings are accepted online.

C) Small businesses ("small business" means a business employing 1-49 persons):
There will be no cost or savings to small businesses since filings are accepted online.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There will be no cost or savings to non-small businesses since filings are accepted online.

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 will be no cost or savings to persons other than small businesses, non-small businesses, state or local government entities since filings are accepted online.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There will be no compliance costs for affected person since filings are accepted online.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
There will be no fiscal impact on businesses since filings are accepted online. Jaceson R. Maughan, Commissioner

6. A) 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.)

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Net Fiscal Benefits $0 $0 $0

B) Department head approval of regulatory impact analysis:
The Commissioner of the Labor Commission, Jaceson R. Maughan, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Section 34A-1-104
NOTICES OF PROPOSED RULES

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

A) Comments will be accepted until: 01/15/2022

10. This rule change MAY become effective on: 01/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Jaceson R. Maughan, Commissioner | Date: 11/16/2021 |

R600. Labor Commission, Administration.
R600-2-1. Business Hours.
A. The offices of the Commission shall be open for receipt of official documents between the hours of 8[00] a.m. to 5[00] p.m. Monday through Friday. [The Labor Commission's St. George office shall be open for receipt of official documents between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday.] Commission offices shall not be open for business Saturday or Sunday and on state-recognized holidays.

B. Notwithstanding the 5[00] p.m. filing deadline provided in R600-2-1(A)[above], official documents filed with the Labor Commission will be deemed timely if filed electronically, [t]heither by email or facsimile[)], before midnight on the day the document is due.

KEY: Labor Commission, hours of business
Date of Last Change: 2013[September 23, 2013]
Notice of Continuation: May 5, 2017
Authorizing, and Implemented or Interpreted Law: 34A-1-104

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

| Utah Admin. Code Ref (R no.): | R612-400-5 | Filing ID 54141 |

Agency Information

1. Department: Labor Commission

Agency: Industrial Accidents

Room no.: 3rd Floor

Building: Heber M Wells Building

| Street address: | 160 E 300 S |
| City, state and zip: | Salt Lake City, UT 84111 |

| Mailing address: | PO Box 146600 |
| City, state and zip: | Salt Lake City, UT 84114-6600 |

Contact person(s):

| Name: | Phone: | Email: |
| Ron Dressler | 801-530-6841 | rdressler@utah.gov |
| Chris Hill | 801-530-6113 | chill@utah.gov |

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

General Information

2. Rule or section catchline:
R612-400-5. Premium Rates for the Uninsured Employers’ Fund and the Employers’ Reinsurance Fund

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
Workers’ compensation insurance premiums in Utah include assessments to fund the Employers’ Reinsurance Fund (ERF), the Uninsured Employers’ Fund (UEF), the Workplace Safety Account (WSA), and the Industrial Accident’s Restricted Account (IARA). These assessment rates are reviewed annually and amended as appropriate to ensure the funds remain viable. The proposed change establishes these assessment rates for the 2022 calendar year.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule update establishes the following premium rates for 2022: 0.50% for the UEF and 0% for the ERF. The rates for WSA and IARA are 0.25% and 0.50% respectively and are set by statute.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There will be no impact to the cost or savings to the state budget as the premium assessment rates will be the same as last year.
B) Local governments:

There will be no impact to the cost or savings to local governments as the premium assessment rates will be the same as last year.

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

There will be no impact to the cost or savings to small businesses as the premium assessment rates will be the same as last year.

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

There will be no impact to the cost or savings to non-small businesses as the premium assessment rates will be the same as last year.

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 will be no impact to the cost or savings to other persons as the premium assessment rates will be the same as last year.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no anticipated changes to compliance costs as these premiums are collected and paid each year.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There should be no fiscal impact from this rule change as the premium assessment rates are remaining the same as in 2021. Jaceson R. Maughan, Commissioner

6. A) 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.)

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6. B) Department head approval of regulatory impact analysis:

The Commissioner of the Labor Commission, Jaceson R. Maughan, had reviewed the regulatory impact analysis and approved it.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 59-9-101(2)

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

A) Comments will be accepted until: 01/15/2022

10. This rule change MAY become effective on: 01/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.
Agency Authorization Information

<table>
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<tr>
<th>Agency head or designee, and title:</th>
<th>Jaceson R. Maughan, Commissioner</th>
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</thead>
<tbody>
<tr>
<td>Date:</td>
<td>11/17/2021</td>
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R612-400-5. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.
A. Pursuant to Subsection 59-9-101(2), Sections 59-9-101.3 and 34A-2-202 the workers' compensation premium rates effective January 1, [2021][2022], as established by the Labor Commission, shall be:
1. 0.50% for the Uninsured Employers' Fund; and
2. 0.0% for the Employers' Reinsurance Fund.[6]
B. The premium rates are a percentage of the total workers' compensation insurance premium income as detailed in Subsection 59-9-101(2)(a).

KEY: workers' compensation, insurance, rates, waivers
Date of Last Change: 2022[January 1, 2024]
Notice of Continuation: February 8, 2018
Authorizing, and Implemented or Interpreted Law: 59-9-101(2)

NOTICE OF PROPOSED RULE

<table>
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<th>Type of Rule:</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>Utah Admin. Code</td>
<td>R671-301</td>
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<td>Ref (R no.):</td>
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Agency Information
1. Department: Pardons (Board of)
2. Agency: Administration
3. Street address: 448 E. Winchester Street, Suite 300
4. City, state and zip: Murray, UT 84107

Contact person(s):
Name: Mike Haddon
Phone: 801-261-6467
Email: mikehaddon@utah.gov

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

General Information
1. Rule or section catchline:
R671-301. Personal Appearance

2. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Rule R671-301 was set for review by 01/30/2022. The contents of this rule were reviewed due to the approaching review date. Upon review, it was determined that the text of this rule could be both simplified and clarified. In addition, based on review by the Board's Assistant Attorney General, some statutory citations require update.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The changes amend Rule R671-301 to indicate that an offender has a right to be present for a hearing if housed in the state. Previously, the rule itemized various types of hearings. The amendment simplifies the text to reflect that the offender has a right to be present for all hearing types if housed in Utah. The amendment further clarifies that the offender may ask questions of the hearing official during a personal appearance hearing. It adopts current practice by delineating specifically to whom the offender may ask questions. The offender may only ask questions of the hearing official. Minor adjustments are included in the amendment by substituting the word "request" for the word "seek," and appropriately broadening who the Board can request a courtesy hearing by changing "custodial state" to "custodial jurisdiction." The amendment also updates a statutory reference from Subsection 63G-3-201(3) to both Subsection 63G-3-201(2) and Subsection 63G-3-201(3). It also updates a statutory reference from Subsection 77-27-9(4)(a) to Subsection 77-27-9(5).

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The changes to this rule will not result in either increased costs or cost savings in the state budget. There is no change to current Board processes. Rather, this rule clarifies that an offender is only allowed to ask questions of the hearing official. Other changes are stylistic. Because there is no change to current processes, there will not be additional costs associated with this proposed rule amendment.

B) Local governments:
The changes to this rule will not result in either increased costs or cost savings to local governments. There is nothing in the amendments that change the current working relationship between the Board and any local governmental entities. Therefore, there will be no fiscal impact on local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
Small businesses would not be involved in these Board decisions unless they are considered a victim of a crime related to the offender. These amendments do not financially impact victims of crime.
D) Non-small businesses (“non-small business” means a business employing 50 or more persons):
Non-small businesses would not be involved in these Board decisions unless they are considered a victim of a crime related to the offender. These amendments do not financially impact victims of crime.

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):
No other persons will be financially impacted by the changes proposed in the amendments to this rule as it does not regulate any other individuals or groups.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
Amendments to this rule do not impact compliance in any way. There will be no compliance costs for those working directly with the Board.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
The changes incorporated in this rule will not have a fiscal impact on any businesses. Carrie Cochran, Chair

6. A) 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.)

<table>
<thead>
<tr>
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Small Businesses $0 $0 $0
Non-Small Businesses $0 $0 $0
Other Persons $0 $0 $0
Total Fiscal Benefits $0 $0 $0
Net Fiscal Benefits $0 $0 $0

B) Department head approval of regulatory impact analysis:
The Chair of the Utah Board of Pardons and Parole, Carrie Cochran, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Subsections 63G-3-201(2) and (3) Subsection 77-27-7(2) and (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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on:
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information
Agency head or designee, and title: Mike Haddan, Director of Administrative Services  Date: 11/15/2021

R671. Pardons (Board of), Administration.
R671-301. Personal Appearance.
R671-301-1. Personal Appearance.
[Ac](1) By statute, the Board or its designee is required to convene at least one public hearing for [all]each offender[s] except those serving life without parole or a death sentence. In rehearings, the offender is afforded [all the] rights and considerations afforded in
the initial hearing except as provided by other Board rules because the setting of a parole date is still at issue.

[1.](a) An offender has the right to be present at a parole grant, rehearing, or parole violation hearing if the offender is housed in the state (LCA Section 77-27-7). The offender may speak, present documents, ask questions of the hearing official, and answer questions. In the event an offender waives this right to appear, or refuses to personally attend the hearing, the Board may proceed with the hearing and issue a decision.

[2.](b) The Board may request the Department of Corrections to return the offender to the state for the hearing.

[3.](c) The Board may seek request that a courtesy hearing be conducted by the appropriate paroling authority of the custodial jurisdiction. A request along with a complete copy of Utah's record shall be forwarded for the hearing. [All records reported, a report of the hearing, and a recommendation shall be returned to the Utah Board for final action.

[4.](d) An individual Board member or designee may travel to the custodial facility and conduct the hearing, record the proceeding, and make a recommendation for the Board's final decision.

[5.](e) A hearing may be conducted by videoconference or conference telephone call.

KEY: inmates, parole

Date of Last Change: 2022
Notice of Continuation: January 30, 2017

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment
Utah Admin. Code Ref (R no.): R671-303 Filing ID 53947

Agency Information
1. Department: Pardons (Board of)
Agency: Administration
Street address: 448 E. Winchester Street, Suite 300
City, state and zip: Murray, UT 84107
Contact person(s):
Name: Mike Haddon
Phone: 801-261-6467
Email: mikehaddon@utah.gov

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

NOTICES OF PROPOSED RULES

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The amended language only clarifies and makes small adjustments to a Board disclosure process. The changes do not materially adjust the way the Board currently operates. Therefore, the changes to this rule will not result in either increased costs or cost savings in the state budget.

B) Local governments:
The changes to this rule will not result in either increased costs or cost savings to local governments. There is nothing in the amendments that change the current working relationship between the Board and any local governmental entities. Therefore, there will be no fiscal impact on local governments.

General Information

2. Rule or section catchline:
R671-303. Information Received, Maintained or Used by the Board

3. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):
Rule R671-303 was set for review by 01/30/2022. The contents of this rule were reviewed due to the approaching review date. Upon review, it was determined that sections of this rule required clarification and some modification. In addition, based on review by the Board of Pardons and Parole's (Board) Assistant Attorney General, some statutory citations require update.

4. Summary of the new rule or change
(What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The amendments to Rule R671-303 are primarily to simply and clarify the processes outlined in this rule. One adjustment eliminates the 14 day time requirement for an offender to submit additional information for consideration by the Board. Adjustment also makes it clear that the Board will receive information provided by the Department of Corrections. The amendment addresses issues related to photographs submitted for consideration by the Board. It makes clear that photographs will only be received in extraordinary situations. Where photographs are received by the Board, the offender will be allowed to view them during a hearing, but the offender will not be allowed retain copies of the photographs. The Board is also permitted to strike from the offender's record and refuse to accept any material it considers inflammatory. Finally, the amendment also updates statutory references by eliminating the incomplete reference to Chapter 63G-2 and adds a reference to Subsection 77-27-7(6).

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The amended language only clarifies and makes small adjustments to a Board disclosure process. The changes do not materially adjust the way the Board currently operates. Therefore, the changes to this rule will not result in either increased costs or cost savings in the state budget.

B) Local governments:
The changes to this rule will not result in either increased costs or cost savings to local governments. There is nothing in the amendments that change the current working relationship between the Board and any local governmental entities. Therefore, there will be no fiscal impact on local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
Small businesses would not be involved with the Board unless they are considered a victim of a crime related to the offender. This rule and the proposed changes do not change any processes or interactions between the Board and victims of crime. Therefore, there will be no financial impact on small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
Non-small businesses would not be involved in these Board decisions unless they are considered a victim of a crime related to the offender. This rule and the proposed changes do not change any processes or interactions between the Board and victims of crime. Therefore, there will be no financial impact on 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):
The amended language makes minor adjustments to a Board disclosure process related to offenders. These changes do not materially adjust the way the Board currently operates. Therefore, the changes to this rule will not result in a financial impact on other persons or entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
Amendments to this rule do not impact compliance for offenders in any way. They will be helpful to offenders in their understanding of disclosure processes. There will be no compliance costs for those working directly with the Board due to changes within this rule.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
The changes incorporated in this rule will not have a fiscal impact on any businesses. Carrie Cochran, Chair

6. A) 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.)

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<thead>
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Small Businesses $0 $0 $0
Non-Small Businesses $0 $0 $0
Other Persons $0 $0 $0
Total Fiscal Cost $0 $0 $0

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
Total Fiscal Benefits $0 $0 $0
Net Fiscal Benefits $0 $0 $0

B) Department head approval of regulatory impact analysis:
The Chair of the Utah Board of Pardons and Parole, Carrie Cochran, has reviewed and approved this fiscal analysis.

Citation Information
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:
Subsection 77-27-7(6)

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. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until:
01/14/2022

10. This rule change MAY become effective on:
01/21/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.
R671. Pardons (Board of), Administration.  
R671-303. Information Received, Maintained or Used by the Board.  
R671-303-1. Information Received, Maintained or Used by the Board.

(1) Offender [A] access to [I] information
   (a) Absent a security or safety concern, as determined by
      the Board, the Board will provide the offender [will be provided]
      access to information the Board will consider [being considered by
      the Board] and given an opportunity to respond to such information,
      whenever the Board sets or extends the offender's parole or release
      date. [4H] The Board will provide the offender a written summary
      of information being considered if [determined offender] access to
      information presents a security or safety concern; the offender
      will be provided a written summary of the material information being
      considered.  
   (b) The Board, upon request or upon its own motion, may;
      (i) continue a hearing; or
      (ii) [te—to] allow the offender to submit [submission of]
      additional documentation or information. [The Board will consider]
      for consideration pursuant to the Board's order; any relevant facts
      obtained at the hearing or later submitted by the offender, provided
      such later submitted information is received within fourteen [(14]
      days following the hearing].
   (c) The Board shall;
      (i) [will] provide an offender with a copy of the records not
      provided for previous hearings and contained in the offender's
      [file] record at least three days prior to any personal appearance
      hearing in which a parole or release date may be fixed or extended
      by the Board;]
      (ii) at the beginning of the hearing, provide [A] any
      additional information not provided under Subsection (1)(c)(i)
      obtained by the Board after this initial disclosure [will be provided to
      the offender at the beginning of the hearing];
      (iii) allow [In such event, the offender [will be given] an
      opportunity to review the supplemental information before the
      hearing proceeds[ing]; in circumstances described under Subsection
      (1)(c)(iii)]; and
      (iv) proceed with the hearing as scheduled [if the
      offender requests no additional time for review as described under
      Subsection (1)(c)(iii)]; as requested by the offender, the hearing
      will proceed as scheduled.
   (2) Submission of [I] information
      (a) Other than [concise and brief letters, or] statements by
      the offender or information the Department of Corrections
      (Department) submits, all other materials, briefs or written
      memoranda or argument submitted by or on behalf of any person,
      in preparation for a hearing, [excluding commutation hearings
      governed by Rule R671-312(j)], shall be limited to no more than five
      (b) In extraordinary circumstances, [2] photographs or
      electronic images may be submitted [but should—] and must be
      relevant to the offense. The Department [of Corrections] limits the
      number of photographs or electronic images that an inmate may
      possess and photographs or electronic images of victims are
      contraband. [Therefore, The Board will disclose accepted
      photographs or electronic images at the beginning of a hearing. The
      offender may view the photographs or electronic images but not
      retain them. [As noted in section (1)] Pursuant to Subsection R671-
      303-1(1)(b), the offender may request additional time to respond
      or submit supplemental information.
      (c) Submissions by legal counsel for or on behalf of an
      offender must be received by the Board no later than seven [(7)] days
      prior to any scheduled hearing.
      (d) The Board reserves the right to strike from the
      offender's [file] record, and to refuse to accept or consider any
      material or submissions [which] that are irrelevant, defamatory,
      inflammatory, or [which] do not otherwise conform to this rule.

KEY: inmates' rights, inmates, parole, records

Date of Last Change: 2022 April 7, 2015
Notice of Continuation: January 30, 2017
Authorizing, and Implemented or Interpreted Law: 63G-27-27-7(6)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Ref (R no.):  R671-304  Filing ID 53948

Agency Information

1. Department: Pardons (Board of)

Agency: Administration

Street address: 448 E. Winchester Street, Suite 300

City, state and zip: Murray, UT 84107

Contact person(s):

Name: Mike Haddon
Phone: 801-261-6467
Email: mikehaddon@utah.gov

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

General Information

2. Rule or section catchline:

R671-304. Hearing Record

3. Purpose of the new rule or reason for the change

(Why is the agency submitting this filing?):

Rule R671-304 was set for review by 01/30/2022. The contents of this rule were reviewed due to the approaching review date. Upon review, it was determined that the text of this rule could be both simplified and clarified. In addition, based on review by the Board’s Assistant Attorney General, some statutory citations require update.
4. **Summary of the new rule or change** (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The changes amend Rule R671-304 to clarify that anyone requesting a recording of a Board hearing may submit an affidavit indicating they are unable to pay a fee associated with generating a copy of the recording. It makes charging a fee for a requested recording permissive rather than a requirement by changing a "shall" to "may." The amendment also updates a statutory reference from Subsection 77-27-9(4)(a) to Subsection 77-27-9(5).

**Fiscal Information**

5. **Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

A) **State budget:**

The changes to this rule will not result in either increased costs or cost savings in the state budget. The change allows the Board to not charge a fee for a hearing recording requested by an individual. However, so few requests are made that require copying the hearing to physical digital media, that this minor adjustment will not create savings or additional costs for the Board.

B) **Local governments:**

The changes to this rule will not result in either increased costs or cost savings to local governments. There is nothing in the amendments that change the current working relationship between the Board and any local governmental entities. Therefore, there will be no fiscal impact on local governments.

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

Small businesses would not be involved with the Board unless they are considered a victim of a crime related to the offender. At most, there could be less of a financial burden on a victim because the changes no longer require the Board to charge a fee for hearing reproduction.

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

Non-small businesses would not be involved in these Board decisions unless they are considered a victim of a crime related to the offender. At most, there could be less of a financial burden on a victim because the changes no longer require the Board to charge a fee for hearing reproduction.

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):

No other persons will be financially impacted by the changes proposed in the amendments to this rule. At most, there could be less of a financial burden on other persons or entities because the changes no longer require the Board to charge a fee for hearing reproduction.

F) **Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

The rule itself does require a request for the hearing reproduction fee waiver, due to an inability to pay, to be affirmed by an affidavit. However, this requirement is not adjusted or modified by the amendments.

G) **Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

The changes incorporated in this rule will not have a fiscal impact on any businesses. Carrie Cochran, Chair

6. A) **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.)

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**Fiscal Benefits**

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NOTES OF PROPOSED RULES

**Agency Authorization Information**

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<th>Mike Haddon, Director of Administrative Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date:</td>
<td>11/23/2021</td>
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**Citation Information**

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

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<td>77-27-8</td>
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<td>77-27-9(5)</td>
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**General Information**

2. Rule or section catchline:

R671-305. Board Decisions and Orders

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Rule R671-305 was set for review by 01/30/2022. The contents of this rule were reviewed due to the approaching review date. Upon review, it was determined that additional types of decisions made by the Board of Pardons and Parole (Board) should be incorporated into this rule. In addition, based on review by the Board's Assistant Attorney General, some statutory citations require update.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

(5) An offender or any member of the public may request, upon written request[,] a copy of the recording in writing. [A request for the recording requires that the record be copied to an electronic or digital medium, the Board may charge a fee, approved by the Legislature, for the copy.]

(a) If the request for the recording requires that the record be copied to an electronic or digital medium, the Board shall charge a fee, approved by the Legislature, for the copy.

(5) An offender or any member of the public may request a copy of the recording, the Board may furnish a copy of the record at no fee, to the offender or any member of the public.

NOTE: government hearings

Date of Last Change: 2022[January 8, 2018]

Notice of Continuation: January 30, 2017

Authorizing, and Implemented or Interpreted Law: 63G-3-201(3); 77-27-1 et seq.; 77-27-8; 77-27-9(4)(a)(5)

**NOTICE OF PROPOSED RULE**

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<th>Amendment</th>
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<td>R671-305</td>
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**Agency Information**

1. Department: Pardons (Board of)

2. Agency: Administration

3. Street address: 448 E. Winchester Street, Suite 300

4. City, state and zip: Murray, UT 84107

5. Contact person(s):

<table>
<thead>
<tr>
<th>Name:</th>
<th>Phone:</th>
<th>Email:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mike Haddon</td>
<td>801-261-6467</td>
<td><a href="mailto:mikehaddon@utah.gov">mikehaddon@utah.gov</a></td>
</tr>
</tbody>
</table>

Please address questions regarding information on this notice to the agency.
The changes amend Rule R671-305 to incorporate redetermination decisions and compassionate release decisions to the types of decisions where the Board will provide a brief rationale for the decision. The amendment also updates a statutory reference from Subsection 63G-3-201(3) to Section 63G-3-201. It also updates a statutory reference from Subsection 77-27-9(4)(a) to Subsection 77-27-9(5). Finally, the amendment eliminates the statutory reference to Subsection 77-27-10.

## Fiscal Information

### 5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

<table>
<thead>
<tr>
<th>A) State budget:</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>The changes to this rule will not result in either increased costs or cost savings in the state budget. These are decisions the Board of Pardons and Parole currently conducts and provides a rationale for their decision. Because there is no change to current processes, there will not be additional costs associated with this proposed rule amendment.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B) Local governments:</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>The changes to this rule will not result in either increased costs or cost savings to local governments. There is nothing in the amendments that change the current working relationship between the Board and any local governmental entities. Therefore, there will be no fiscal impact on local governments.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>C) Small businesses (&quot;small business&quot; means a business employing 1-49 persons):</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Small businesses would not be involved in these Board decisions unless they are considered a victim of a crime related to the offender. These amendments do not financially impact victims of crime.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D) Non-small businesses (&quot;non-small business&quot; means a business employing 50 or more persons):</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-small businesses would not be involved in these Board decisions unless they are considered a victim of a crime related to the offender. These amendments do not financially impact victims of crime.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>E) Persons other than small businesses, non-small businesses, state, or local government entities (&quot;person&quot; means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No other persons will be financially impacted by the changes proposed in the amendments to this rule as it does not regulate any other individuals or groups.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Amendments to this rule do not impact compliance in any way. There will be no compliance costs for those working directly with the Board.</td>
<td></td>
</tr>
</tbody>
</table>

### G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

The changes incorporated in this rule will not have a fiscal impact on any businesses. Carrie Cochran, Chair

### 6. A) 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

<table>
<thead>
<tr>
<th>Fiscal Cost</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Government</td>
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<td>$0</td>
</tr>
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<td>Local Governments</td>
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<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>
<tr>
<td><strong>Total Fiscal Cost</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
</tr>
</tbody>
</table>

#### Fiscal Benefits

<table>
<thead>
<tr>
<th>Fiscal Benefits</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Government</td>
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<td>Local Governments</td>
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</tr>
<tr>
<td>Other Persons</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total Fiscal Benefits</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
<td><strong>$0</strong></td>
</tr>
</tbody>
</table>

#### Net Fiscal Benefits

<table>
<thead>
<tr>
<th>Net Fiscal Benefits</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td></td>
</tr>
</tbody>
</table>

### B) Department head approval of regulatory impact analysis:

The Chair of the Utah Board of Pardons and Parole, Carrie Cochran, has reviewed and approved this fiscal analysis.
NOTICES OF PROPOSED RULES

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

<table>
<thead>
<tr>
<th>Section</th>
<th>Subsection</th>
</tr>
</thead>
<tbody>
<tr>
<td>63G-3-201</td>
<td>77-27-9(5)</td>
</tr>
</tbody>
</table>

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

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Mike Haddon, Director of Administrative Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date:</td>
<td>11/24/2021</td>
</tr>
</tbody>
</table>

R671. Pardons (Board of), Administration.
R671-305. Board Decisions and Orders.
R671-305-1. Board Decisions and Orders.

The Board will reduce [D] decisions [if the Board will be reduced] to a written order. Orders entered following original hearings, re-hearings, special attention hearings, parole violation hearings, evidentiary hearings, rescission hearings, redetermination decisions, and compassionate release decisions and rescission hearings will be accompanied by [contain a brief rationale for the order. The Board's written orders and rationale statements are public documents. The Board shall provide or mail a [A] copy of the order, and rationale statement if entered, [shall be provided or mailed] to the person who is the subject of the order. The Board shall maintain a copy of [all] orders entered in each case. The Board may publish its orders on its website at its discretion and convenience.

KEY: government hearings

Date of Last Change: 2022[April 7, 2015]
Notice of Continuation: January 30, 2017

Authorizing, and Implemented or Interpreted Law: Art VII, Sec 12; 63G-3-201[4]; 77-27-9(4)(a)(5)(c) 22-27-10

NOTICE OF PROPOSED RULE

<table>
<thead>
<tr>
<th>TYPE OF RULE:</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utah Admin. Code Ref (R no.):</td>
<td>R671-310</td>
</tr>
<tr>
<td>Filing ID</td>
<td>53950</td>
</tr>
</tbody>
</table>

Agency Information

1. Department: Pardons (Board of)

Agency: Administration

Street address: 448 E. Winchester Street, Suite 300

City, state and zip: Murray, UT 84107

Contact person(s):

<table>
<thead>
<tr>
<th>Name:</th>
<th>Phone:</th>
<th>Email:</th>
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</tbody>
</table>

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

General Information

2. Rule or section catchline:

R671-310. Rescission Hearings

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Rule R671-310 was set for review by 01/30/2022. The contents of this rule were reviewed due to the approaching review date. Upon review, it was determined that sections of this rule required clarification and some modification.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The amendments to Rule R671-310 are primarily to simply and clarify the processes outlined in this rule. Rather than specifically referring to offender notification regarding allegations, the adjustment simply indicates the Board of Pardons and Parole (Board) will notify the offender of the basis for considering a rescission which would include allegations and possibly other information. The amendments also clarify rescission processes in the event of an inmate escape. The Board is allowed to continue a hearing when waiting for resolution of criminal or administrative proceedings. Finally, this rule allows the Board to make an interim rescission decision upon receiving a rescission request prior to a rescission hearing.
Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
The amended language makes small adjustments to the Board’s rescission process. The changes do not materially adjust the way the Board currently operates. Therefore, the changes to this rule will not result in either increased costs or cost savings in the state budget.

B) Local governments:
The changes to this rule will not result in either increased costs or cost savings to local governments. There is nothing in the amendments that change the current working relationship between the Board and any local governmental entities. Therefore, there will be no fiscal impact on local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
Small businesses would not be involved with the Board unless they are considered a victim of a crime related to the offender. This rule and the proposed changes do not directly involve victims of crime. Therefore, there will be no financial impact on small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
Non-small businesses would not be involved in these Board decisions unless they are considered a victim of a crime related to the offender. This rule and the proposed changes do not directly involve victims of crime. Therefore, there will be no financial impact on 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):
The amended language makes minor adjustments to the Board’s rescission process related to offenders. These changes do not materially adjust the way the Board currently operates. Therefore, the changes to this rule will not result in a financial impact on other persons or entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
Amendments to this rule do not impact compliance issues in any way. There will be no compliance costs for those working directly with the Board due to changes within this rule.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
The changes incorporated in this rule will not have a fiscal impact on any businesses. Carrie Cochran, Chair

6. A) 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.)

<table>
<thead>
<tr>
<th>Regulatory Impact Table</th>
<th>Fiscal Cost</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
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<tbody>
<tr>
<td>State Government</td>
<td></td>
<td>$0</td>
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<tr>
<td>Other Persons</td>
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<tr>
<td>Total Fiscal Cost</td>
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</tr>
<tr>
<td>Total Fiscal Benefits</td>
<td></td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Net Fiscal Benefits</td>
<td></td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

B) Department head approval of regulatory impact analysis:
The Chair of the Utah Board of Pardons and Parole, Carrie Cochran, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 77-27-5  Section 77-27-6  Section 77-27-11
NOTICES OF PROPOSED RULES

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

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title: Mike Haddon, Director of Administrative Services Date: 11/24/2021

R671. Pardons (Board of), Administration.

R671-310. Rescission Hearings.

R671-310-1. Rescission Hearings.

(1) Any [prior] Board decision may be reviewed and rescinded by the Board at any time [until an] prior to an offender's actual release from custody.

(2) If the rescission of a release or rehearing date is being requested by an outside party,[*]

(a) information shall be provided to the Board establishing the basis for the request[;] and

(b) [upon receipt of such information, the Board may schedule the offender [may be scheduled] for a rescission hearing.]

(3) The Board may[also] review and rescind an offender's release or rehearing date on its own initiative.

(a) Except under extraordinary circumstances, the offender should be notified of [all allegations] the basis for consideration of rescission and the date of the scheduled hearing at least seven calendar days in advance of the hearing.

(b) The offender may waive this period.

(4) In the event of an escape, the Board will rescind the inmate's date upon [official notification of escape from custody and continue the hearing until the inmate is available for appearance,]*

The hearing may be continued pending criminal or administrative proceedings [changes have been] being resolved [and] or until the Board receives appropriate information regarding the escape[has been provided].

(5) The Board may make an interim rescission decision upon receipt of a rescission request and prior to a rescission hearing. [The hearing officer will conduct the hearing and make an interim decision to be reviewed, along with a summary report of the hearing, by the Board members.]

KEY: parole, inmate

Date of Last Change: 2022[February 18, 1998]

Notice of Continuation: January 30, 2017

Authorizing, and Implemented or Interpreted Law: 77-27-5; 77-27-6; 77-27-11

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R671-316 Filing ID 53951

Agency Information

1. Department: Pardons (Board of)

2. Agency: Administration

3. Street address: 448 E. Winchester Street, Suite 300

4. City, state and zip: Murray, UT 84107

Contact person(s):

Name: Mike Haddon Phone: 801-261-6467

Email: mikehaddon@utah.gov

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

General Information

2. Rule or section catchline:

R671-316. Redetermination

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Rule R671-316 was set for review by 01/30/2022. The contents of this rule were reviewed due to the approaching review date. Upon review, it was determined that sections of this rule required clarification and some modification. In addition, based on review by the Board's Assistant Attorney General, some statutory citations require update.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The changes amend Rule R671-316 in three primary ways. First, the amended language allows an offender's legal representative to request a redetermination review. Second, the amendment removes specific language indicating the Board must find significant and material changes in circumstances that were not previously considered to meet redetermination review requirements. This requirement is made more general, allowing the Board to consider redetermination review simply if they find cause to review the previous decision. Third, the amendment requires the Board, once it has reached a decision, to include a brief statement or rationale for the decision. Previously, this was only required if the Board denied the redetermination review request. Finally, the
amendment also updates a statutory reference to include Subsection 63G-3-201(2) in addition to a reference to Subsection 63G-3-201(3).

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The amended language makes small adjustments to a single Board process. These changes do not materially adjust the way the Board currently operates. Therefore, the changes to this rule will not result in either increased costs or cost savings in the state budget.

B) Local governments:

The changes to this rule will not result in either increased costs or cost savings to local governments. There is nothing in the amendments that change the current working relationship between the Board and any local governmental entities. Therefore, there will be no fiscal impact on local governments.

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

Small businesses would not be involved with the Board unless they are considered a victim of a crime related to the offender. This rule and the proposed changes do not change any processes or interactions between the Board and victims of crime. Therefore, there will be no financial impact on small businesses.

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

Non-small businesses would not be involved in these Board decisions unless they are considered a victim of a crime related to the offender. This rule and the proposed changes do not change any processes or interactions between the Board and victims of crime. Therefore, there will be no financial impact on 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):

The amended language makes small adjustments to a single Board process. These changes do not materially adjust the way the Board currently operates. Therefore, the changes to this rule will not result in a financial impact on other persons or entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

Amendments to this rule do not impact compliance for affected persons in any way. There will be no compliance costs for those working directly with the Board with the proposed changes to this rule.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

The changes incorporated in this rule will not have a fiscal impact on any businesses. Carrie Cochran, Chair

6. A) 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.)

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<tr>
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<th></th>
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<td>Net Fiscal Benefits</td>
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</table>

B) Department head approval of regulatory impact analysis:

The Chair of the Utah Board of Pardons and Parole, Carrie Cochran, has reviewed and approved this fiscal analysis.
7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

<table>
<thead>
<tr>
<th>Subsections</th>
<th>Section 77-27-5</th>
<th>Section 77-27-9</th>
</tr>
</thead>
<tbody>
<tr>
<td>63G-3-201(2) and (3)</td>
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title | Mike Haddon, Director of Administrative Services | Date: 11/15/2021 |

R671. Pardons (Board of), Administration.
R671-316. Redetermination.
R671-316-1. Redetermination Review.

1. Redetermination is a process whereby the Department of Corrections (Department), a legal representative of the offender, or [an] the offender may request that the Board review new, material, and significant information, or reconsider a prior decision.

2. Redetermination of a previous decision may be considered if:
   (a) the time requirements of this rule are met;
   (b) the offender has no new criminal convictions since the entry of the decision for which redetermination is sought;
   (c) the offender has no pending major disciplinary violations; and
   (d) the Board [finds that a significant and material change in circumstances has occurred which it has not previously considered][finds cause to review the previous decision].

3. The Department, a legal representative of the offender, or [an] the offender may submit a redetermination request, asking the Board to reconsider a prior decision, if:
   (a) the decision ordered the expiration of a life sentence, and at least ten years have passed since the Board's decision or any subsequent redetermination decision;
   (b) the decision ordered a release, rehearing, or expiration of any sentence not involving the expiration of a life sentence, and at least five years have passed since the Board's decision or any subsequent redetermination decision; or
   (c) the decision set an original hearing for a homicide offense, pursuant to [Utah R. Admin. P.]Subsection R671-201-1(3)(a);
   (ii) the original hearing was set more than [fifteen] 15 years following the offender's arrival at the prison; and
   (iii) at least ten years have passed since the administrative review decision or any subsequent redetermination decision.

4. A redetermination request shall:
   (a) clearly and specifically state the reasons supporting the redetermination request;
   (b) include a current report detailing the offender's case action plan compliance, treatment participation and history, disciplinary history, and current risk assessment; and
   (c) be signed by the offender if not submitted by the Department.

5. If the request for redetermination is not submitted by the Department, the Board may request that the Department review the request, provide any updated institutional, medical, or other report requested by the Board, and make a recommendation regarding the request.

6. The Board may make a decision regarding a redetermination request with or without a hearing.

7. [If the Board denies] When the Board reaches a redetermination [request] decision, [the] that decision shall be accompanied by a brief statement or rationale [giving the reason for the denial].

KEY: parole, inmates
Date of Last Change: 2022[October 15, 2015]
Notice of Continuation: January 30, 2017
Authorizing, and Implemented or Interpreted Law: Art. VII, Sec. 12; 65G-3-201(2) and (3); 77-27-5; 77-27-9

NOTICE OF PROPOSED RULE

<table>
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<tr>
<th>TYPE OF RULE:</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>Utah Admin. Code Ref (R no.):</td>
<td>R907-63-2</td>
</tr>
</tbody>
</table>

Agency Information

1. Department: Transportation
Agency: Administration
Room no.: Administrative Suite, 1st floor
Building: Calvin Rampton
Street address: 4501 S 2700 W
City, state and zip: Taylorsville, UT 84129
Mailing address: PO Box 148455
City, state and zip: Salt Lake City, UT 84114-8455
Contact person(s):
Name: Linda Hull
Phone: 801-965-4253
Email: lhull@utah.gov
The proposed changes also allow the Department to wait for 120-days rather than 60-days before transferring the matter to the office of State Debt Collection.

**Fiscal Information**

5. **Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

A) **State budget:**

The Department does not anticipate the proposed changes will affect the state’s budget appreciably. The changes reflect the amendments the Legislature made to Section 72-7-301 that clarify that section's purpose.

B) **Local governments:**

The Department does not anticipate the proposed changes will affect local governments because this rule does not apply to them.

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

The Department does not anticipate the proposed changes will generally affect small businesses' because the changes reflect the amendments the Legislature made to Section 72-7-301 that clarify that section's purpose.

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

The Department does not anticipate the proposed changes will generally affect non-small businesses' because the changes reflect the amendments the Legislature made to Section 72-7-301 that clarify that section's purpose.

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 does not anticipate the proposed changes will generally impact persons other than small businesses, non-small businesses, state, or local government entities because the changes reflect the amendments the Legislature made to Section 72-7-301 that clarify that section's purpose.

F) **Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

The proposed changes will not cost impacted persons anything because the changes reflect the amendments the Legislature made to Section 72-7-301 that clarify that section's purpose.

G) **Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):
The proposed changes will not have a fiscal impact on businesses because the changes reflect the amendments the Legislature made to Section 72-7-301 that clarify that section's purpose. Carlos M. Braceras, PE, Executive Director has reviewed and approved this fiscal analysis.

6. A) 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.)

<table>
<thead>
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B) Department head approval of regulatory impact analysis: The Executive Director of the Department of Transportation, Carlos M. Braceras, PE, has reviewed and approved this fiscal analysis.

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 72-7-301

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

A) Comments will be accepted until:

01/14/2022

10. This rule change MAY become effective on:

01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Carlos M. Braceras, PE, Executive Director | Date: | 11/23/2021 |

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R907. Transportation, Administration.

(1) Upon notification of damage to the Department's property, the Department shall repair or replace damaged state structures and highway elements.

(2) After the Department repairs or replaces damaged structures and highway elements under Subsection (1), the Department will invoice the owner of the vehicle or object causing the damage the total costs of repairing or replacing the damaged property.

(a) If the person directly responsible for causing the damage does not own the vehicle or object causing the damage, the Department will invoice the person responsible for causing the damage the total costs of repairing or replacing the damaged property as well as the owner.

(b) The owner and operator are jointly and severally liable under Subsection (2) for any damage caused to highway structures and elements by the operation or movement of the vehicle or object.

(3) If a vehicle damages a state structure or highway element, the owner of the vehicle or object causing the damage or the person directly responsible for causing the damage must reimburse the Department for the total cost of repairing the damage. Except for replacing a damaged motor vehicle, the costs described in Subsection (2) may not be reduced based on the depreciated value of the damaged property when the damage occurs.

(4) If the Department does not receive a total amount invoiced in Subsection (2) within 120 days of the date of the invoice, the Department may pursue reimbursement by one of the following means:

(a) The Department may pursue collection of a delinquent account under Sections 63A-3-301 through 63A-3-310, Accounts Receivable Collection.

(b) The Department may tender the account to a collection agency for immediate collection.
(5) In cases where the full payment of an invoice will cause undue financial pressure, the owner of the vehicle or person responsible for the damage may arrange to make installment payments on the debt.

(2) All costs associated with the repair or replacement of the damaged property shall then be invoiced to the owner of the vehicle causing the damage, or to the person directly responsible for the damage.

(3) If the damage is caused by a vehicle, the person responsible for the damage shall reimburse the Department for the full cost of repairing the damage.

(4) If payment is not received by the Department within 60 days of the date of the invoice, the Department may pursue payment by one of the following means:

(a) UDOT may pursue collection of a delinquent account in accordance with Sections 63A-3-301 through 63A-3-310, Accounts Receivable Collection.

(b) The account may be tendered to a collection agency for immediate collection.

(5) In cases where undue financial pressure would be caused by full payment of an invoice, the owner of the vehicle or person responsible for the damage may arrange to make installment payments on the debt.

KEY: bridges, damages, loss recovery, structures
Date of Last Change: 2021 [August 23, 2016]
Notice of Continuation: December 20, 2019
Authorizing, and Implemented or Interpreted Law: 72-7-301; 63A-3-301 through 63A-3-310

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment
Utah Admin. Code Ref (R no.): R940-3 Filing ID 54160

Agency Information

1. Department: Transportation Commission
Agency: Administration
Room no.: Administrative Suite, 1st floor
Building: Calvin Rampton
Street address: 4501 S 2700 W
City, state and zip: Taylorsville, UT 84129
Mailing address: PO Box 148455
City, state and zip: Salt Lake City, UT 84114-8455
Contact person(s):
Name: Linda Hull Phone: 801-965-4253 Email: lhull@utah.gov
Name: Becky Lewis Phone: 801-965-4026 Email: blewis@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

2. Rule or section catchline:
R940-3. State Infrastructure Bank Fund, Prioritization process, Procedures, and Standards for Making Loans or Providing Infrastructure Assistance

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The proposed changes will conform this rule to H.B.151, which passed in the 2021 General Session which added a new project type, "publicly owned infrastructure project," to the eligibility list.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
H.B. 151's definition of a public-owned infrastructure project "means a project to improve water or sewer infrastructure that is owned by a public entity." The bill became law on 05/05/2021. The proposed rule update will provide future flexibility by referencing the code section so that as the Legislature modifies eligible project types, this rule will automatically conform to the changes.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The proposed changes alter the definition of "project" included in this rule to allow public entities to apply for loans from the State Infrastructure Bank (SIB) to construct water or sewer infrastructure projects. The SIB generates money for loans and assistance from numerous sources, including federal grants and interest, and income generated by the fund. Since SIB funds do not come from the state's budget, an increase in the amount of assistance and loans from the SIB the commission can approve will not impact the state's budget.

B) Local governments:
The proposed changes alter the definition of "project" included in this rule to allow public entities to apply for loans from the SIB to construct water or sewer infrastructure projects. A local government must apply for a loan or assistance from the SIB to be affected by the...
proposed changes so the changes will not cause a fiscal impact on local governments.

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

The proposed changes will not have a fiscal impact on small businesses because this rule only applies to the Transportation Commission and public entities.

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

The proposed changes will not have a fiscal impact on non-small businesses because this rule only applies to the Transportation Commission and public entities.

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 proposed changes will not have a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because this rule only applies to the Transportation Commission and public entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

These changes will not affect any person, only public entities, which are not persons.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This proposed rule change will not have a fiscal impact on businesses. Carlos M. Braceras, PE, Executive Director

6. A) 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.)

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B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Transportation, Carlos M. Braceras, PE, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 72-2-202 | Section 72-2-203

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

A) Comments will be accepted until: 01/14/2022

10. This rule change MAY become effective on: 01/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

| Agency head or designee, and title: | Carlos M. Braceras, PE, Executive Director | Date: 11/23/2021 |
(a) A loan from the SIB fund must bear interest at or above the market interest rate available to the state.

(b) Department means Department of Transportation created by Section 72-1-201.

(c) "Public entity" means as the phrase is defined by Section 72-2-201. A public entity is eligible to receive an infrastructure loan or assistance funded by the SIB.

(d) "Transportation project" means as the phrase is defined by Section 72-2-201. A transportation project is eligible for funding by an infrastructure loan or assistance funded by the SIB.

(e) The public entity may pledge [all or a portion] any of a revenue source controlled by the public entity to repay[the repayment of] the loan.

(f) The public entity must repay loans in monthly, quarterly, or yearly installments.

(g) The public entity must repay loans in monthly, quarterly, or yearly installments.

(h) If the applicant does not fully execute the assistance or loan [is not fully executed] within 180 days of the date the application is approved by the commission the commission approves the application the application will expire unless the [public entity]applicant requests[,] and the commission approves a continuation of the terms. Continuations [will be] are limited to a maximum of 180 days each.

R940-3-4. Prioritizing Requests for an Infrastructure Loan[,] or Infrastructure Assistance.

(1) Criteria. The commission will follow a prioritization framework that may include the following criteria to evaluate and prioritize requests for a loan or assistance:

(a) Availability of money in the fund;

(b) evidence the project will encourage, enhance, or create economic benefits to the state or political subdivision;

(c) the likelihood a loan or assistance will enable the project to proceed at an earlier date than would otherwise be possible;

(d) the extent to which assistance will foster innovative public-private partnerships and attract private investment;

(e) the extent to which the project provides a benefit to the state highway system, including safety or mobility improvements;

(f) the [amount of] proposed assistance amount as a percentage of the overall project costs with an emphasis on local and private participation;

(g) the extent to which the project provides intermodal connectivity with public transportation, pedestrian, or nonmotorized transportation facilities; or

(h) other provisions the commission considers appropriate.

(2) Scoring. The commission will apply a framework to determine the score it assigns to qualified projects for prioritization purposes. This framework is located on the department's website[ at this address]: udot.utah.gov/go/SIB and is incorporated by reference.

R940-3-5. Commission Discretion.

The commission may approve a request for a loan or assistance ahead of another request with a higher prioritization score for good cause, as determined by the commission during a public meeting.

KEY: State Infrastructure Bank Fund, SIB loan, SIB assistance, SIB

Date of Last Change: 2022[July 23, 2020]

Notice of Continuation: December 14, 2018

Authorizing, and Implemented or Interpreted Law: 72-2-203

End of the Notices of Proposed Rules Section
NOTICES OF
120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that regular rulemaking procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the 120-DAY RULE is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([example]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (............) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a 120-DAY RULE is not codified as part of the Utah Administrative Code.

The law does not require a public comment period for 120-DAY RULES. However, when an agency files a 120-DAY RULE, it may file a PROPOSED RULE at the same time, to make the requirements permanent.

Emergency or 120-DAY RULES are governed by Section 63G-3-304, and Section R15-4-8.

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NOTICE OF EMERGENCY (120-DAY) RULE

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<tr>
<th>Utah Admin. Code</th>
<th>R614-1-4</th>
<th>Filing ID: 54150</th>
</tr>
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</table>

Agency Information

1. Department: Labor Commission
Agency: Occupational Safety and Health
Room no.: 3rd Floor
Building: Heber M Wells
Street address: 160 E 300 S
City, state and zip: Salt Lake City, UT 84111
Mailing address: PO Box 146650
City, state and zip: Salt Lake City, UT 84114-6650

Contact person(s):
Name: Cameron Ruppe
Phone: 801-530-6898
Email: cruppe@utah.gov

Name: Chris Hill
Phone: 801-530-6800
Email: chill@utah.gov

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

General Information

2. Rule or section catchline: R614-1-4. Incorporation of Federal Standards
3. Effective Date: 11/22/2021
4. Purpose of the new rule or reason for the change:
The purpose of this emergency rule is to protect healthcare employees by adopting Occupational Safety and Health Administration's (OSHA) COVID-19 Healthcare Emergency Temporary Standard (ETS).
5. Summary of the new rule or change:
OSHA issued an ETS to protect healthcare workers from occupational exposure to COVID-19 in settings where people with COVID-19 are reasonably expected to be present. The ETS encompasses requirements for healthcare employers such as having a COVID-19 plan, promoting vaccination, medical management, disinfection procedures, face coverings, physical distancing, personal
Fiscal Information

7. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
There is a cost anticipated to the state budget.
Costs associated with the use of PPE, disinfecting, etc. are a normal part of public sector healthcare settings. Costs are minimal in situations where employees are fully vaccinated, as the requirements for masking and physical barriers are removed.

Costs associated with work removal are as follows:
Employers with 10 or fewer employees on the date that the ETS becomes effective are not required to maintain pay for removed employees.

Employers with fewer than 500 employees must pay the employee's regular pay, up to $1,400 per week, for the first two weeks that the employee is removed. Beginning in the third week, if the employee's removal continues that long, the employer must pay two thirds of the same regular pay the employee would have received if working, up to $200 a day (equivalent to $1,000 per week in most cases).

Employers with 500 or more employees must pay the employee's salary up to $1,000 per week during the entire period of removal, until the employee meets the return to work criteria described below.

Employers with more than 10 employees must also continue to provide the benefits to which the employee is normally entitled (e.g., employer-sponsored health insurance) during the removal period.

B) Local governments:
There is a cost anticipated to local governments.
Costs associated with the use of PPE, disinfecting, etc. are a normal part of public sector healthcare settings. Costs are minimal in situations where employees are fully vaccinated, as the requirements for masking and physical barriers are removed.

Costs associated with work removal are as follows:
Employers with 10 or fewer employees on the date that the ETS becomes effective are not required to maintain pay for removed employees.

Employers with fewer than 500 employees must pay the employee's regular pay, up to $1,400 per week, for the first two weeks that the employee is removed. Beginning in the third week, if the employee's removal continues that long, the employer must pay two thirds of the same regular pay the employee would have received if working, up to $200 a day (equivalent to $1,000 per week in most cases).

Employers with 500 or more employees must pay the employee's salary up to $1,000 per week during the entire period of removal, until the employee meets the return to work criteria described below.

Employers with more than 10 employees must also continue to provide the benefits to which the employee is normally entitled (e.g., employer-sponsored health insurance) during the removal period.

C) Small businesses ("small business" means a business employing 1-49 persons):
There is a cost anticipated to small businesses.
Costs associated with the use of PPE, disinfecting, etc. are a normal part of the healthcare industry. Costs are minimal in situations where employees are fully vaccinated, as the requirements for masking and physical barriers are removed.

Costs associated with work removal are as follows:
Employers with 10 or fewer employees on the date that the ETS becomes effective are not required to maintain pay for removed employees.

Employers with fewer than 500 employees must pay the employee's regular pay, up to $1,400 per week, for the first two weeks that the employee is removed. Beginning in the third week, if the employee's removal continues that long, the employer must pay two thirds of the same regular pay the employee would have received if working, up to $200 a day (equivalent to $1,000 per week in most cases).
Employers with more than 10 employees must also continue to provide the benefits to which the employee is normally entitled (e.g., employer-sponsored health insurance) during the removal period.

D) 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 a cost anticipated to persons other than small businesses, non-small businesses, state, or local government entities.

Costs associated with the use of PPE, disinfecting, etc. are a normal part of the healthcare industry. Costs are minimal in situations where employees are fully vaccinated, as the requirements for masking and physical barriers are removed.

Costs associated with work removal are as follows:

Employers with fewer than 500 employees must pay the employee's regular pay, up to $1,400 per week, for the first two weeks that the employee is removed. Beginning in the third week, if the employee’s removal continues that long, the employer must pay two thirds of the same regular pay the employee would have received if working, up to $200 a day (equivalent to $1,000 per week in most cases).

Employers with 500 or more employees must pay the employee's salary up to $1,400 per week during the entire period of removal, until the employee meets the return to work criteria described below.

Employers with more than 10 employees must also continue to provide the benefits to which the employee is normally entitled (e.g., employer-sponsored health insurance) during the removal period.

E) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There is no cost anticipated to affected persons.

F) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

In order to ensure the standards adopted by UOSH are at least as effective as OSHA, and that healthcare employees are protected from workplace exposure to COVID-19, UOSH is moving to adopt this ETS. In order to maintain Utah's state-plan status, UOSH is required to adopt this ETS from OSHA. Exemptions from masking, distancing, etc. are available for healthcare employees that are fully vaccinated. It is anticipated that many in the healthcare industry have already implemented similar requirements in their workplaces, so the impact should be minimal. Jaceson R. Maughan, Commissioner

Citation Information

8. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 34A-6-104

Incorporations by Reference Information

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

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<thead>
<tr>
<th>Official Title of Materials Incorporated (from title page)</th>
<th>Publisher</th>
<th>Date Issued</th>
</tr>
</thead>
</table>

B) This rule adds, updates, or removes the following title of materials incorporated by references:

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C) This rule adds, updates, or removes the following title of materials incorporated by references:

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</table>
NOTICES OF 120-DAY (EMERGENCY) RULES

Date Issued: June 21, 2021

Agency Authorization Information

Agency head or designee, and title: Jaceson R. Maughan, Commissioner
Date: 11/22/2021


A. The following federal occupational safety and health standards are hereby incorporated:
   1. 29 CFR 1904, July 1, 2020, is incorporated by reference, except 29 CFR 1904.36 and the workplace fatality, injury and illness reporting requirements found in 29 CFR 1904.1, 1904.2, 1904.7 and 1904.39. Workplace fatalities, injuries and illnesses shall be reported pursuant to the more specific Utah standards in subsection 34A-6-301(3)(b)(ii) of the Utah OSH Act and UAC R614-1-5(B)(1).
   2. 29 CFR 1908, July 1, 2015, is incorporated by reference.
   [4][5] 29 CFR 1926.6 and 1926.20 through the end of part 1926, of the July 1, 2020, edition are incorporated by reference.

KEY: safety
Date of Last Change: November 22, 2021
Notice of Continuation: October 19, 2017
Authorizing, and Implemented or Interpreted Law: 34A-6

NOTICE OF EMERGENCY (120-DAY) RULE

Utah Admin. Code Ref (R no.): R634-4 Filing ID: 54154

Agency Information

1. Department: Natural Resources

Agency: Administration
Building: DNR Complex
Street address: 1594 W North Temple
City, state and zip: Salt Lake City, UT 84114

Contact person(s):
Name: Kaelyn Anfinsen
Phone: 801-538-7201
Email: kaelynanfinsen@utah.gov

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

General Information

2. Rule or section catchline:

R634-4. Health Reform – Health Insurance Coverage in State Contracts –Implementation

3. Effective Date:
   11/23/2021

4. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
   Due to confusion in filing at the agency level, the agency failed to file a five-year review and notice of continuation and the penalty was expiration of Rule R634-2. The agency is filing this rule as an emergency rule to place the rule back into effect while a standard rule filing can be completed. The previous rule was Rule R634-2 but because rule numbers cannot be reused, the rule number is now R634-4.

5. Summary of the new rule or change (What does this filing do?):
   This filing is to replace Rule R634-2, Health Reform – Health Insurance Coverage in State Contracts –Implementation, which expired because the five-year review and notice of continuation was not filed by the deadline. The rule number is changed to Rule R634-4 but the text is identical. (EDITOR'S NOTE: The notice of expiration of Rule R634-2 is under ID 51533 in this issue, December 15, 2021, of the Bulletin.)

6. A) The agency finds that regular rulemaking would:
   cause an imminent peril to the public health, safety, or welfare;
   cause an imminent budget reduction because of budget restraints or federal requirements; or
   X place the agency in violation of federal or state law.

B) Specific reasons and justifications for this finding:
   This rule authorizes the agency to establish rules related to health insurance provisions in certain design and construction contracts and by not having an effective rule the Department of Natural Resources (DNR) would be in violation of Subsection 79-2-404(6), Contracting powers of department –Health insurance coverage.

Fiscal Information

7. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
   This emergency rule filing places into effect the rule that had previously been effective without any additional changes. Therefore, DNR has determined that this emergency rule does not create a cost or savings impact to the state budget or DNR's budget since the changes will not increase workload and can be carried out with existing budget.
This rule is authorized under Subsection 79-2-404(6), which directs the Department of Natural Resources to make rules related to health insurance provisions in certain design and/or construction contracts.

R634-4-3. Definitions.

(1) Except as otherwise stated in this rule, terms used in this rule are defined in Section 79-2-404.

(2) In addition:

(a) "Department" means the Department of Natural Resources created in Section 79-2-201.

(b) "Employee(s)" means an "employee", "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

(c) "Executive Director" means the executive director of the department who is appointed under Section 79-2-202, including, unless otherwise stated, the Director's duly authorized designee.

(d) "State" means the State of Utah.

R634-4-4. Applicability of Rule.

(1) Except as provided in Subsections R634-4-4(2) or R634-4-4(3) below, Rule R634-4 applies to all design or construction contracts entered into by the Department, and

(a) applies to a prime contractor if the prime contract is in the amount of $2,000,000 or greater at the original execution of the contract; and

(b) applies to a subcontractor if the subcontract is in the amount of $1,000,000 or greater at the original execution of the contract.

(2) Rule R634-4 does not apply if:

(a) the application of Rule R634-4 jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(3) Rule R634-4 does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection R634-4-4(1).

(4) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection R634-4-4(1) is guilty of an infraction.

R634-4-5. Contractors and Subcontractors to Comply with Section 79-2-404.

(1) All contractors and subcontractors that are subject to the requirement of Section 79-2-404 shall comply with all the requirements, penalties and liabilities of Section 79-2-404.

(2) If a subcontractor of the contractor is subject to Section 79-2-404(2) or Section R634-4-4, the contractor shall:

(a) place a requirement in the subcontract that the subcontractor shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(b) certify to the director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.

R634-4-6. Not Basis for Protest or Suspend, Disrupt, or Terminate Design or Construction.
NOTICES OF 120-DAY (EMERGENCY) RULES

NOTICE OF EMERGENCY (120-DAY) RULE

Utah Admin. Code Ref (R no.): R990-200-5 Filing ID: 54147

Agency Information
1. Department: Workforce Services
   Agency: Housing and Community Development
   Building: Olene Walker Building
   Street address: 140 E 300 S
   City, state and zip: Salt Lake City, UT 84111
   Mailing address: PO Box 45244
   City, state and zip: Salt Lake City, UT 84145-0244
   Contact person(s):
   Name: Amanda B. McPeck Phone: 801-526-9653 Email: ampeck@utah.gov

1. The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by Rule R634-4 or Section 79-2-404:
   (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
   (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt or terminate the design or construction.

R634-4-7. Requirements and Procedures a Contractor Must Follow.
   A contractor (including consultants and designers) must comply with the following requirements and procedures in order to demonstrate compliance with Section 79-2-404:
   (1) Demonstrating Compliance with Health Insurance Requirements. A contractor (including design professional) shall demonstrate compliance with Subsection 79-2-404(5)(a) or (b) at the time of execution of each initial contract described in Subsection 79-2-404(2).
      (a) The compliance is subject to an audit by the Department or the Office of Legislative Auditor General.
      (b) A contractor (including design professional) subject to Subsection 79-2-404(2) shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and employees' dependents.
      (c) Such demonstration shall be a certification on the form provided by the Department. The form shall also require compliance with Section R634-4-5(2) regarding subcontractors.
      (d) The actuarially equivalent determination required for the qualified health insurance coverage is met by the contractor if the contractor provides the Department with a written statement of actuarial equivalency attached to the certification, which is not more than one year old, regarding the contractor's offer of qualified health coverage from an actuary selected by the contractor or the contractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates. The Contractor is responsible for collecting the statements as required by law from any of the subcontractors at any tier that must do so.
   (2) For purposes of Rule R634-4-7, actuarially equivalency is achieved by meeting or exceeding the commercially equivalent benchmark for the qualified health insurance coverage identified in Subsection 79-2-404(1)(c) that is provided by the Department of Health, in accordance with Section 26-40-115(2).
   (3) The health insurance must be available upon the first day of the calendar month following sixty (60) days from the date of hire.
   (4) Any contract subject to R634-4 shall contain a provision requiring compliance with Rule R634-4 from the time of execution and throughout the duration of the contract.
   (5) Hearing and Penalties.
      (a) Hearing. Any hearing for any penalty under Rule R634-4 conducted by the Department shall be conducted in the same manner as any hearing required for a suspension or debarment.
      (b) Penalties that may be imposed by Department. The penalties that may be imposed by the Department if a contractor, consultant, subcontractor or subconsultant, at any tier, intentionally violates the provisions of Section 79-2-404 or Rule R634-4 include:
         (i) a three-month suspension of the contractor or subcontractor from entering into future contracts with the State upon the first violation, regardless of which tier the contractor or subcontractor is involved with the future design and/or construction contract;
         (ii) a six-month suspension of the contractor or subcontractor from entering into future contracts with the State upon the second violation, regardless of which tier the contractor or subcontractor is involved with the future design and/or construction contract;
         (iii) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and
         (iv) monetary penalties which may not exceed 50 percent of the amount necessary to purchase qualified health insurance coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract.

R634-4-8. Not Create any Contractual Relationship with any Subcontractor or Subconsultant.
   Nothing in Rule R634-4 shall be construed as to create any contractual relationship with any subcontractor or subconsultant.

KEY: health insurance, contractors, contracts, contract requirements
Date of Last Change: November 23, 2021
Authorizing, and Implemented or Interpreted Law: 79-2-404
An emergency rule change went into effect on 08/02/2021, which temporarily suspended Subsection R990-200-5(7). A rule amendment published in the November 15, 2021, issue of the Bulletin, proposed additional changes to Section R990-200-5. When the current emergency rule expires on 11/30/2021, the old rule will go back into effect before the public comment period for the rule amendment ends. Under the current rule, if a recipient of a volume cap allocation needs additional volume cap, it must first relinquish the volume cap it has already been awarded and submit a new application. At that point, the previously allocated volume cap goes back in the fund and the recipient will be graded as a new applicant. Depending on the number and score of the pending applications, there may not be enough available volume cap for the recipient to receive the additional volume cap needed, leaving the recipient not only without the additional volume cap, but without any volume cap at all. There is, therefore, a risk that compliance with the current rule will impair or prevent the completion of worthy projects in the public interest. This emergency rule change allows the Private Activity Bond Review Board to award additional volume cap as appropriate, until the amended rule can be enacted after public comment. (EDITOR’S NOTE: The proposed amendment to Rule R990-200 is under ID 54023 in the November 15, 2021, issue of the Bulletin.)

This rule change eliminates the need for a recipient to relinquish a volume cap allocation before submitting an application for a larger allocation. This rule change allows the Private Activity Bond Review Board to award additional volume cap as appropriate, without the need for the recipient to relinquish its initial allocation or complete a new application.

Various recipients who have already been awarded a volume cap will need to request additional allocations at the 12/08/2021 meeting of the Bond Review Board, but the emergency rule rescission currently in place expires on 11/30/2021. If this emergency rule is not extended, those recipients would be required to relinquish their existing allocation before receiving the additional amount. Failure to amend this rule on an emergency basis would therefore negatively affect the public welfare by resulting in the loss of significant housing developments designed to serve the area’s low-income residents. The emergency rule will be effective only until the effective date of the amended rule published in the November 15, 2021, Bulletin.

This emergency rule change is not expected to have any fiscal impact on state revenues or expenditures. There are no additional state employees or resources needed to oversee this rule change. This rule change will not increase workload and can be carried out with existing budget. This rule change does not change the current available bond cap.

This emergency rule change may have a positive fiscal impact for a project that is able to receive additional funding with this rule change. However, this rule change does not change the current available bond cap.

This emergency rule change may have a positive fiscal impact for a project that is able to receive additional funding with this rule change. However, this rule change does not change the current available bond cap.

This emergency rule change is not expected to create any compliance costs for affected persons because the change does not create any new administrative fees.

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

General Information

2. Rule or section catchline:

R990-200-5. Criteria for Allocating Volume Cap

3. Effective Date:

11/30/2021

4. Purpose of the new rule or reason for the change
(Why is the agency submitting this filing?):

5. Summary of the new rule or change
(What does this filing do?):

6. A) The agency finds that regular rulemaking would:

7. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

B) Local governments:

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

D) 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):

E) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

Various recipients who have already been awarded a volume cap will need to request additional allocations at the 12/08/2021 meeting of the Bond Review Board, but the emergency rule rescission currently in place expires on 11/30/2021. If this emergency rule is not extended, those recipients would be required to relinquish their existing allocation before receiving the additional amount. Failure to amend this rule on an emergency basis would therefore negatively affect the public welfare by resulting in the loss of significant housing developments designed to serve the area’s low-income residents. The emergency rule will be effective only until the effective date of the amended rule published in the November 15, 2021, Bulletin.

Fiscal Information

A) State budget:

B) Local governments:

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

D) 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):

E) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

This emergency rule change is not expected to create any compliance costs for affected persons because the change does not create any new administrative fees.
F) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This emergency rule change will have a positive fiscal impact on businesses that qualify for additional funding but will not change the available bond cap. Casey Cameron, Executive Director

Citation Information

8. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 35A-8-2104

Agency Authorization Information

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<tr>
<th>Agency head or designee, and title:</th>
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<tr>
<td>Casey Cameron, Executive Director</td>
<td>11/16/2021</td>
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R990. Workforce Services, Housing and Community Development.

R990-200. Private Activity Bonds.


(1) Private activity bond volume cap allocations are made each calendar year based upon available volume cap.

(a) The decision whether to allocate volume cap to an applicant shall be determined by the Board of Review, in its sole discretion.

(b) Allocations are not made on a first-come-first-served basis.

(c) Each complete application submitted before the deadline will be evaluated and scored in comparison with other applications for the same type of project use. The weight each evaluation criteria is given is as identified on the score sheet approved by the Board of Review.

(d) The Private Activity Bond program staff and consultants under contract with the Board of Review will evaluate and score each application. In the event demand for funding exceeds the available volume cap, applications will be numerically ranked for the purpose of allocation.

(e) When considering multiple applications at a meeting, the Board of Review may choose to award each applicant an equal share, pro rata share, priority for multi-family housing or other classification, or other division of available volume cap.

(2) When deciding to allocate volume cap to an applicant, the Board of Review shall consider the criteria outlined in Section 35A-8-2105 and the following additional criteria:

(a) timely submission of completed application;

(b) timely payment of applicable fees;

(c) applicant's experience in successfully completing projects utilizing private activity bonds;

(d) project financing, including executed letters of intent for debt and equity funding;

(e) project readiness, including required public entity approvals, site ownership, and architect and construction contracts;

(f) timely response to any questions raised by the Board of Review and Private Activity Bond program staff;

(g) status of project's financing at time of application;

(h) appointment of bond counsel;

(i) letter from bond counsel opining the project qualifies for private activity bonds;

(j) appointment of investment banker or, if private placement, buyer of the bonds;

(k) detailed commitment letters from financial entities involved;

(l) ability to cause bonds to be issued within 12 months of allocation;

(m) past history of forfeited allocation commitments;

(n) length of tax-exempt bond amortization; and

(o) other factors considered appropriate by the Board of Review.

(3) Multi-Family Housing applicants must meet the criteria of the Low-Income Housing Tax Credit Program administered by the Utah Housing Corporation. In addition to the criteria in R990-200-5(2), the Board of Review shall consider the following criteria when deciding to allocate volume cap to Multi-Family Housing applicants:

(a) bond amount per unit;

(b) bond amount per affordable unit;

(c) the percentage, in relation to the group of applications currently being evaluated, of the private activity bond allocation being requested;

(d) percentage of public financing, including the value of grants, loans, fee waivers, and concessions, but excluding housing tax credits;

(e) total cost per unit and per unit square footage;

(f) percentage of developer fee contributed to project;

(g) percentage of affordable units;

(h) percentage of special needs units;

(i) cash flow per unit;

(j) percentage of taxable bonds;

(k) location, with preference for projects located in:

(i) underserved areas,

(ii) communities without the same type of projects, and

(iii) difficult to develop areas as defined by HUD;

(l) project characteristics, including:

(i) day care,

(ii) education center,

(iii) mixed income projects, with both affordable and market rate units, and

(iv) size of proposed project;

(m) mitigation of environmental issues, including installing radon gas extraction fans or removing the source of radon; and

(n) acquisition, rehabilitation, and remediation of buildings with Utah or federal historic designation, including removal of hazards and including appraisals and a relocation plan for current residents.

(4) In addition to the criteria in R990-200-5(2), the Board of Review shall consider the following criteria when deciding to allocate volume cap to Manufacturing Facility, Redevelopment and Exempt Facilities applicants:

(a) new full-time-equivalent job creation, including a list of new positions and wages, and excluding construction and other temporary jobs;

(b) retention of jobs;

(c) training and education of employees;

(d) bond amount to permanent full-time-equivalent jobs ratio;

(e) permanent full-time-equivalent jobs created or retained that provide above average wages when compared to other applicants' average wages and the community average wage;

(f) demonstrated need for tax-exempt financing, including:
(i) projected cash flow for the first three years of operation, including supporting documentation, and
(ii) explanation for selecting variable or fixed rates;
(g) community support, including:
(i) financial support,
(ii) zoning approval,
(iii) tax increment financing, and
(iv) deferral of fees;
(h) competitive costs for construction and equipment related expenses; and
(i) ready-to-go status, including:
(i) manufacturing facility zoned for use,
(ii) proximity of infrastructure to site,
(iii) need for special infrastructure,
(iv) environmental study, if required by lender,
(v) current title report and site plan of project, and
(vi) building description.
(5) Prior to considering an application, a Board of Review member shall disclose the substance of any communication the member has had outside of a public meeting with an applicant or other interested party regarding the project.
(6) The allocation certificate issued for Multi-Family Housing volume cap shall restrict the occupancy of market rate rental units to families whose incomes do not exceed 150% of Area Median Income (AMI), adjusted for family size, for at least 51 years from the date on which at least 50% of the residential units in the project are first occupied.

(a) Recipients and owners shall comply with any terms of the Certificate of Allocation, including any Additional Conditions approved by the Board of Review.
(b) Recipients and owners shall submit documentation to Private Activity Bond program staff within 15 days after the issuance of bonds, and at other times upon request, to verify compliance with the terms of the Certificate of Allocation.

(7) A recipient may not be awarded additional volume cap for a previously funded project. A recipient may relinquish allocated volume cap and submit a new application for the total amount requested.

KEY: allocation, private activity bond, volume cap
Date of Last Change: November 30, 2021
Authorizing, and Implemented or Interpreted Law: 35A-8-2104
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 adminrules.utah.gov. The rule text may also be inspected at the agency or the Office of Administrative Rules. REVIEWS are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

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<td>R17-9</td>
<td>53483</td>
<td>11/17/2021</td>
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**Agency Information**

1. **Department:** Government Operations  
2. **Agency:** Archives and Records Service  
3. **Building:** State Archives  
4. **Street address:** 346 S Rio Grande St  
5. **City, state and zip:** Salt Lake City, UT 84101

**Contact person(s):**

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone</th>
<th>Email</th>
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<tbody>
<tr>
<td>Kendra Yates</td>
<td>801-531-3856</td>
<td><a href="mailto:kendrayates@utah.gov">kendrayates@utah.gov</a></td>
</tr>
<tr>
<td>Rebekkah Shaw</td>
<td>801-531-3851</td>
<td><a href="mailto:rshaw@utah.gov">rshaw@utah.gov</a></td>
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Please address questions regarding information on this notice to the agency.

**General Information**

2. **Rule catchline:**  
R17-9. Electronic Participation at Meetings

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 Open and Public Meetings Act, Subsection 52-4-207(2)(a), states that a "public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings."

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 Division of Archives and Records Service (Division) has not received any written comments about 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:**

The statute still requires that the Division has this rule in order to hold electronic meetings. Therefore, this rule should be continued. The Division has identified some amendments to make to this rule and will be filing those at a later date.

**Agency Authorization Information**

<table>
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<tr>
<th>Agency head or designee, and title:</th>
<th>Date:</th>
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<tbody>
<tr>
<td>Kenneth Williams, Division Director</td>
<td>11/15/2021</td>
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

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<td>R21-3</td>
<td>53507</td>
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**Agency Information**

1. **Department:** Government Operations  
2. **Agency:** Debt Collection  
3. **Room no.:** Third Floor  
4. **Building:** Taylorsville State Office Building
General Information

2. Rule catchline:

R21-30 Debt Collection Through Administrative Offset

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 statutory authority for this rule are the following statutes: Section 63A-3-310 and Subsection 63A-3-504(2)(f).

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 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:

This rule authorizes the Office of State Debt Collection to reduce or eliminate accounts receivable through administrative offset of tax overpayments, or state payments due to entities. Therefore, this rule should be continued.

Agency Authorization Information

| Agency head or designee, and title: | Allyson Branch, CPA | Date: 12/01/2021 |

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<table>
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Agency Information

1. Department: Government Operations
FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R152-6  Filing ID: 50233
Effective Date: 11/24/2021

Agency Information

1. Department: Commerce
Agency: Consumer Protection
Building: Heber Wells
Street address: 160 E 300 S
City, state and zip: Salt Lake City, UT 84114

Contact person(s):
Name: Daniel Larsen  Phone: 801-530-6145  Email: dblarsen@utah.gov

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

General Information


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 enacted in accordance with Subsection 13-2-5(1), which empowers the Division of Consumer Protection (Division) director to issue rules to administer and enforce statutes described by Section 13-2-1, and in accordance with Subsection 63G-4-202(1), which allows an agency to enact a rule to designate categories of administrative proceedings as informal.

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 Division is unaware of any written comments regarding 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 allows the Division to efficiently conduct informal adjudicative proceedings while also allowing for formal adjudicative proceedings when necessary. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Daniel Larsen, Commerce Analyst  Date: 11/24/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R152-15  Filing ID: 50234
Effective Date: 11/24/2021

Agency Information

1. Department: Commerce
Agency: Consumer Protection
Building: Heber Wells
Street address: 160 E 300 S
City, state and zip: Salt Lake City, UT 84114

Contact person(s):
Name: Daniel Larsen  Phone: 801-530-6145  Email: dblarsen@utah.gov

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

General Information


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 enacted in accordance with Sections 13-2-5 and 13-15-3, which empower the division director to issue rules to administer and enforce Title 13, Chapter 15, Business Opportunity Disclosure Act, and with Section 13-15-4.5, which empowers the Division of Consumer Protection (Division) to make rules regarding exemption filings.

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 Division is unaware of any written comments regarding 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 ensures that a filing made by a seller of a business opportunity in accordance with Sections 13-15-4 or 13-15-4.5 includes necessary documentation and the
required filing fee. This rule also informs regulated parties of when a disclosure provided to the Division must be amended. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Daniel Larsen, Commerce Analyst
Date: 11/24/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R152-20
Filing ID: 50238
Effective Date: 11/24/2021

Agency Information

1. Department: Commerce
Agency: Consumer Protection
Building: Heber Wells
Street address: 160 E 300 S
City, state and zip: Salt Lake City, UT 84114

Contact person(s):
Name: Daniel Larsen
Phone: 801-530-6145
Email: dblarsen@utah.gov

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

General Information

2. Rule catchline:
R152-20. New Motor Vehicle Warranties Act Rule

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 enacted in accordance with Section 13-2-5, which empowers the Division of Consumer Protection (Division) director to promulgate rules to administer and enforce Title 13, Chapter 20, New Motor Vehicle Warranties 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:

The Division is unaware of any written comments regarding 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 defines terms used by the New Motor Vehicle Warranties Act that are critical to effectively administering and enforcing the Act. The definitions provide predictability to regulated parties and assist the Division in protecting consumers. This rule also clarifies the procedure for repurchasing a leased, nonconforming motor vehicle and for replacing a nonconforming vehicle that is of a model that is no longer produced by a manufacturer. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Daniel Larsen, Commerce Analyst
Date: 11/24/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R152-22
Filing ID: 50243
Effective Date: 11/24/2021

Agency Information

1. Department: Commerce
Agency: Consumer Protection
Building: Heber Wells
Street address: 160 E 300 S
City, state and zip: Salt Lake City, UT 84114

Contact person(s):
Name: Daniel Larsen
Phone: 801-530-6145
Email: dblarsen@utah.gov

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

General Information

2. Rule catchline:
R152-22. Charitable Solicitations Act Rule

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 enacted in accordance with: Section 13-2-5, which empowers the Division of Consumer Protection (Division) director to promulgate rules to administer and enforce Title 13, Chapter 22, Charitable Solicitations Act; Subsections 13-22-6(1)(b)(xvi) and 13-22-9(1)(b)(xiv), which allows the Division to require by rule information on an application for registration; Subsection 13-22-8(4), which allows the Division to require an organization that is exempt from registration to file a notice or renewal of a claim of exemption; and Subsection 13-22-22(2), which
allows the Division to require by rule certain terms in an agreement between a charitable organization and commercial co-venturer regarding a charitable sales promotion.

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 Division is not aware of any written comments regarding 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 assists the Division and regulated entities by establishing what is required to be submitted to the Division in an application for registration as a charitable organization, professional fundraiser, or fundraising counsel or consultant. It also clarifies how organizations that have no financial history may comply with registration requirements. This rule establishes how an organization may file a notice of a claim of exemption and allows the Division to charge a fee to administer claims of exemption. This rule also allows the Division flexibility in processing incomplete applications for registration, which allows the Division to work with applicants and avoid potentially unnecessary application denials. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Daniel Larsen, Commerce Analyst Date: 11/24/2021

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

General Information
2. Rule catchline:
R152-23. Health Spa Services Protection Act Rule

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 enacted in accordance with Subsection 13-2-5(1), which empowers the Division of Consumer Protection (Division) director to promulgate rules to administer and enforce Title 13, Chapter 23, Health Spa Services Protection 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:
The Division is not aware of any written comments regarding 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 assists the Division and regulated entities by establishing the uniform content of an application for registration and allows the Division to process those applications in an efficient manner. This rule also establishes required terms in consumer contracts for health spa services that protect consumers and clarifies certain procedures when a consumer rescinds a contract for health spa services. This rule establishes procedures for a health spa that closes normal operations for 10 or more business days, which allows the Division to protect consumers. Therefore, this rule should be continued.

The Division has submitted a proposed repeal and reenactment of this rule due to H.B. 321 changes made during the 2021 General Session. (EDITOR’S NOTE: The proposed repeal and reenactment of Rule R152-23 is under ID 54059 in the November 15, 2021, Bulletin).

Agency Authorization Information
Agency head or designee, and title: Daniel Larsen, Commerce Analyst Date: 11/24/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R152-23 Filing ID: 50245
Effective Date: 11/24/2021

Agency Information
1. Department: Commerce
Agency: Consumer Protection
Building: Heber Wells
Street address: 160 E 300 S
City, state and zip: Salt Lake City, UT 84114
Contact person(s):
Name: Daniel Larsen Phone: 801-530-6145 Email: dblarsen@utah.gov

Agency Authorization Information
Agency head or designee, and title: Daniel Larsen, Commerce Analyst Date: 11/24/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R152-42 Filing ID: 50241
Effective Date: 11/24/2021
Agency Information
1. Department: Commerce
Agency: Consumer Protection
Building: Heber Wells
Street address: 160 E 300 S
City, state and zip: Salt Lake City, UT 84114
Contact person(s):
Name: Phone: Email:
Daniel Larsen 801-530-6145 dblarsen@utah.gov

General Information
2. Rule catchline:
R152-42. Uniform Debt-Management Services Act Rule

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 enacted in accordance with Section 13-2-5, which empowers the Division of Consumer Protection (Division) director to promulgate rules to administer and enforce Title 13, Chapter 42, Uniform Debt-Management Services Act (UDMSA), and with Subsections 13-42-102(9)(c), 13-42-112(2), 13-42-112(2), 13-42-132(3), and 13-42-132(6), which also grant the Division director (as "administrator") rulemaking authority.

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 Division is not aware of any written comments regarding 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 establishes a "base year" in accordance with the UDMSA in Section R152-442-6. This rule also establishes the states in which registration satisfies the Division's registration requirements. This rule also establishes the contents of registration applications, which allows the Division to efficiently process applications for registration and provides certainty to regulated entities. This rule's provisions are either mandated by the UDMSA or assist the Division's administration and enforcement of the UDMSA. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Daniel Larsen, Commerce Analyst
Date: 11/24/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R307-110 Filing ID: 53056
Effective Date: 12/01/2021

Agency Information
1. Department: Environmental Quality
Agency: Air Quality
Building: Multi-Agency State Office Building
Street address: 195 N 1950 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 144820
City, state and zip: Salt Lake City, UT 84114-4820
Contact person(s):
Name: Phone: Email:
Dr. Bo Wood 385-499-3416 rwood@utah.gov

General Information
2. Rule catchline:
R307-110. General Requirements: State Implementation Plan

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Rule R307-110 is authorized by Section 19-2-104. Section 19-2-104 gives the Utah Air Quality Board the power to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-110 is the rule that incorporates Utah's State Implementation Plans into state law, as required by section 110 of the Federal Clean Air Act. State Implementation Plans contain provisions that help abate air pollution, set emission limits, and prevent air pollution for the purpose of attaining federal air quality standards. Therefore, Rule R307-110 has been properly enacted under Section 19-2-104.
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:

Rule R307-110 has been amended 13 times since the last five-year review in 2017. There have been hundreds of comments on how to improve the State Implementation Plans that this rule incorporates by reference. However, there have been no comments 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:

Rule R307-110 is required by the Federal Clean Air Act. Section 110 of the Clean Air Act requires states to develop State Implementation Plans that demonstrate how the state will meet federal air quality standards. Rule R307-110 is necessary because it incorporates Utah’s State Implementation Plans into state law so that the plans can be enforced, and Utah can attain federal air quality standards. Therefore, this rule should be continued.

General Information
2. Rule catchline:
R307-120. General Requirements: Tax Exemption for Air Pollution Control Equipment

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 19-12-305 authorizes the Air Quality Board to make rules related to the procedures for evaluating and applying for certification for tax exempt status for pollution control equipment. Rule R307-120 provides the process for evaluating and applying for certification for tax exempt status for pollution control equipment.

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:

This rule has had no comments or substantive amendments 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 articulates and implements a process to receive a tax exemption for specified types of pollution control equipment as required by statute. The absence of critical comments since the last review period suggests that the current rule is acceptable. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Bryce C. Bird, Director Date: 11/03/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R307-120 Filing ID: 50572
Effective Date: 12/01/2021

Agency Information
Agency: Environmental Quality
Building: Multi-Agency State Office Building
Street address: 195 N 1950 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 144820
City, state and zip: Salt Lake City, UT 84114-4820
Contact person(s):
Name: Dr. Bo Wood Phone: 385-499-3416 Email: rwood@utah.gov

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

Agency Authorization Information
Agency head or designee, and title: Bryce C. Bird, Director Date: 11/03/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R307-130 Filing ID: 50579
Effective Date: 12/01/2021

Agency Information
Agency: Environmental Quality
Building: Multi-Agency State Office Building
Street address: 195 N 1950 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 144820
City, state and zip: Salt Lake City, UT 84114-4820
### FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

**Agency Information**

<table>
<thead>
<tr>
<th>Contact person(s):</th>
<th>Building:</th>
<th>Multi-Agency State Office Building</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name: Dr. Bo Wood</td>
<td>Phone:</td>
<td>385-499-3416</td>
</tr>
<tr>
<td>Email: <a href="mailto:rwood@utah.gov">rwood@utah.gov</a></td>
<td>Zip:</td>
<td>84116</td>
</tr>
</tbody>
</table>

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

### General Information

2. Rule catchline:

R307-130. General Penalty Policy

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 was enacted under Section 19-2-104. Under Section 19-2-104, the Utah Air Quality Board is given the power to promulgate rules to prevent air pollution. Rule R307-130 prevents air pollution by providing penalties for noncompliance with air quality rules, orders, or permits.

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:

This rule has had no written comments or substantive amendments since the last five-year review. The Division of Air Quality has received suggestions for improving this rule that will be considered when this rule is next amended.

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 is needed to implement a penalty structure for violations, as established by Section 19-2-115. This rule also establishes categories of violations, prescribing penalties that are reasonable and appropriate to the severity of the violation. Therefore, this rule should be continued.

### Agency Authorization Information

| Agency head or designee, and title: Bryce C. Bird, Director | Date: 11/03/2021 |

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<table>
<thead>
<tr>
<th>Utah Admin. Code Ref (R no.): R307-135</th>
<th>Filing ID: 50578</th>
</tr>
</thead>
</table>

Effective Date: 12/01/2021

### Agency Information

1. Department: Environmental Quality

2. Agency: Air Quality
This rule helps Utah satisfy its obligations under Section 110 of the Clean Air Act. Section 110 requires states to develop implementation plans that demonstrate how they will comply with National Ambient Air Quality Standards. Rule R307-320 is a control strategy included in Utah’s State Implementation Plan to reduce ambient ozone and its precursor emissions. It is also a contingency measure for carbon monoxide. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Bryce C. Bird, Director Date: 11/03/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R307-320 Filing ID: 50612
Effective Date: 12/01/2021

Agency Information
1. Department: Environmental Quality
Agency: Air Quality
Building: Multi-Agency State Office Building
Street address: 195 N 1950 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 144820
City, state and zip: Salt Lake City, UT 84114-4820

Contact person(s):
Name: Phone: Email:
Dr. Bo Wood 385-499-3416 rwood@utah.gov

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

General Information
2. Rule catchline:
R307-320. Ozone Maintenance Areas and Ogden City: Employer-Based Trip Reduction Program

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Rule R307-320 was enacted under the authority of Subsection 19-2-104(1)(h), which allows the Air Quality Board to promulgate rules that create an employer-based trip reduction program in nonattainment areas.

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 comments have been 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:

Agency Authorization Information
Agency head or designee, and title: Bryce C. Bird, Director Date: 11/03/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R307-325 Filing ID: 50614
Effective Date: 12/01/2021

Agency Information
1. Department: Environmental Quality
Agency: Air Quality
Building: Multi-Agency State Office Building
Street address: 195 N 1950 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 144820
City, state and zip: Salt Lake City, UT 84114-4820

Contact person(s):
Name: Phone: Email:
Dr. Bo Wood 385-499-3416 rwood@utah.gov

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

General Information
2. Rule catchline:
R307-325. Ozone Nonattainment and Maintenance Areas: General Requirements

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules “regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminants..."
source." Subsection 19-2-101(2) states, "It is the policy of this state and the purpose of this chapter to achieve and maintain levels of air quality which will protect human health and safety." The Air Quality Board promulgated Rule R307-325 under the authority found in Section 19-2-104 in order to fulfill the purpose found in Section 19-2-101 and to satisfy the requirements found in Section 110 and Part D of the Clean Air 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 comments have been 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 is required by the Clean Air Act. Section 110 and Part D of the Clean Air Act requires the to develop a State Implementation Plan that will allow the state to attain certain federal air quality standards. Without the state plan, the EPA would be required to impose a federal implementation plan, and the state could lose some of its ability to make its own policy decisions on how it will comply with federal air quality standards. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Bryce C. Bird, Director Date: 11/03/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R307-326 Filing ID: 50615
Effective Date: 12/01/2021

Agency Information
1. Department: Environmental Quality
Agency: Air Quality
Building: Multi-Agency State Office Building
Street address: 195 N 1950 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 144820
City, state and zip: Salt Lake City, UT 84114-4820

Contact person(s):
Name: Phone: Email:
Dr. Bo Wood 385-499-3416 rwood@utah.gov

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

General Information
2. Rule catchline:
R307-326. Ozone Nonattainment and Maintenance Areas: Control of Hydrocarbon Emissions in Petroleum Refineries

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 Utah Air Quality Board enacted Rule R307-326 under the authority of Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminants source." Rule R307-326 does this by establishing reasonably available control technology for controlling hydrocarbon emissions from petroleum refineries located in ozone nonattainment and maintenance areas.

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 comments have been 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 is required under the state implementation plan for ozone, incorporated by reference under Section R307-110-13. The plan is also required by Section 110 of the Clean Air Act. Without the state plan, the EPA would be required to impose a Federal Implementation Plan. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Bryce C. Bird, Director Date: 11/03/2021
General Information

2. Rule catchline:
R307-327. Ozone Nonattainment and Maintenance Areas: Petroleum Liquid Storage

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminants source." Rule R307-327 requires petroleum refineries located within an ozone nonattainment area to have measures in place to reduce emissions of volatile organic compounds from their large liquid storage tanks. Volatile organic compounds are a precursor to ozone formation.

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 comments have been 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:
The rule is required under the state implementation plan for ozone, incorporated by reference under Section R307-

110-13. The plan is also required by Section 110 of the Clean Air Act. This rule is necessary for Utah's State Implementation Plan to meet federal ozone standards. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Bryce C. Bird, Director
Date: 11/03/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R307-327
Filing ID: 50616
Effective Date: 12/01/2021

Agency Information

1. Department: Environmental Quality
Agency: Air Quality
Building: Multi-Agency State Office Building
Street address: 195 N 1950 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 144820
City, state and zip: Salt Lake City, UT 84114-4820

Contact person(s):
Name: Phone: Email:
Dr. Bo Wood 385-499-3416 rwood@utah.gov

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

General Information

2. Rule catchline:
R307-328. Gasoline Transfer and Storage

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminants source." Rule R307-328 requires the use of reasonably available control technology to capture gasoline vapors during the filling of gasoline vehicles and storage tanks in any ozone nonattainment or maintenance area including Utah and Weber Counties.

Agency Information

1. Department: Environmental Quality
Agency: Air Quality
Building: Multi-Agency State Office Building
Street address: 195 N 1950 W
City, state and zip: Salt Lake City, UT 84116
Mailing address: PO Box 144820
City, state and zip: Salt Lake City, UT 84114-4820

Contact person(s):
Name: Phone: Email:
Dr. Bo Wood 385-499-3416 rwood@utah.gov

Please address questions regarding information on this notice to the agency.
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 comments have been 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 is required under the state implementation plan for ozone, incorporated by reference under Section R307-110-13. The plan is also required by Section 110 of the Clean Air Act. Without the state plan, the EPA would be required to impose a Federal Implementation Plan. Therefore, this rule should be continued.

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### General Information

2. Rule catchline:

R307-335. Degreasing

### Agency Information

1. Department: Environmental Quality

Agency: Air Quality

Building: Multi-Agency State Office Building

Street Address: 195 N 1950 W

City, state and zip: Salt Lake City, UT 84116

Mailing Address: PO Box 144820

City, state and zip: Salt Lake City, UT 84114-4820

Contact person(s):

Name: Dr. Bo Wood

Phone: 385-499-3416

Email: rwood@utah.gov

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

### Agency Authorization Information

Agency Head or Designee, and Title: Bryce C. Bird, Director

Date: 11/03/2021

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### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R307-335

Filing ID: 50621

Effective Date: 12/01/2021

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### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R307-341

Filing ID: 50624

Effective Date: 12/01/2021

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### Agency Information

1. Department: Environmental Quality

Agency: Air Quality

Building: Multi-Agency State Office Building

Street Address: 195 N 1950 W

City, state and zip: Salt Lake City, UT 84116

Mailing Address: PO Box 144820

---

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminants source." Rule R307-335 does this by establishing reasonably available control technology for degreasing and solvent cleaning operations located in ozone and PM$_{2.5}$ nonattainment or maintenance areas.

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:

This rule has been amended one time since the last five-year review. No comments were submitted during that rulemaking. The Division of Air Quality did not receive any other written comments 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 is required under the state implementation plan for ozone and PM$_{2.5}$, incorporated by reference under Section R307-110-13. The plan is required by Section 110 of the Clean Air Act, and without this rule the EPA would have to write a Federal Implementation Plan. Therefore, this rule should be continued.

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### Agency Authorization Information

Agency Head or Designee, and Title: Bryce C. Bird, Director

Date: 11/03/2021

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### Agency Information

1. Department: Environmental Quality

Agency: Air Quality

Building: Multi-Agency State Office Building

Street Address: 195 N 1950 W

City, state and zip: Salt Lake City, UT 84116

Mailing Address: PO Box 144820

---

### General Information

2. Rule catchline:

R307-335. Degreasing
Agency Authorization Information

General Information

2. Rule catchline:

R307-341. Ozone Nonattainment and Maintenance Areas: Cutback Asphalt

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminants source." Rule R307-341 does this by establishing reasonably available control technology for the application of asphalt in any ozone nonattainment or maintenance areas.

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 Division of Air Quality did not receive any written comments 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 is required under the state implementation plan for ozone, incorporated by reference under Section R307-110-13. The plan is required by Section 110 of the Clean Air Act, and without this rule the EPA would have to write a Federal Implementation Plan. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Bryce C. Bird, Director Date: 11/03/2021

Effective Date: 12/01/2021

Agency Information

1. Department: Environmental Quality

Agency: Air Quality

Building: Multi-Agency State Office Building

Street address: 195 N 1950 W

City, state and zip: Salt Lake City, UT 84116

Mailing address: PO Box 144820

City, state and zip: Salt Lake City, UT 84114-4820

Contact person(s):

Name: Dr. Bo Wood Phone: 385-499-3416 Email: rwood@utah.gov

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

General Information

2. Rule catchline:

R307-343. Wood Furniture Manufacturing Operations

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminants source." Rule R307-343 does this by requiring that certain wood furniture manufacturers use coatings that are compliant with the Volatile Organic Compound (VOC’s) content limits found in Section R307-343-4.

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:

This rule has been amended one time since the last five-year review. No comments were submitted during that rulemaking. The Division of Air Quality did not receive any other written comments 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:

Rule R307-343 limits the emissions of VOC’s, a precursor to ozone and PM$_{2.5}$, from wood furniture manufacturers in ozone and PM$_{2.5}$ nonattainment and maintenance areas. This rule outlines emissions standards for wood furniture manufacturing operations and should be continued. This
rule is part of a proactive strategy to ensure that Salt Lake, Utah, Box Elder, Tooele and Davis counties meet the ozone and PM$_{2.5}$ 24-Hour standards. Therefore, this rule should be continued.

<table>
<thead>
<tr>
<th>Agency Authorization Information</th>
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</thead>
<tbody>
<tr>
<td>Agency head or designee, and title: Bryce C. Bird, Director</td>
</tr>
<tr>
<td>Date: 11/03/2021</td>
</tr>
</tbody>
</table>

**FIVE-YEAR NOTICES OF REVIEW AND STATEMENT OF CONTINUATION**

<table>
<thead>
<tr>
<th>Utah Admin. Code Ref (R no.):</th>
<th>R392-510</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filing ID:</td>
<td>53813</td>
</tr>
</tbody>
</table>

| Effective Date: | 11/16/2021 |

**Agency Information**

1. **Department:** Health
2. **Agency:** Disease Control and Prevention, Environmental Services
3. **Room no.:** Second Floor
4. **Building:** Cannon Health Building
5. **Street address:** 288 N 1460 W
6. **City, state and zip:** Salt Lake City, UT 84116
7. **Mailing address:** PO Box 142102
8. **City, state and zip:** Salt Lake City, UT 84114-2102

**Contact person(s):**

<table>
<thead>
<tr>
<th>Name: Karl Hartman</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone: 801-538-6191</td>
</tr>
<tr>
<td>Email: <a href="mailto:khartman@utah.gov">khartman@utah.gov</a></td>
</tr>
</tbody>
</table>

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

**General Information**

2. **Rule catchline:** R392-510. Utah Indoor Clean Air Act

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 authorized by Subsection 26-1-30(2), Section 26-15-12, and Title 26, Chapter 38. This rule sets standards and requirements for smoking indoors, including requirements for Signage and Public Announcements.

---

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.

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 is needed to set standards and requirements for smoking indoors, including requirements for Signage and Public Announcements. The Department of Health received no comments in opposition to the continuation of this rule. Therefore, this rule should be continued.

<table>
<thead>
<tr>
<th>Agency Authorization Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency head or designee, and title: Nathan Checketts, Interim Executive Director</td>
</tr>
<tr>
<td>Date: 10/29/2021</td>
</tr>
</tbody>
</table>

**FIVE-YEAR NOTICES OF REVIEW AND STATEMENT OF CONTINUATION**

<table>
<thead>
<tr>
<th>Utah Admin. Code Ref (R no.):</th>
<th>R426-5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filing ID:</td>
<td>52518</td>
</tr>
</tbody>
</table>

| Effective Date: | 11/16/2021 |

**Agency Information**

1. **Department:** Health
2. **Agency:** Family Health and Preparedness, Emergency Medical Services
3. **Room no.:** 404
4. **Building:** Cannon Health Building
5. **Street address:** 288 N 1460 W
6. **City, state and zip:** Salt Lake City, UT 84116
7. **Mailing address:** PO Box 142004
8. **City, state and zip:** Salt Lake City, UT 84114-2004

**Contact person(s):**

<table>
<thead>
<tr>
<th>Name: Guy Dansie</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone: 801-560-1544</td>
</tr>
<tr>
<td>Email: <a href="mailto:gdansie@utah.gov">gdansie@utah.gov</a></td>
</tr>
</tbody>
</table>

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

**General Information**

2. **Rule catchline:** R426-5. Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Rules are enacted under Section 26-8a-302 for the licensing of Emergency Medical Service Personnel. The terms set forth in Rule R426-5 discuss the process for fulfilling the requirements.

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 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:

The Department of Health needs this rule since it provides the requirements for emergency service personnel to provide pre-hospital patient care. No comments in opposition were received. Therefore, this rule should be continued.

Agency Authorization Information
Agency head or designee, and title: Nate Checketts, Executive Director Date: 11/17/2021

Agency Authorization Information
Agency head or designee, and title: Tracy Gruber, Executive Director Date: 11/30/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R512-311 Filing ID: 51248
Effective Date: 12/01/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
Utah Admin. Code Ref (R no.): R549-1 Filing ID: 51323
Effective Date: 11/24/2021

Agency Information
1. Department: Human Services
Agency: Child and Family Services
Building: MASOB
Street address: 195 N 1950 W
City, state and zip: Salt Lake City, UT 84116
Contact person(s):
Name: Carol Miller Phone: 801-557-1772 Email: carolmiller@utah.gov

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

General Information
2. Rule catchline:
R512-311. Out-of-Home Services

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 62A-4a-213 authorizes the Division of Child and Family Services to establish and operate a psychotropic medication oversight panel for children in the custody of Child and Family Services.

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.

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 is necessary in order for the Division of Child and Family Services to establish and operate a psychotropic medication oversight panel for children in the custody of Child and Family Services to ensure that foster children are being prescribed psychotropic medication consistent with their needs. Therefore, this rule should be continued.

Agency Information
1. Department: Human Services
Agency: Public Guardian (Office of)
Street address: 195 N 1950 W
City, state and zip: Salt Lake City, UT 84116
Contact person(s):
Name: Xia Erickson Phone: 801-538-4304 Email: xilitz@utah.gov
Name: Jonah Shaw Phone: 801-538-4225 Email: jshaw@utah.gov

Please address questions regarding information on this notice to the agency.
<table>
<thead>
<tr>
<th>General Information</th>
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</thead>
<tbody>
<tr>
<td><strong>2. Rule catchline:</strong></td>
</tr>
<tr>
<td>R549-1. Eligibility and Services Priority</td>
</tr>
<tr>
<td><strong>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</strong></td>
</tr>
<tr>
<td>This rule is authorized under Section 62A-14-105 and is required to establish procedures and standards for the determination of eligibility and establish services as required by Title 62A, Chapter 14.</td>
</tr>
<tr>
<td><strong>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:</strong></td>
</tr>
<tr>
<td>No written comments were received.</td>
</tr>
<tr>
<td><strong>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</strong></td>
</tr>
<tr>
<td>This rule is required as it establishes the criteria for eligibility and services priority for the Office of Public Guardian. Therefore, this rule should be continued.</td>
</tr>
</tbody>
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<thead>
<tr>
<th>Agency Authorization Information</th>
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<tbody>
<tr>
<td><strong>Agency head or designee, and title:</strong> Tracy Gruber, Executive Director</td>
</tr>
<tr>
<td><strong>Date:</strong> 11/24/2021</td>
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<thead>
<tr>
<th>FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION</th>
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<tbody>
<tr>
<td><strong>Utah Admin. Code Ref (R no.):</strong> R590-176</td>
</tr>
<tr>
<td><strong>Filing ID:</strong> 51391</td>
</tr>
<tr>
<td><strong>Effective Date:</strong> 11/19/2021</td>
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<tr>
<th>Agency Information</th>
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<tbody>
<tr>
<td><strong>1. Department:</strong> Insurance</td>
</tr>
<tr>
<td><strong>Agency:</strong> Administration</td>
</tr>
<tr>
<td><strong>Room no.:</strong> Suite 2300</td>
</tr>
<tr>
<td><strong>Building:</strong> Taylorsville State Office Building</td>
</tr>
<tr>
<td><strong>Street address:</strong> 4315 S 2700 W</td>
</tr>
<tr>
<td><strong>City, state and zip:</strong> Taylorsville, UT 84129</td>
</tr>
<tr>
<td><strong>Mailing address:</strong> PO Box 146901</td>
</tr>
<tr>
<td><strong>City, state and zip:</strong> Salt Lake City, UT 84114-6901</td>
</tr>
<tr>
<td><strong>Contact person(s):</strong></td>
</tr>
<tr>
<td><strong>Name:</strong> Steve Gooch</td>
</tr>
<tr>
<td><strong>Phone:</strong> 801-957-9322</td>
</tr>
<tr>
<td><strong>Email:</strong> <a href="mailto:sgooch@utah.gov">sgooch@utah.gov</a></td>
</tr>
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| Please address questions regarding information on this notice to the agency. |

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<tr>
<th>General Information</th>
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<tbody>
<tr>
<td><strong>2. Rule catchline:</strong></td>
</tr>
<tr>
<td>R590-176. Health Benefit Plan Enrollment</td>
</tr>
<tr>
<td><strong>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</strong></td>
</tr>
<tr>
<td>Subsection 31A-2-201(3) authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Subsection 31A-2-202(2) authorizes the insurance commissioner to prescribe forms for the Department of Insurance (Department) to use in collecting information. This rule provides enrollment standards for carriers that provide health benefit plan coverage to individuals and small employers. It also requires insurers to file a certificate with the Department that includes information about the individuals covered, the qualifying conditions, and the uninsurable count at the end of an enrollment.</td>
</tr>
<tr>
<td><strong>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:</strong></td>
</tr>
<tr>
<td>The Department has received no written comments regarding this rule during the past five years.</td>
</tr>
<tr>
<td><strong>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</strong></td>
</tr>
<tr>
<td>This rule provides clarification for Title 31A, Chapter 30, regarding the federal Health Insurance Portability and Accountability Act (HIPAA). This rule provides standards that must be met for an insurer to be waived from the requirements of Title 31A, Chapter 30, and defines what constitutes meeting the enrollment cap. It also addresses general requirements to make sure insurers treat health benefit applicants fairly. Therefore, this rule should be continued.</td>
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<th>Agency Authorization Information</th>
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<tbody>
<tr>
<td><strong>Agency head or designee, and title:</strong> Steve Gooch, Public Information Officer</td>
</tr>
<tr>
<td><strong>Date:</strong> 11/19/2021</td>
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<tr>
<th>FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION</th>
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<tbody>
<tr>
<td><strong>Utah Admin. Code Ref (R no.):</strong> R590-181</td>
</tr>
<tr>
<td><strong>Filing ID:</strong> 51382</td>
</tr>
<tr>
<td><strong>Effective Date:</strong> 11/19/2021</td>
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</tbody>
</table>
Agency Information

1. Department: Insurance
Agency: Administration
Room no.: Suite 2300
Building: Taylorsville State Office Building
Street address: 4315 S 2700 W
City, state and zip: Taylorsville, UT 84129
Mailing address: PO Box 146901
City, state and zip: Salt Lake City, UT 84114-6901

Contact person(s):
Name: Phone: Email:
Steve Gooch 801-957-9322 sgooch@utah.gov

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

General Information

2. Rule catchline:
R590-181. Yankee Bond Rule

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 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Subsection 31A-18-105(16) authorizes the insurance commissioner to specify an investment, besides those listed in Section 31A-18-105, that insurers can invest in. This rule allows insurers to invest in Yankee bonds. The reference in Section R590-181-1 is incorrect and will be corrected when this rule is amended in compliance with Executive Order No. 2021-12.

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 of Insurance has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Due to the fact that some insurers are investing in Yankee bonds, this rule is necessary to provide guidelines that make sure the quality of the bond is high and does not take up a major share of the insurer's portfolio. Without this rule, insurers would not be able to invest in Yankee bonds at all. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title: Steve Gooch, Public Information Officer
Date: 11/19/2021

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R590-182 Filing ID: 51384
Effective Date: 11/19/2021

Agency Information

1. Department: Insurance
Agency: Administration
Room no.: Suite 2300
Building: Taylorsville State Office Building
Street address: 4315 S 2700 W
City, state and zip: Taylorsville, UT 84129
Mailing address: PO Box 146901
City, state and zip: Salt Lake City, UT 84114-6901

Contact person(s):
Name: Phone: Email:
Steve Gooch 801-957-9322 sgooch@utah.gov

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

General Information

2. Rule catchline:
R590-182. Risk Based Capital Instructions

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 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Subsection 31A-17-601(7) authorizes the insurance commissioner to adopt risk based capital (RBC) instructions to be used by licensed insurers and filed annually with the Department of Insurance (Department).

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 regarding this rule during the past five years.
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 not be continued. Upon review, this rule merely offers citations to the relevant provisions of the Insurance Code. The Insurance Code provides that RBC reports and instructions are important to ensure that Utah insurance companies report on the same basis as companies from other states. Without this uniformity, cost to companies and to the state would increase significantly, which would also increase costs to Utah policyholders. However, because these provisions are already in state code and this rule provides no additional guidance or information, this rule should be repealed. The Department will continue this rule for now and begin the repeal process immediately.

### Agency Authorization Information

<table>
<thead>
<tr>
<th>Agency head or designee, and title:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steve Gooch, Public Information Officer</td>
<td>11/19/2021</td>
</tr>
</tbody>
</table>

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<table>
<thead>
<tr>
<th>Utah Admin. Code Ref (R no.):</th>
<th>Filing ID:</th>
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<tbody>
<tr>
<td>R600-2</td>
<td>51478</td>
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</table>

**Effective Date:** 11/18/2021

### Agency Information

1. **Department:** Labor Commission
2. **Agency:** Administration
3. **Room no.:** 3rd Floor
4. **Building:** Heber M Wells Building
5. **Street address:** 160 E 300 S
6. **City, state and zip:** Salt Lake City, UT 84111
7. **Mailing address:** PO Box 146600, Salt Lake City, UT 84114-6600
8. **Contact person(s):**
   - **Name:** Chris Hill
   - **Phone:** 801-530-6113
   - **Email:** chill@utah.gov
   - **Address:** Please address questions regarding information on this notice to the agency.

### General Information

2. **Rule catchline:** R600-2. Operations

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 34A-1-104 authorizes the Labor Commission (Commission) to adopt rules necessary to administer the Workers’ Compensation Act, the Occupational Disease Act, the Antidiscrimination Act, and the Occupational Safety and Health Act. Pursuant to that authority, and in order to provide for the orderly conduct of Commission business, the Commission has adopted Rule R600-2, which establishes the Commission's regular business hours.

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 during the last five year review period.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

As part of its duty to administer the various statutes identified above, the Commission is required to establish standards for conduct of Commission business, including rules for hours of business and filing of business documents. Therefore, this rule should be continued.
Agency Information

Contact person(s):

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone:</th>
<th>Email:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chris Hill</td>
<td>801-530- 6113</td>
<td><a href="mailto:chill@utah.gov">chill@utah.gov</a></td>
</tr>
</tbody>
</table>

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

General Information

2. Rule catchline:

R602-1. Office Record

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 34A-1-104 authorizes the Labor Commission (Commission) to adopt rules and conduct adjudicative proceedings. In order to administer an orderly system of adjudication, it is necessary for the Commission to set standards for computing filing deadlines and other time limits involved in the adjudicative process, and to set witness fees.

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 during the last five-year review period.

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 remains necessary to establish standards for computing time limits and setting witness fees in the Commission's adjudicative process. Therefore, this rule should be continued.

Agency Authorization Information

| Agency head or designee, and title: | Jaceson R. Maughan, Commissioner | Date: 12/01/2021 |

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.): R602-2 Filing ID: 53751

Effective Date: 11/30/2021

Agency Information

1. Department: Labor Commission

Agency: Adjudication

Room no.: 3rd Floor
End of the Five-Year Notices of Review and Statements of Continuation Section
NOTICES OF FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule’s original enactment or the date of last review (Section 63G-3-305). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a NOTICE OF FIVE-YEAR EXTENSION (EXTENSION) with the Office. However, if the agency fails to file either the FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION or the EXTENSION by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a NOTICE OF FIVE-YEAR EXPIRATION (EXPIRATION) to document the action. The Office is required to remove the rule from the Utah Administrative Code. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed EXPIRATIONS for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the Utah Administrative Code.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

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NOTICE OF EXPIRED RULE

<table>
<thead>
<tr>
<th>Utah Admin. Code Ref (R no.):</th>
<th>R634-2</th>
<th>ID No. 51533</th>
</tr>
</thead>
</table>

Agency Information

1. Department: Natural Resources  
Agency: Administration  
Street address: 1594 W North Temple  
City, state, and zip: Salt Lake City, UT 84116  
Contact person(s): 
Name: Nancy L. Lancaster  
Phone: 801-957-7102  
Email: rulesonline@utah.gov

General Information

2. Title of rule (catchline): R634-2. Health Reform -- Health Insurance Coverage in State Contracts -- Implementation

3. Effective Date: 11/23/2021

4. Summary: The five-year review and notice of continuation was not filed for this rule by the deadline. This rule has expired and will be removed from the Utah Administrative Code.

(Editor's Note: Due to confusion in filing at the Department of Natural Resources, Administration (Agency) level, the Agency failed to file the five-year review and the penalty was expiration of this rule. The Agency is filing an emergency rule to place it back into effect while a standard new rule filing can be completed. The emergency rule for Rule R634-4, Health Reform -- Health Insurance Coverage in State Contracts -- Implementation, is effective as of 11/23/2021 and is under ID 54154, in this issue, December 15, 2021, of the Bulletin. The rule number is changed from R634-2 to R634-4 because numbers cannot be reused. However, the rule text is exactly the same.)

NOTICE OF EXPIRED RULE

<table>
<thead>
<tr>
<th>Utah Admin. Code Ref (R no.):</th>
<th>R856-1</th>
<th>ID No. 52055</th>
</tr>
</thead>
</table>

Agency Information

1. Department: Science Technology and Research Governing Authority (Utah)  
Agency: Administration
NOTICES OF FIVE YEAR EXPIRATIONS

Street address: Not Applicable
City, state, and zip: Not Applicable
Contact person(s):
Name: Nancy L. Lancaster
Phone: 801-957-7102
Email: rulesonline@utah.gov

General Information
2. Title of rule (catchline):
R856-1. USTAR Technology Acceleration Program Grants
3. Effective Date: 11/17/2021
4. Summary:
The Utah Science Technology and Research Governing Authority (USTAR) was repealed by S.B. 95 in the 2020 General Session. Since there is no entity to repeal this rule and there is not a mechanism in the Utah Administrative Rulemaking Act that allows the Office of Administrative Rules (OAR) to remove this rule, OAR is letting it expire as the five-year review and notice of continuation comes due. This rule has now expired and will be removed from the Utah Administrative Code.

NOTICE OF EXPIRED RULE
Utah Admin. Code Ref (R no.): R856-2
ID No. 52053

Agency Information
1. Department: Science Technology and Research Governing Authority (Utah)
Agency: Administration
Street address: Not Applicable
City, state, and zip: Not Applicable
Contact person(s):
Name: Nancy L. Lancaster
Phone: 801-957-7102
Email: rulesonline@utah.gov

General Information
2. Title of rule (catchline):
R856-3. USTAR University Technology Acceleration Grants
3. Effective Date: 11/17/2021
4. Summary:
The Utah Science Technology and Research Governing Authority (USTAR) was repealed by S.B. 95 in the 2020 General Session. Since there is no entity to repeal this rule and there is not a mechanism in the Utah Administrative Rulemaking Act that allows the Office of Administrative Rules (OAR) to remove this rule, OAR is letting it expire as the five-year review and notice of continuation comes due. This rule has now expired and will be removed from the Utah Administrative Code.
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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Published: 11/01/2021
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No. 54028 (Amendment) R277-922: Digital Teaching and Learning Grant Program
Published: 11/01/2021
Effective: 12/09/2021

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Published: 10/01/2021
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Published: 10/01/2021
Effective: 12/13/2021

No. 53913 (Amendment) R315-261-9: Requirements for Universal Waste
Published: 10/01/2021
Effective: 12/13/2021

No. 53914 (Amendment) R315-264-1: General - Purpose, Scope and Applicability
Published: 10/01/2021
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Published: 10/01/2021
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Published: 10/01/2021
Effective: 12/13/2021

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Published: 10/01/2021
Effective: 12/13/2021

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Effective: 12/09/2021

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Published: 10/15/2021
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Effective: 11/16/2021

No. 53643 (Change in Proposed Rule) R392-106: Microenterprise Home Kitchen Sanitation
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Effective: 11/16/2021

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Published: 10/01/2021
Effective: 11/15/2021

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Published: 10/01/2021
Effective: 11/15/2021

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Effective: 12/09/2021

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Published: 11/01/2021
Effective: 12/09/2021

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Published: 11/01/2021
Effective: 12/09/2021

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Published: 10/01/2021
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Published: 11/01/2021
Effective: 12/09/2021

No. 53999 (Amendment) R590-83: Unfair Discrimination on the Basis of Gender or Marital Status
Published: 11/01/2021
Effective: 12/09/2021

Published: 10/15/2021
Effective: 11/22/2021

No. 53988 (Repeal and Reenact) R590-128: Unfair Discrimination Based on the Failure to Maintain Automobile Insurance. (Revised.)
Published: 10/15/2021
Effective: 11/22/2021

No. 54018 (Amendment) R590-140: Reference Filings of Rate Service Organization Prospective Loss Costs
Published: 11/01/2021
Effective: 12/09/2021

No. 53987 (Amendment) R590-144: Commercial Aviation Insurance Exemption From Rate and Form Filing
Published: 10/15/2021
Effective: 11/22/2021

No. 54000 (Amendment) R590-161: Income Replacement Insurance Policy Disclosure
Published: 11/01/2021
Effective: 12/09/2021

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No. 54012 (Repeal and Reenact) R708-2: Commercial Driver Training Schools
Published: 11/01/2021
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No. 53990 (Amendment) R708-45: Renewal or Duplicate License for Utah Residents Temporarily Residing Out of State
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Published: 11/01/2021
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Effective: 01/01/2022

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Published: 10/01/2021
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No. 53925 (Amendment) R865-7H-1: Environmental Assurance Fee for Retailers or Consumers Not Participating in the Environmental Assurance Program Pursuant to Utah Code Ann. Section 19-6-410.5
Published: 10/01/2021
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Effective: 01/01/2022

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Effective: 12/09/2021

End of the Notices of Rule Effective Dates Section