# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT Filed April 02, 2024, 12:00 a.m. through April 15, 2024, 11:59 p.m.

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Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of 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.

Office of Administrative Rules, Salt Lake City 84114

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#### **EXECUTIVE DOCUMENTS**

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

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

#### **PROCLAMATION**

**WHEREAS**, since the close of the 2024 General Session of the 65th Legislature of the state of Utah, certain matters have arisen which require immediate legislative attention; and

**WHEREAS**, Article VII, Section 6 of the Constitution of the state of Utah provides that the governor may, by proclamation, convene the Senate into Extraordinary Session; and

**NOW, THEREFORE,** I, Spencer J. Cox, governor of the state of Utah, by virtue of the authority vested in me by the Constitution and Laws of the state of Utah, do by this Proclamation call the Senate only of the 65th Legislature of the state of Utah into the Seventh Extraordinary Session at the Utah State Capitol in Salt Lake City, Utah, on the 17th day of April 2024, at 4:00 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the state of Utah since the close of the 2024 General Session of the Legislature of the state of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the state of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 16th day of April 2024

1

Spencer J. Cox

Governor

Deidre M. Henderson Lieutenant Governor

2024-07E

ATTEST:

(State Seal)

**End of the Executive Documents Section** 

## NOTICES OF PROPOSED RULES

A state agency may file a **Proposed Rule** when it determines the need for a substantive change to an existing rule. With a **Notice of Proposed Rule**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between <u>April 02, 2024, 12:00 a.m.</u>, and <u>April 15, 2024, 11:59 p.m.</u> are included in this, the May 01, 2024, 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 May 31, 2024. 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 <u>August 29, 2024</u>, the agency may notify the Office of Administrative Rules that it wants to make the **Proposed Rule** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **Change in Proposed Rule** in response to comments received. If the Office of Administrative Rules does not receive a **Notice of Effective Date** or a **Change in Proposed Rule**, the **Proposed Rule** lapses.

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

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

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE			
TYPE OF FILING:	Amendment		
Rule or Section Number:	R35-1	Filing ID: 56410	

#### **Agency Information**

1. Department:	Government Operations
Agency:	Records Committee
Street address:	346 S Rio Grande Street
City, state and zip:	Salt Lake City, UT 84101

#### Contact persons:

Name:	Phone:	Email:
	801- 531- 3851	rshaw@utah.gov

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule or section catchline:

R35-1. State Records Committee Appeal Hearing Procedures

#### 3. Reason for this change:

The reason for the change is to ensure the Records Committee (Committee) has everything they need five business days before the hearing while they review the appeal before the meeting.

The goal is also to add clarity to processes when a party needs to postpone a hearing, when previously the request needed to come only from the petitioner.

#### 4. Summary of this change:

An addition to Section R35-1-1 and a change to Subsection R35-1-2(5) provides the same deadline to all participating parties. The Chair has discretion on the time for presentation, but the time for respondent and petitioner must be equal.

Subsection R35-1-2(11) is moved up to Section R35-1-1 so it's easier to find.

There are also some changes to allow either party to request a hearing be postponed to a later meeting.

Lastly, Subsection (g) was added to Section R35-1-5 so participants are aware this is also an order the Committee may issue.

#### Fiscal Information

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

#### A) State budget:

There are no substantive changes being made regarding the fiscal impact of this rule. The changes are meant to clarify or improve procedures.

The first improvement requires all parties to submit materials to the Executive Secretary five business days before the hearing. This change will allow the Committee more time to prepare for the hearing. There is no fiscal impact to this change as the time it takes parties to prepare for their presentation will remain the same.

The second improvement allows the Chair to dictate presentation time. This will allow the Committee to operate more efficiently. There will be no fiscal impact as a party may request the Chair if they require more time to present their case and all parties will have equal time.

All other changes to the rule are clarifying in nature.

#### B) Local government:

There are no substantive changes being made regarding the fiscal impact of this rule. The changes are meant to clarify or improve procedures.

The first improvement requires all parties to submit materials to the Executive Secretary five business days before the hearing. This change will allow the Committee more time to prepare for the hearing. There is no fiscal impact to this change as the time it takes parties to prepare for their presentation will remain the same.

The second improvement allows the Chair to dictate presentation time. This will allow the Committee to operate more efficiently. There will be no fiscal impact as a party may request the Chair if they require more time to present their case and all parties will have equal time.

All other changes to the rule are clarifying in nature.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes are meant to clarify or improve procedures.

The first improvement requires all parties to submit materials to the Executive Secretary five business days before the hearing. This change will allow the Committee more time to prepare for the hearing. There is no fiscal impact to this change as the time it takes parties to prepare for their presentation will remain the same.

The second improvement allows the Chair to dictate presentation time. This will allow the Committee to operate more efficiently. There will be no fiscal impact as a party may request the Chair if they require more time to present their case and all parties will have equal time.

All other changes to the rule are clarifying in nature.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes are meant to clarify or improve procedures.

The first improvement requires all parties to submit materials to the Executive Secretary five business days before the hearing. This change will allow the Committee more time to prepare for the hearing. There is no fiscal impact to this change as the time it takes parties to prepare for their presentation will remain the same.

The second improvement allows the Chair to dictate presentation time. This will allow the Committee to operate more efficiently. There will be no fiscal impact as a party may request the Chair if they require more time to present their case and all parties will have equal time.

All other changes to the rule are clarifying in nature.

E) Persons other than small businesses, non-small businesses, or 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 substantive changes being made regarding the fiscal impact of this rule. The changes are meant to clarify or improve procedures.

The first improvement requires all parties to submit materials to the Executive Secretary five business days before the hearing. This change will allow the Committee more time to prepare for the hearing. There is no fiscal impact to this change as the time it takes parties to prepare for their presentation will remain the same.

The second improvement allows the Chair to dictate presentation time. This will allow the Committee to operate more efficiently. There will be no fiscal impact as a party may request the Chair if they require more time to present their case and all parties will have equal time.

All other changes to the rule are clarifying in nature.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes are meant to clarify or improve procedures.

The first improvement requires all parties to submit materials to the Executive Secretary five business days before the hearing. This change will allow the Committee more time to prepare for the hearing. There is no fiscal impact to this change as the time it takes parties to prepare for their presentation will remain the same.

The second improvement allows the Chair to dictate presentation time. This will allow the Committee to operate more efficiently. There will be no fiscal impact as a party may request the Chair if they require more time to present their case and all parties will have equal time.

All other changes to the rule are clarifying in nature.

**G)** Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

#### Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Government Operations, Marvin Dodge, has reviewed and approved this regulatory impact analysis.

#### **Citation Information**

6. 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	
63G-2-502(2)	

#### **Public Notice Information**

- **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.)
- A) Comments will be accepted 05/31/2024 until:

### 9. This rule change MAY 06/07/2024 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.

#### **Agency Authorization Information**

Agency head	Kenneth Williams,	Date:	04/02/2024
or designee	Director and State		
and title:	Archivist		

#### R35. Government Operations, Records Committee. R35-1. State Records Committee Hearing Procedures. R35-1-1. Scheduling Committee Meetings.

- (1) The Executive Secretary shall respond in writing to the notice of appeal within seven business days.
- (2) Two weeks before the Committee meeting or appeal hearing, the Executive Secretary shall post a notice of the meeting on the Utah Public Notice Website.
- (3) The Executive Secretary sets the agenda for the meeting. If the Committee Chair determines necessary, the Executive Secretary may postpone appeals to the next available meeting.
- (4) With exception to disputed records that will be reviewed in camera during a hearing, a party to an appeal before the Committee, including any intervening or interested-third party, shall submit to the Executive Secretary no later than five business days before the parties' scheduled hearing all evidence the party desires the Committee consider, including a statement of facts, reasons, and legal authority supporting the party's position, witness list, and exhibits. The Committee may not accept nor consider evidence or materials submitted later than five business days before the scheduled hearing date.
- (5)(a) Pursuant to Subsection 63G-2-401(5)(c) a party wishing to postpone an appeal shall notify the Committee via the Executive Secretary and the other party in writing with the reason for postponement.
- (b) If the petitioner wishes to withdraw the appeal, the petitioner shall notify the Committee via the Executive Secretary and the governmental entity in writing no later than five days before the scheduled hearing date.
- (c) The Committee Chair has the discretion to grant or deny a request to postpone a hearing based upon:
  - (i) the reasons given by in the request;
  - (ii) the timeliness of the request;
- (iii) whether a party has previously requested and received a postponement;

- (iv) whether the other party stipulated to the postponement;
- (v) any other factor determined to protect the equitable interests of the parties.
- (d) If the request to postpone is granted, the Chair shall instruct the Executive Secretary to schedule the appeal for a later hearing date pursuant to Subsection 63G-2-403(4)(a).
- (e) The Chair shall ordinarily deny a governmental entity's request to postpone the hearing unless the governmental entity has obtained the petitioner's prior consent to reschedule the hearing date or has provided a showing of good cause for the postponement.

#### R35-1-2. Procedures for Appeal Hearings.

or

- (1) The meeting shall be called to order by the Committee Chair.
  - (2) The Committee Chair shall swear in the parties.
- (3) [The petitioner and respondent are allowed up to 15 minutes to present their case. Either party may request more time from the Chair at the hearing-]The Chair shall set the time limit for the parties to present their cases pursuant to Subsection 63G-2-403(8), but in no event may the Chair limit the parties' presentations to less than 5 minutes.
- (a) The petitioner's and governmental entity's cases may consist of testimony, argument, relevant evidence, and any relevant witnesses.
- (b) Witnesses providing testimony shall be sworn in by the Committee Chair.
- (c) Questioning of the witnesses and parties by Committee members is permitted.
- (4)(a) If the appeal involves proper classification of a record, the governmental entity must bring the disputed records to the hearing to allow the Committee to view records in camera if it deems an in camera inspection necessary pursuant to Subsection 63G-2-403(9).
- (b) If the records withheld are voluminous or the governmental entity contends they have not been identified with reasonable specificity, the governmental entity shall notify the Committee via the Executive Secretary at least seven days before the hearing and obtain approval from the Committee Chair to bring a representative sample of the potentially responsive records to the hearing, if it is possible to do so.
- (c) Records provided by the governmental entity for in camera review by the Committee remain in the custody of the governmental entity. Records for in camera review are retained by the Committee for only the period of in camera review and are returned to the governmental entity or destroyed, provided they are not the record copy, at the conclusion of the in camera review.
- (5) Third party presentations may be permitted. No later than [three]five days before the hearing, the third party shall notify the Executive Secretary of their intent to present. Third party presentations [are limited to three minutes, and ]will be presented before closing arguments.
- (6) Closing arguments may be presented by the petitioner and the governmental entity. Each party shall be allowed [up to five minutes]equal time to present a closing argument and make rebuttal statements.
- (7)(a) After the conclusion of the closing arguments, the Committee shall start deliberations. A Committee Member shall make a motion described in the list under -Subsection R35-1-5(1). The Committee shall vote and make public the decision of the Committee during the hearing.

- (b) In the event of a tie vote, the Committee Chair shall ask if the Committee wishes to continue deliberation. If so, deliberation continues and another motion may be made. If a tie vote occurs a second time, the Chair shall withdraw their vote to break the tie.
- (8) At any time, the Committee may adjourn, reschedule, continue, or reopen a hearing on the motion of a member.
- (9) Except as expressly authorized by law, there shall be no communication between the parties and the members of the Committee concerning the subject matter of the appeal before the hearing or before the issuance of an Order. Any other oral or written communication from the parties to the members of the Committee, or from the members of the Committee to the parties, shall be directed to the Executive Secretary for transmittal.
- (10) The following provisions govern any meeting at which one or more members of the Committee or a party appears telephonically or electronically, pursuant to Section 52-4-207.
- (a) The anchor location is the physical location from which the electronic meeting originates as indicated on the public notice.
- (b) Public notices of the meeting shall show if one or more Committee members or parties may be participating electronically or telephonically. In addition, the notice shall specify the anchor location where the members of the Committee not participating electronically or telephonically will be meeting and where interested persons and the public may attend and monitor the open portions of the meeting.
- (c) When notice is given of the possibility of a member of the Committee appearing electronically or telephonically, any member of the Committee may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the Committee. At the commencement of the meeting, or at such time as any member of the Committee initially appears electronically or telephonically, the Committee Chair shall identify for the record each of those who are appearing telephonically or electronically. When conducting a meeting with any Board members participating telephonically or electronically, the Committee Chair will take votes by roll call.
- [ (11)(a) Pursuant to Subsection 63G-2-401(5)(c) a petitioner may request a postponement of a hearing, with the consensus of the governmental entity. If the petitioner wishes to postpone the hearing or withdraw the appeal, the petitioner shall notify the Committee via the Executive Secretary and the governmental entity in writing no later than five days before the seheduled hearing date.
- (b) The Committee Chair has the discretion to grant or deny a petitioner's request to postpone a hearing based upon: (i) the reasons given by the petitioner in the request, (ii) the timeliness of the request, (iii) whether petitioner has previously requested and received a postponement, (iv) any other factor determined to protect the equitable interests of the parties. If the request is granted, the Chair shall instruct the Executive Secretary to schedule the appeal for the next available hearing date pursuant to Subsection 63G-2-403(4)(a).
- (c) The Chair will ordinarily deny a governmental entity's request to postpone the hearing, unless the governmental entity has obtained the petitioner's prior consent to reschedule the hearing date.]
- (11[42]) If the Committee determines at any time before, or during a hearing, that a necessary third party must either be added as a party to the appeal or otherwise be present or testify, the Committee may vote to continue the hearing to a later date, if necessary, and compel the third party's attendance by way of a subpoena.

 $(\underline{12}[13])$  Nothing in this section precludes the Committee Chair from taking appropriate measures necessary to maintain the order and integrity of the hearing.

#### R35-1-3. Burden of Proof.

- (1)(a) In cases where the appeal concerns whether the governmental entity possesses or maintains the requested records, the governmental entity must show by a preponderance of the evidence that its search for the requested records was reasonable.
- (b) Upon the governmental entity establishing by a preponderance of the evidence that its search was reasonable, the burden of proof shifts to the petitioner who must show by a preponderance of the evidence that the search efforts were not reasonable.
- (2) In hearings concerning whether a person is a vexatious requester, the Committee shall examine the totality of the circumstances in determining that the person is a vexatious requester as outlined in Subsection 63G-2-209(9).

#### R35-1-4. Vexatious Requester Hearing Procedures.

- (1) When hearing a petition to declare a person a vexatious requester, the Committee shall hold the hearing in accordance with Section R35-1-2.
- (2) If at any time the Committee determines that the matter being heard involves issues outlined in Subsection 52-4-205(1), then the Committee may move to close the hearing to the public.

#### R35-1-5. Issuing the Committee Decision and Order.

- (1) The Committee may issue the following Orders:
- (a) grant the petitioner's appeal in whole or in part;
- (b) deny the petitioner's appeal in whole or in part;
- (c) continue the hearing to a later date;
- (d) deny or allow a vexatious requester hearing;
- (e) declare a person a vexatious requester; or
- (f) require a governmental entity to make redactions in the record, remove redactions, or take other action necessary to carry out the Decision and Order.
- (g) default in favor of one party due to the lack of attendance of the other party.
- (2) In its Orders, the Committee may, as needed to comply with Subsection 63G-2-403(12)(a), cite to and analyze legal authority not voiced in its deliberations as long as the cited authority supports the dispositive motion the Committee voted upon in the hearing.
- (3)(a)(i) The Committee Chair or Chair pro tem shall sign the Decision and Order; and
- (ii) the Executive Secretary shall distribute the Decision and Order within seven business days after the hearing.
- (b) The Executive Secretary shall distribute copies of each Decision and Order to the petitioner, the governmental entity, and other interested parties. The Committee shall maintain the original Order
- (4) The Committee shall make a copy of the Decision and Order available for public access on the Utah State Archives website.
- (5) Before either party appeals an Order pursuant to Section 63G-2-404, the Committee may withdraw its Order by delivering notice to the parties of the withdrawal. Upon the withdrawal, the Executive Secretary shall add the withdrawn Order to the agenda of the next regularly scheduled public Committee meeting.

#### R35-1-6. Committee Minutes.

- (1) Purpose. Section 52-4-203 requires any public body to establish and implement procedures for the public body's approval of the written minutes of each meeting. This rule establishes procedures for the State Records Committee to approve the written minutes of each meeting.
- (2) Authority. This rule is enacted under the authority of Sections 52-4-203, 63G-3-201, and 63A-12 Division of Archives and Records Service.
- (3) Meetings of the Committee shall be recorded. The recording of the open meeting shall be made available to the public within three business days. Access to the audio recordings shall be provided by the Executive Secretary on the Utah Public Notice Website.
- (4)(a) Approved written minutes shall be the official record of the meetings and appeal hearings and shall be maintained by the Executive Secretary.
- (b) Written minutes shall be read by members before the next scheduled meeting, including electronic meetings.
- (c) Written minutes from meetings shall be made available no later than one week before the date of the next regularly scheduled Committee meeting.
- (d) When minutes are complete but awaiting official approval, they are a public record and must be marked as "Draft."
- (e) At the next meeting, at the direction of the Committee Chair, minutes shall be amended or approved with individual votes recorded in the minutes. The minutes shall be then marked as "Approved."
- (f) When the minutes are "Approved" they will be noted in the printed and online versions. A copy of the approved minutes shall be made available for public access on the Utah Public Notice Website.

KEY: government documents, state records committee, records appeal hearings, vexatious requester hearings

Date of Last Change: [January 29,] 2024 Notice of Continuation: June 3, 2019

Authorizing, and Implemented or Interpreted Law: 63G-2-401(5)(c); 63G-2-403(9); 63G-2-403(4)(a); 63G-2-201; 63A-12-

101; 52-4-203

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R66-36	Filing ID: 56433

#### **Agency Information**

1. Department:	Agriculture and Food	
Agency:	Medical Cannabis and Industrial Hemp	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	

Contact persons:		
Name:	Phone:	Email:
Amber Brown	385- 245- 5222	ambermbrown@utah.gov
Brandon Forsyth	801- 710- 9945	bforsyth@utah.gov
Kelly Pehrson	385- 977- 2147	kwpehrson@utah.gov

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule or section catchline:

R66-36. Transport of Transportable Industrial Hemp Concentrate

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

A new rule is needed to implement statutory changes passed during the 2024 General Session in H.B. 52, Industrial Hemp Amendments.

The bill defines transportable industrial hemp concentrate and allows it to be transported according to rules written by the Department of Agriculture and Food (Department).

#### 4. Summary of the new rule or change:

This rule sets the transportation requirements for transportable industrial hemp concentrate, including Department notification, approval, and record keeping requirements, testing requirements, and rules that allow the Department to inspect facilities and order destruction of non-compliant products.

#### **Fiscal Information**

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

#### A) State budget:

This new program will incur some costs for the state, including approximately \$5,500 in inspection costs (staff time and equipment) and \$7,600 in administrative costs for the industrial hemp program to process transportation approvals and denials.

This estimate is based on the program's expectation of how many licensees will be interested in transporting transportable industrial hemp concentrate multiplied by the Department's estimate of the staff time that will be needed to administer and inspect each participant. This is a total cost of \$13,100 for FY 25 and FY 26 and \$3,275 for the remainder of FY 24.

The Department estimates a reduced cost in FY 2024 based on the number of months left in 2024. The Department laboratory will incur additional testing costs of \$13,500 which will be equally offset by approximately \$13,500 in additional revenue brought in through testing fees paid by licensees. Approximately 25% of this cost and benefit will be borne in FY 24 based on the number of months remaining in FY 24.

#### B) Local governments:

Local governments do not regulate hemp producers and are not licensed to produce hemp products and would not be impacted by this rule.

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

Licensees that participate in this program will incur an additional cost of \$350 per licensee for required testing for a total of \$13,500. The \$350 estimate is based on the tests that will be required under this rule and the current cost for each test.

Approximately 75% off this cost will be borne by small businesses or \$10,125 per year with 25% costs for the remainder of FY 24 due to the months that will be remaining in the year when this rule is effective.

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

Licensees that participate in this program will incur an additional cost of \$350 per licensee for required testing for a total of \$13,500. The \$350 estimate is based on the tests that will be required under this rule and the current cost of each test.

Approximately 25% off this cost will be borne by non-small businesses or \$3,375 per year with 25% cost for the remainder of FY 24 due to the months that will be remaining in the year when the rule is effective.

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*):

Other persons are not licensed under or administer the program and will not be impacted by this new rule.

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

Affected licensees will be required to pay approximately \$350 for required testing to transport transportable industrial hemp concentrate under this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there

are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory In	Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026	
State Government	\$6,650	\$26,600	\$26,600	
Local Governments	\$0	\$0	\$0	
Small Businesses	\$0	\$0	\$0	
Non-Small Businesses	\$0	\$0	\$0	
Other Persons	\$0	\$0	\$0	
Total Fiscal Cost	\$6,650	\$26,600	\$26,600	
Fiscal Benefits	FY2024	FY2025	FY2026	
State Government	\$3,375	\$13,500	\$	
Local Governments	\$0	\$0	\$0	
Small Businesses	\$0	\$0	\$0	
Non-Small Businesses	\$0	\$0	\$0	
Other Persons	\$0	\$0	\$0	
Total Fiscal Benefits	\$3,375	\$13,500	\$13,500	
Net Fiscal Benefits	\$(3,375)	\$(13,100)	\$(13,100)	

### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Utah Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved this regulatory impact analysis.

#### **Citation Information**

6. 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	
4-41-103.1	

#### **Public Notice Information**

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.)

### A) Comments will be accepted 05/31/2024 until:

### 9. This rule change MAY 06/07/2024 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.

#### **Agency Authorization Information**

Agency head	Craig W. Buttars,	Date:	04/15/2024
or designee	Commissioner		
and title:			

### **R66.** Agriculture and Food, Medical Cannabis and Industrial Hemp.

### R66-36. Transport of Transportable Industrial Hemp Concentrate.

#### R66-36-1. Authority and Purpose.

Pursuant to Subsection 4-41-103.1(1), this rule establishes the procedures governing transportable industrial hemp concentrate by cannabinoid processors, including procedures for approval, transportation, recordkeeping, testing, and inspections.

#### R66-36-2. Definitions.

- For the purposes of this rule:
- (1) "Shipment " means a quantity of transportable industrial hemp concentrate consisting of the same cannabinoid profile shipped on the same day to the same location.
  - (2) "Cannabinoid" means any:
- (a) naturally occurring derivative of cannabigerolic acid (CAS 25555-57-1); or
- (b) any chemical compound that is both structurally and chemically similar to a derivative of cannabigerolic acid.
- (3) "Cannabinoid processing facility" means a person licensed by the department as a tier 1 or tier 2 processing facility that:
- (a) acquires or intends to acquire transportable industrial hemp concentrate from an industrial hemp processor; and
- (b) sells or intends to sell transportable industrial hemp concentrate to a tier 1 or tier 2 processing facility.
- (4) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for which testing was performed.
- (5) "Department" means the Utah Department of Agriculture and Food.
- (6) "Industrial hemp" means any part of the cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.
  - (7) "Industrial Hemp Processor" means:
- (a) a cannabinoid processing facility that has registered with the department as an industrial hemp producer; or
- (b) the equivalent of a cannabinoid processing facility registered in another state.
  - (8) "Transportable industrial hemp concentrate" means:
- (a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass;
- (b) is derived from a cannabis plant that, based on sampling that was collected no more than 30 days before the day on which the cannabis plant was harvested, contains a combined

- concentration of total THC and any THC analog of less than 0.3% on a dry weight basis;
- (c) has a THC and THC analog concentration total that is less than 20% when concentrated from the cannabis plant to the purified state; and
  - (d) is intended to be processed into a cannabinoid product.

### R66-36-3. Transport of Transportable Industrial Hemp Concentrate - Requirements.

- Transportable industrial hemp concentrate may only be transferred by an industrial hemp processor to a cannabinoid processing facility if:
- (1) the transportable industrial hemp concentrate is derived from industrial hemp biomass that has been certified as industrial hemp by a state department of agriculture or the U.S. Department of Agriculture; and
- (2) the industrial hemp processor has records to substantiate the certification.

### R66-36-4. Transport of Industrial Hemp - Notification and Approval.

- (1) Within ten days before the transport of transportable industrial hemp concentrate by an industrial hemp processor to a cannabinoid processing facility, the cannabinoid processing facility shall:
- (a) notify the department of the potential transport on a form provided by the department;
- (b) provide the department with a COA showing that the biomass from which the transportable industrial hemp concentrate was derived is certified industrial hemp by a state department of agriculture or the U.S. Department of Agriculture; and
- (c) provide the department with a COA of test results showing that a representative sample of the transportable industrial hemp concentrate has been tested for cannabinoids.
- (2) The department may approve the transport following review of the records of the industrial hemp processor to ensure compliance with this rule.
- (3) Upon approval of the transport, the department will issue a certificate to the industrial hemp processor allowing the transport to proceed.
- (4) No transportable industrial hemp concentrate may be transferred to a cannabinoid processing facility unless the cannabinoid processing facility has a license in good standing with the department.
- (5) The department may not approve the transport of transportable industrial hemp concentrate with a THC concentration greater than 20%.

#### R66-36-5. Transportation.

- (1) Transportable industrial hemp concentrate shall be tested for cannabinoids and be accompanied by the COA.
- (2) A printed certificate of transport shall accompany every transport of transportable industrial hemp concentrate.
- (3) The certificate of transport may not be voided or changed after departing from the original industrial hemp processor.
- (4) The receiving cannabinoid processing facility shall ensure they are given a copy of the certificate of transport.
- (5) The receiving cannabinoid processing facility shall ensure that the transportable industrial hemp concentrate received is as described in the certificate of transport and shall record the amounts received.

(6) The receiving cannabinoid processing facility shall document any differences between the quantity specified in the certificate of transport and the quantities received.

#### R66-36-6. Recordkeeping Requirements.

- (1) Following the purchase of transportable industrial hemp concentrate from an industrial hemp processor, a cannabinoid processing facility shall ensure that each shipment is identified as transportable industrial hemp concentrate and identification is maintained.
- (2) A cannabinoid processing facility shall maintain a record of each purchase of transportable industrial hemp concentrate, including:
- (a) a copy of the certification that the transportable industrial hemp concentrate is derived from certified industrial hemp;
  - (b) the certificate of transport;
- (c) the intended use of the transportable industrial hemp concentrate; and
- (d) the disposition of the transportable industrial hemp concentrate.
- (3) A cannabinoid processing facility shall make each record available for inspection by the department and kept for a minimum of three years after the final disposition of the transportable industrial hemp concentrate.

#### **R66-36-7.** Testing Requirements.

- (1) Transportable industrial hemp concentrate purchased by a cannabinoid processing facility shall be tested by the department's analytical laboratory for a cannabinoid profile within five days of the cannabis processing facility's receipt of the transportable industrial hemp concentrate.
- (2) The facility shall document testing on a COA and keep a record of the testing for three years after the final disposition of the transportable industrial hemp concentrate.

#### **R66-36-8.** Inspection and Destruction.

- (1) The department has the right to conduct a random inspection of each industrial hemp processor and cannabinoid processing facility that are subject to this rule, including an audit of the following to ensure compliance with Utah state law:
- (a) the records of an industrial hemp processor that has transferred transportable industrial hemp concentrate; and
- (b) the records of a cannabinoid processing facility that has received transportable industrial hemp concentrate.
- (2) Inspection may take place at any time during normal business hours.
- (3) Transportable industrial hemp concentrate that is identified as out of compliance may be subject to destruction by the department.

#### R66-36-9. Violations.

- (1) Violations of this rule include:
- (a) transport or transfer of transportable industrial hemp concentrate without notifying the department;
- (b) transport of cannabinoid concentrate with a THC level greater than 20%;
- (c) a cannabinoid processing facility allowing transportable industrial hemp concentrate into the facility without proper records;

- (d) a cannabinoid processing facility allowing transportable industrial hemp concentrate into the facility without testing;
- (e) a facility not keeping and maintaining each record required by this rule;
- (f) a facility falsifying a record required to be kept under this rule;
- (g) a facility denying the department access to the records; and
- (h) transporting transportable industrial hemp concentrate to a cannabinoid processing facility without a certificate of transport.
  - (2) The department shall assess fines of:
  - (a) \$3,000 \$5,000 for public safety violations;
  - (b) \$1,000 \$5,000 for regulatory violations; and
  - (c) \$500 \$5,000 for licensing violations.
- (3) The department shall calculate fines based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.
- (4) The department may enhance or reduce the penalty based on the seriousness of the violation.

### KEY: cannabinoid product, industrial hemp, transportable industrial hemp concentrate

**Date of Last Change: 2024** 

Authorizing, and Implemented or Interpreted Law: 4-41-103.1

NOTICE OF PROPOSED RULE			
TYPE OF FILING: Amendment			
Rule or Section Number:	R277-108	Filing ID: 56422	

#### **Agency Information**

1. Department:	Education	on	
Agency:	Administration		
Building:	Board of	f Education	
Street address:	250 E 50	00 S	
City, state and zip:	Salt Lake City, UT 84111		
Mailing address:	PO Box 144200		
City, state and zip:	Salt Lake City, UT 84114-4200		
Contact persons:			
Name:	e: Phone: Email:		
Angie Stallings	801- 538- 7830	angie.stallings@schools.utah. gov	

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule or section catchline:

R277-108. Annual Assurance of Compliance by Local School Boards

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

This rule is being updated to simplify the Local Education Agency (LEA) compliance and Assurance Checklist incorporated by reference document.

#### 4. Summary of the new rule or change:

The amendments specifically add oversight categorization information, eliminate certain assurances that are not needed due to other oversight activities, and also update the incorporated by reference documents publication date and website link. The assurance document, incorporated by reference, was updated to eliminate some assurances and organize the assurances with new headers identifying the assurances required by federal law separately from those required by state law.

#### Fiscal Information

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

#### A) State budget:

This rule change is not expected to have fiscal impacts on state government revenues or expenditures. The changes to update the LEAs compliance and assurance document do not add costs for the Utah State Board of Education (USBE) or any other state agency.

LEAs attest to compliance with state and federal regulations. This rule change does not require any expenditures or create any measurable savings.

The oversight framework categorization is part of USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from this rule. This categorization does not add any requirements or resources in and of itself.

The updated document and annual assurances serve the purpose of LEAs attesting to compliance with state and federal regulations. Certain of these assurances were removed as they are already monitored in other areas by existing USBE staff and processes. Therefore, there are no added costs or measurable savings for USBE or LEAs.

#### B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The changes to update the LEA compliance and assurance document do not add costs for LEAs or other local governments.

LEAs will continue to attest to compliance with state and federal regulations. This rule change does not require any LEA expenditures or create any measurable cost savings. The oversight framework categorization is part of USBE's effort through Rule R277-111 to categorize each rule into

an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from this rule. This categorization does not add any requirements or resources in and of itself.

The updated document and annual assurances serve the purpose of LEAs attesting to compliance with state and federal regulations. Certain of these assurances were removed as they are already monitored in other areas by existing USBE staff and processes. Therefore, there are no added costs or measurable savings for USBE or LEAs.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This rule change only affects USBE and LEAs.

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

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

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This rule change only affects USBE and LEAs.

**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. This does not create any additional costs for USBE or LEAs.

LEAs attest to compliance with state and federal regulations. The oversight framework categorization is part of USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule. This categorization does not add any requirements or resources in and of itself.

The updated document and annual assurances serve the purpose of LEAs attesting to compliance with state and federal regulations. Certain of these assurances were removed as they are already monitored in other areas by existing USBE staff and processes. Therefore, there are no added costs or measurable savings for USBE or LEAs.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory In	nnact Table	,	
Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

#### Citation Information

6. 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:

Article X,	Subsection	
Section 3	53E-3-401(4)	

#### **Incorporations by Reference Information**

incorporations by	Reference information			
7. Incorporations by Reference:				
A) This rule adds, updates, or removes the following title of materials incorporated by references:				
Official Title of Materials Incorporated (from title page)  Local Education Agency (LEA) Compliance and Assurance Checklis				
Publisher	Utah State Board of Education			
Issue Date	April 5, 2024			
Issue or Version	2024-2025 school year			

#### **Public Notice Information**

- 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.)
- A) Comments will be accepted 05/31/2024 until:

### 9. This rule change MAY 06/07/2024 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.

#### **Agency Authorization Information**

Agency head	Angie Stallings,	Date:	04/15/2024
or designee	Deputy		
and title:	Superintendent of		
	Policy		

#### R277. Education, Administration.

R277-108. Annual Assurance of Compliance by Local School Boards.

#### R277-108-1. Authority, [and ]Purpose, and Oversight Category.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law and allows the Board to interrupt disbursements of state aid to any district which fails to comply with rules adopted in accordance with the law.
- (2) The purpose of this rule is to provide local school boards with a <a href="mailto:checklist">checklist</a> of laws requiring local school board action and a means of assuring that local boards are in compliance.
- (3) This Rule R277-108 is categorized as Category 3 as described in Rule R277-111.

#### R277-108-2. Definitions.

[(1)—]"Assurance document" or "checklist" means the Annual Assurances of Compliance [list outlined]checklist incorporated by reference in S[ubs]ection R277-108-3.

#### R277-108-3. Incorporation of Annual Assurances of Compliance.

- (1) This rule incorporates by reference the Local Education Agency (LEA) Compliance and Assurance Checklist for [2021-2022]2024-2025 School Year[-(02/04/2021)], which lists the required state and federal compliance information for identified programs and funds, including:
  - (a) Board Rule;
  - (b) State statute;
  - (c) Federal Code of Regulations; and
  - (d) Federal Law.
- (2) A copy of the current Annual Assurances of Compliance List is located at:

(a)

[https://www.schools.utah.gov/financialoperations/formsapplications?mid=2382&tid=2]https://schools.utah.gov/administrativerules/documentsincorporated; and

(b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah 84111.

#### R277-108-4. Assurance Document Creation and Availability.

- (1) The Superintendent shall provide a <u>check</u>list of laws and [a list of]State Board of Education Administrative Rules which require action or compliance by June 1 of each year to school district superintendents, the superintendent for the Utah School for the Deaf and the Blind and charter school directors.
- (2) The <u>check</u>list described in Subsection (1) shall be approved by the Board and shall identify laws and rules along with required compliance dates and reporting forms, if different or necessary than or in addition to the annual assurance document.
- (3) The Superintendent shall consolidate all required reporting and compliance forms and provide for electronic reporting, to the extent possible and ensure the assurance document is available publicly.

#### R277-108-5. Process, Procedures, and Penalties.

- (1) An LEA shall submit the required annual responses to the assurance document and other compliance forms on or before dates identified by the Board.
- (2) An LEA's assurance document shall contain a signed attestation by the appropriate authority attesting to the accuracy and validity of all responses and assurances provided by an LEA.
- (3) [In the event that]If an LEA [is unable to]cannot provide required assurances, compliance information or forms by required dates, an LEA shall provide to the Superintendent a written explanation of the LEA's inability and provide an anticipated submission date.
- (4) An LEA's request for additional time to provide the assurance shall be reviewed by the Superintendent and accepted or rejected in a timely manner.
- (5) The Superintendent shall request a written explanation from an LEA and identified schools that fail to meet the reporting and compliance deadlines and that have not provided an explanation and request for a delayed submission date.
- (6) Following an opportunity to provide explanations and request a delayed submission date, an LEA and identified schools shall be notified of penalties assessed by the Board against the LEA in accordance with  $[\pm]$ Rule R277-114, state law, or federal law.

#### R277-108-6. Reporting Deadlines.

Responses for the assurance document from an LEA are due to the Superintendent no later than July 1 of each year.

#### R277-108-7. Record Retention.

[(1)-]Responses to the assurance document, as required by the Board, shall be kept on file by the Superintendent for five years, together with letters of explanation and documentation of penalties, as directed by the Board.

#### KEY: local school boards, compliance, assurances

Date of Last Change: <u>2024[June 24, 2021]</u> Notice of Continuation: December 13, 2022

Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-401(4)

NOTICE OF PROPOSED RULE			
TYPE OF FILING: Amendment			
Rule or Section Number:	R277-404	Filing ID: 56423	

#### **Agency Information**

1. Department:	Education		
Agency:	Administration		
Building:	Board of Education		
Street address:	250 E 50	00 S	
City, state and zip:	Salt Lake City, UT 84111		
Mailing address:	PO Box 144200		
City, state and zip:	Salt Lake City, UT 84114-4200		
Contact persons:	1		
Name:	Phone:	Email:	
Angie Stallings	801- 538- 7830	angie.stallings@schools.utah gov	
Please address guestions regarding information or			

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule or section catchline:

R277-404. Requirements for Assessments of Student Achievement

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

This rule is being amended to make updates to the document "Standard Test Administration and Testing Ethics Policy for Utah Educators" that is incorporated in this rule.

#### 4. Summary of the new rule or change:

The amendments specifically add oversight categorization information, and also update the incorporated by reference documents publication date and website link.

The updated testing policy includes technical updates and updated requirements for proctoring statewide assessments.

#### Fiscal Information

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

#### A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures. The changes add the Utah State Board of Education (USBE) oversight categorization information from Rule R277-111 and update the website link for the Standard Test Administration and Testing Ethics Policy for Utah Educators.

These changes do not add costs or savings for USBE or Local Education Agencies (LEAs). The prior testing ethics policy did have the requirement for two proctors being actively involved. The new policy adds instruction and guidance on how the proctors should accomplish their duties by circulating through the room and monitoring student behavior. This updated guidance does not add any measurable costs for USBE or LEAs but allows test proctors to be better equipped to monitor students.

#### B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The changes add the USBE oversight categorization information from Rule R277-111 and update the website link for the Standard Test Administration and Testing Ethics Policy for Utah Educators.

These changes do not add costs or savings for USBE or LEAs. The prior testing ethics policy did have the requirement for two proctors being actively involved. The new policy adds instruction and guidance on how the proctors should accomplish their duties by circulating through the room and monitoring student behavior. This updated guidance does not add any measurable costs for USBE or LEAs but allows test proctors to be better equipped to monitor students.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This rule change only impacts USBE and LEAs.

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

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

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The changes add the USBE oversight categorization information from Rule R277-111 and update the website link for the Standard Test Administration and Testing Ethics Policy for Utah Educators. These changes do not add costs or savings for USBE, LEAs, or educators.

The prior testing ethics policy did have the requirement for two proctors being actively involved. The new policy adds instruction and guidance on how the proctors should accomplish their duties by circulating through the room and monitoring student behavior. This updated guidance does not add any measurable costs for USBE or LEAs but allows test proctors to be better equipped to monitor students.

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. The changes add the USBE oversight categorization information from R277-111 and update the website link for the Standard Test Administration and Testing Ethics Policy for Utah Educators. These changes do not add costs or savings for USBE or LEAs.

The prior testing ethics policy did have the requirement for two proctors being actively involved. The new policy adds instruction and guidance on how the proctors should accomplish their duties by circulating through the room and monitoring student behavior. This updated guidance does not add any measurable costs for USBE or LEAs but allows test proctors to be better equipped to monitor students.

**G)** Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

#### Citation Information

6. 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 53E-3-401	
	53G-6-803(9)(b)

#### Incorporations by Reference Information

7.	Incorporation	s by	Reference:

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

Official Title of Materials Incorporated (from title page)	Standard Test Administration and Testing Ethics Policy
Publisher	Utah State Board of Education

Issue Date	April 4, 2024
Issue or Version	May 2024

#### **Public Notice Information**

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.)

A)	Comments	will	be	accepted	05/31/2024
unti	il:				

## 9. This rule change MAY 06/07/2024 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.

#### **Agency Authorization Information**

Agency head	Angie Stallings,	Date:	04/15/2024
or designee	Deputy		
and title:	Superintendent of		
	Policy		

#### R277. Education, Administration.

R277-404. Requirements for Assessments of Student Achievement.

#### R277-404-1. Authority, [and-]Purpose, and Oversight Category.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
- (c) Section 53E-4-302, which directs the Board to adopt rules for the administration of statewide assessments; and
- (d) Subsection 53G-6-803(9)(b), which requires the Board to adopt rules to establish a statewide procedure for exempting a student from taking certain assessments.
  - (2) The purpose of this rule is to:
  - (a) provide consistent definitions; and
- (b) assign responsibilities and procedures for the administration of statewide assessments, as required by state and federal law.
- (3) This Rule R277-404 is categorized as Category 3 as described in Rule R277-111.

#### R277-404-2. Definitions.

- (1) "Benchmark reading assessment" means the same as the term is defined in Section R277-406-2.
- (2) "Benchmark mathematics assessment" means the same as the term is defined in Section R277-406-2.
  - (3) "College readiness assessment" means the:
  - (a) same as that term is described in Section 53E-4-305;
  - (b) the ACT.

and

(4) "English Learner" or "EL student" means a student who is learning in English as a second language.

- (5) "English language proficiency assessment" means the WIDA Assessing Comprehension in English State-to-State (ACCESS), which is designed to measure the acquisition of the academic English language for an English Learner student.
- (6) "Family Educational Rights and Privacy Act of 1974" or "FERPA," 20 U.S.C. 1232g, means a federal law designed to protect the privacy of students' education records.
  - (7) "High school assessment":
- (a) means the same as that term is described in Section 53E-4-304:
  - (b) means the "Utah Aspire Plus"; and
- (c) includes the Utah Aspire Plus assessment of proficiency in:
  - (i) English;
  - (ii) math;
  - (iii) science; and
  - (iv) reading.
- (8) "National Assessment of Education Progress" or "NAEP" means the national achievement assessment administered by the United States Department of Education to measure and track student academic progress.
- (9) "Statewide assessment" means an assessment described in Subsection 53G-6-803(9)(a).
  - (10) "Standards Assessment":
- (a) means the same as that term is described in Subsection 53E-4-303(2)(a);
- (b) means the "Readiness Improvement Success Empowerment" or "RISE"; and
- (c) for each school year, includes one writing prompt from the writing portion of the RISE English language arts assessment for grades 5 and 8.
  - (11) "Statewide assessment" means the:
- (a) the same as that term is defined in Subsection 53E-4-301(2);
  - (b) Utah alternate assessment; and
  - (c) English language proficiency assessment.
  - (12) "Section 504 accommodation plan" means a plan:
  - (a) required by Section 504 of the Rehabilitation Act of 73; and
- (b) designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.
- (13)(a) "Utah alternate assessment" means an assessment instrument:
- (i) for a student in special education with a disability so severe the student is not able to participate in a statewide assessment even with an assessment accommodation or modification; and
- (ii) that measures progress on the Utah core instructional goals and objectives in the student's IEP.
- (b) "Utah alternate assessment" means, for English language arts, science and mathematics, the Dynamic Learning Maps (DLM).
- (14) "Utah eTranscript and Record Exchange" or "UTREx" means a system that allows:
- (a) an LEA and the Superintendent to electronically exchange an individual detailed student record; and
- (b) electronic transcripts to be sent to any post-secondary institution, private or public, in-state or out-of-state, that participates in the e-transcript service.

### R277-404-3. Incorporation of Standard Test Administration and Testing Ethics Policy by Reference.

- (1) This rule incorporates by reference the Standard Test Administration and Testing Ethics Policy, [April 7, 2022]dated May 2024, which establishes:
  - (a) the purpose of testing;
  - (b) the statewide assessments to which the policy applies;
- (c) direction to reference the formative tools' guidance documentation;
  - (d) teaching practices before assessment occurs;
- (e) required procedures for after an assessment is complete and for providing assessment results;
  - (f) unethical practices;
  - (g) accountability for ethical test administration;
  - (h) procedures related to testing ethics violations; and
  - (i) additional resources.
- (2) A copy of the Standard Test Administration and Testing Ethics Policy is located at:

(a)

#### [https://schools.utah.gov/assessment?mid=1104&tid=4

]  $\underline{https://schools.utah.gov/administrative rules/documents in corporate $\underline{dt}$; and }$ 

(b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah 84111.

#### R277-404-4. Superintendent Responsibilities.

- (1) The Superintendent shall facilitate:
- (a) administration of statewide assessments; and
- (b) participation in NAEP, in accordance with Subsection 53E-4-302(1)(b).
- (2) The Superintendent shall provide guidelines, timelines, procedures, and assessment ethics training and requirements for all statewide assessments.
- (3) The Superintendent shall designate a testing schedule for each statewide assessment and publish the testing window dates on the Board's website before the beginning of the school year.

### R277-404-5. LEA Responsibilities - Time Periods for Assessment Administration.

- (1)(a) Except as provided in Subsection (1)(b) and Section R277-404-7 an LEA shall administer statewide assessments to all students enrolled in the grade level or course to which the assessment applies.
- (b) A student's IEP team, English Learner team, or Section 504 accommodation plan team shall determine an individual student's participation in statewide assessments consistent with the Utah Participation and Accommodations Policy.
- (2) An LEA shall develop a plan to administer statewide assessments.
  - (3) The plan shall include:
- (a) the dates that the LEA will administer each statewide assessment:
- (b) professional development for an educator to fully implement the assessment system;
- (c) training for an educator, appropriate paraprofessional, or third party proctor in the requirements of assessment administration ethics; and
- (d) training for an educator and an appropriate paraprofessional to use statewide assessment results effectively to inform instruction.

- (4) An LEA shall [submit]provide assurance that the LEA has met the requirements of the LEA's plan to the Superintendent by [September]August 15 annually.
- (5) At least once each school year, an LEA shall provide professional development for all educators, administrators, and assessment administrators, including third party proctors, concerning guidelines and procedures for statewide assessment administration, including educator responsibility for assessment security and proper professional practices.
- (6) LEA assessment staff or third party proctor staff shall use the Standard Test Administration and Testing Ethics Policy in providing training for all assessment administrators and proctors.
- (7) An LEA may not release statewide assessment data publicly until authorized to do so by the Superintendent.
- (8) An LEA educator, third party proctor, or trained employee shall administer statewide assessments consistent with the testing schedule published on the Board's website.
- (9) An LEA educator, third party proctor, or trained employee shall complete all required assessment procedures before the end of the assessment window defined by the Superintendent.
- (10)(a) If an LEA requires an alternative schedule with assessment dates outside of the Superintendent's published schedule, the LEA shall submit the alternative testing plan to the Superintendent by September 15 annually.
- (b) The alternative testing plan shall set dates for assessment administration for courses taught face-to-face or online.

#### R277-404-6. School Responsibilities.

- (1) An LEA may not prohibit a student from enrolling in an honors, advanced placement, or International Baccalaureate course:
- (a) based on a student's score on a statewide assessment; or
- (b) because the student was exempted from taking a statewide assessment.
- (2) An LEA and school shall require an educator, assessment administrator, and proctor, including a third party proctor, to individually sign a document provided by the Superintendent acknowledging or assuring that the educator administers statewide assessments consistent with ethics and protocol requirements.
- (3) An educator and assessment administrator shall conduct assessment preparation, supervise assessment administration, and certify assessment results before providing results to the Superintendent.
- (4) An educator, assessment administrator, and proctor shall securely handle and return all protected assessment materials, where instructed, in strict accordance with the procedures and directions specified in assessment administration manuals, LEA rules and policies, and the Standard Test Administration and Testing Ethics Policy.

# R277-404-7. Student and Parent Participation in Student Assessments in Public Schools; Parental Exclusion from Testing and Safe Harbor Provisions.

- (1) As used in this section, "penalize" means to put in an unfavorable position or at an unfair disadvantage.
- (2)(a) A parent is primarily responsible for a child's education and has the constitutional right to determine which aspects of public education the child participates in, including assessment systems.

- (b) Parents may further exercise their inherent rights to exempt their children from a statewide assessment without further consequence by an LEA.
- (3)(a) A parent may exercise the right to exempt their child from a statewide assessment.
- (b) Except as provided in Subsection (3)(c), an LEA may not penalize a student who is exempted from a statewide assessment under this section.
- (c) If a parent exempts the parent's child from the basic civics test required in Sections 53E-4-205 and R277-700-8, the parent's child is not exempt from the graduation requirement in Subsection 53E-4-205(2), and may not graduate without successfully completing the requirements of Sections 53E-4-205 and R277-700-8.
- (4)(a) To exercise the right to exempt a child from a statewide assessment under this provision and ensure the protections of this provision, a parent shall:
  - (i) fill out:
- (A) the Parental Exclusion from State Assessment Form provided on the Board's website; or
- (B) an LEA specific form as described in Subsection (4)(b); and
  - (ii) submit the form:
- (A) to the principal or LEA either by email, mail, or in person; and
  - (B) on an annual basis; and
- (C) except as provided in Subsection (4)(b), at least one day before the beginning of the assessment.
- (b) An LEA may allow a parent to exempt a student from taking a statewide assessment less than one day before the beginning of the assessment upon parental request.
- (c) An LEA may create an LEA specific form for a parent to fill out as described in Subsection (4)(a)(i)(B) if:
- (i) the LEA includes a list of local LEA assessments that a parent may exempt the parent's student from as part of the LEA specific form; and
- (ii) the LEA specific form includes information described in the Parental Exclusion from State Assessment Form provided on the Board's website as described in Subsection (4)(a)(i)(A).
- (5)(a) A teacher, principal, or other LEA administrator may contact a parent to verify that the parent submitted a parental exclusion form described in Subsection (4)(a)(i).
- (b) An LEA may request, but may not require, a parent to meet with a teacher, principal, or other LEA administrator regarding the parent's request to exclude the parent's student from taking a statewide assessment.
- (6) The administration of any assessment that is not a statewide assessment, including consequences associated with taking or failing to take the assessment, is governed by policy adopted by each LEA.
- (7) An LEA shall provide a student's individual test results and scores to the student's parent or guardian upon request and consistent with the protection of student privacy.
- (8) An LEA may not provide a nonacademic reward to a student for a student's participation in or performance on a statewide assessment.
- (9) An LEA shall allow an educator to provide an academic incentive for a student's performance on a statewide assessment in accordance with Subsections 53E-4-303(4)(b),  $\underline{53E-4-}304(3)$ , and  $\underline{53E-4-}305(4)$ .

- (10) An LEA shall ensure that a student who has been exempted from participating in a statewide assessment under this section is provided with an alternative learning experience if the student is in attendance during test administration.
- (11) An LEA may allow a student who has been exempted from participating in a statewide assessment under this section to be physically present in the room during test administration.

### R277-404-8. Public Education Employee Compliance with Assessment Requirements, Protocols, and Security.

- (1) An educator, test administrator or proctor, administrator, or school employee may not:
- (a) violate any specific assessment administrative procedure specified in the assessment administration manual, violate any state or LEA statewide assessment policy or procedure, or violate any procedure specified in the Standard Test Administration and Testing Ethics Policy;
  - (b) fail to administer a statewide assessment;
- (c) fail to administer a statewide assessment within the designated assessment window;
  - (d) submit falsified data;
- (e) allow a student to copy, reproduce, or photograph an assessment item or component; or
- (f) knowingly do anything that would affect the security, validity, or reliability of statewide assessment scores of any individual student, class, or school.
- (2) A school employee or third party proctor shall promptly report an assessment violation or irregularity to a building administrator, an LEA superintendent or director, or the Superintendent.
- (3) An educator who violates this rule or an assessment protocol is subject to Utah Professional Practices Advisory Commission or Board disciplinary action consistent with Rule R277-215.
- (4) All assessment material, questions, and student responses for required assessments is designated protected, consistent with Subsection 63G-2-305(5), until released by the Superintendent.
- (5)(a) Each LEA shall ensure that all assessment content is secured so that only authorized personnel have access and that assessment materials are returned to Superintendent following testing, as required by the Superintendent.
- (b) An individual educator, third party proctor, or school employee may not retain or distribute test materials, in either paper or electronic form, for purposes inconsistent with ethical test administration or beyond the time period allowed for test administration.

#### R277-404-9. Data Exchanges.

- (1) The Board's IT Section shall communicate regularly with an LEA regarding the required format for electronic submission of required data.
- (2) An LEA shall update UTREx data using the processes and according to schedules determined by the Superintendent.
- (3) An LEA shall ensure that any computer software for maintaining or submitting LEA data is compatible with data reporting requirements established in Rule R277-484.
- (4) The Superintendent shall provide direction to an LEA detailing the data exchange requirements for each statewide assessment.

- (5) An LEA shall ensure that all statewide assessment data have been collected and certify that the data are ready for accountability purposes no later than July 12.
- (6) An LEA shall verify that it has satisfied all the requirements of the Superintendent's directions described in this section.
- (7) Beginning with the 2022-2023 school year and consistent with Utah law, the Superintendent shall return assessment results from all statewide assessments to the school before the end of the school year.

KEY: assessments, student achievements Date of Last Change: <u>2024[July 22, 2022]</u> Notice of Continuation: July 28, 2021

Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-4-302; 53E-3-401(4); 53G-6-803(9)(b)

NOTICE OF PROPOSED RULE			
TYPE OF FILING: Amendment			
Rule or Section Number:	R277-406	Filing ID: 56424	

#### **Agency Information**

Education		
Adminis	tration	
Board of	Education	
250 E 50	00 S	
Salt Lake City, UT 84111		
PO Box 144200		
Salt Lake City, UT 84114-4200		
Contact persons:		
Phone: Email:		
801- angie.stallings@schools.uta 538- gov 7830		
	Administ Board of 250 E 50 Salt Lak PO Box Salt Lak  Phone: 801- 538-	

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule or section catchline:

R277-406. Early Learning Program and Benchmark Assessments

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

This rule is being updated to provide additional clarification related to literacy instruction in the early grades and to update the rule following the passage of S.B. 2 during the 2024 General Session.

#### 4. Summary of the new rule or change:

The amendments specifically add a definition for "Reading on Grade Level" or "ROGL" for third grade".

The amendments also add Section R277-406-3, which specifies incorporation by reference documents "Science of Reading Evidence Informed Core Criteria Checklist" and "Evidence Criteria for Evidence-Based Curriculum".

These resources provide guidance to LEAs on selection of science of reading curriculum.

In addition, the amendments also make updates to the requirements related to Early Learning Plan accountability and reporting.

#### Fiscal Information

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

#### A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures. The changes respond to legislative changes from S.B. 2 (2024).

The appropriation for Early Literacy funding for Local Education Agencies (LEAs) has been removed and this rule is updated accordingly.

The Utah State Board of Education (USBE) does not estimate a fiscal impact outside the fiscal note for S.B. 2 (2024). There are no costs or savings for USBE or other state agencies associated with this rule change.

#### B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The changes respond to legislative changes from S.B. 2 (2024). The appropriation for Early Literacy funding for LEAs has been removed and this rule is updated accordingly. The fiscal note from S.B. 2 (2024) captures these fiscal impacts to LEAs.

Regarding the literacy instruction clarifications, LEAs without evidence-based curriculum may need to review and update their curriculum. USBE considers this to be an existing legislative requirement and does not have knowledge of any LEAs not using evidence-based curriculum. USBE does not estimate any measurable costs or savings associated with this rule change for LEAs.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures.

This only affects USBE and LEAs.

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

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

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities.

This only affects USBE and LEAs.

## **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. The changes respond to legislative changes from S.B. 2 (2024).

The appropriation for Early Literacy funding for LEAs has been removed and the rule is updated accordingly. The fiscal note from S.B. 2 (2024) captures these fiscal impacts to LEAs.

Regarding the literacy instruction clarifications, LEAs without evidence=based curriculum may need to review and update their curriculum. USBE considers this to be an existing legislative requirement and does not have knowledge of any LEAs not using evidence-based curriculum. USBE does not estimate any measurable costs or savings associated with this rule change for LEAs or USBE.

# **G)** Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

#### Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

#### **Citation Information**

# 6. 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:

Article X, Section 3	Subsection 53E-3-401(4)	Section 53E-3-521
Section 53E-4-307	Section 53E-4-307.5	Subsection 53F-2-503(14)(a)
Section 53G-7-203		

#### Incorporations by Reference Information

7. Incorporations by Reference:		
A) This rule adds, updates, or removes the following title of materials incorporated by references:		
Official Title of Materials Incorporated (from title page)  Science of Reading Evidence Informed Core Criteria Checklist		
Publisher	Utah State Board of Education	
April 4, 2024		

B) This rule adds, updates, or removes the following title of materials incorporated by references:		
Official Title of Materials Incorporated (from title page)	Evidence Criteria for Evidence-Based Curriculum	
Publisher	Utah State Board of Education	
Issue Date	April 4, 2024	

#### **Public Notice Information**

- 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.)
- A) Comments will be accepted 05/31/2024 until:

## 9. This rule change MAY 06/07/2024 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.

#### **Agency Authorization Information**

Agency head	Angie Stallings,	Date:	04/15/2024
or designee	Deputy		
and title:	Superintendent of		
	Policy		

#### R277. Education, Administration.

R277-406. Early Learning Program and Assessments. R277-406-1. Authority and Purpose.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
- ([d]c) Section 53E-3-521, which requires the board to define the components of the early mathematics plan and establish a statewide target using data from the mathematics benchmark assessment:
- ([e]d) Section 53E-4-307, which requires the Board to approve a benchmark assessment for statewide use to assess the reading and mathematics competency of students in grades one, two, and three; and
- $([\underline{f}]\underline{e})$  Section 53G-7-203, which requires the Board to establish rules regarding the administration of and reporting regarding the kindergarten assessment.
  - (2) The purpose of this rule is:
- (a) to outline the responsibilities of the Superintendent and LEAs for implementation of Section [53F-2-503]53E-3-521 and the Board's administration of Early Learning in the state, including to:

- (i) set expectations for LEA Early Learning Plans;
- (ii) establish timelines for LEA Early Learning Plans;
- (iii) provide definitions and designate assessments required in Sections 53E-4-307 and 53E-4-307.5;
  - (iv) provide testing reporting windows, and timelines; and
- (v) require LEAs to submit student reading and mathematics assessment data to the Board; and
- (b) designate the kindergarten assessment and establish timelines and requirements for administration and reporting kindergarten assessment results and enrollment.

#### R277-406-2. Definitions.

- (1)(a) "Benchmark reading assessment" means[÷
- (a) for the 2023-24 school year,] the Acadience Reading assessment[\(\frac{1}{2}\)].
- (b) [beginning with the 2024-25 school year, the benchmark reading assessment that the Board approves, as required in Subsection 53E 4-307(2), through a request for proposals process; and
- (c) the assessment described in Subsection (1)(a) or (1)(b) that: The "benchmark reading assessment:"
  - (i) is given three times each year;
  - (ii) gives teachers information to:
  - (A) plan appropriate instruction; and
  - (B) evaluate the effects of instruction; and
- (iii) provides data about student preparation for success on an end of year criterion referenced test.
  - (2)(a) "Benchmark mathematics assessment" means[:
- (a) for the 2023-24 sehool year,] the Acadience Math assessment:
- (b) [beginning with the 2024-25 school year, the benchmark mathematics assessment that the Board approves, as described in Subsection 53E-4-307.5(2), through a request for proposals process; and
- (c) the assessment described in Subsection (2)(a) or (2)(b) that: The "benchmark mathematics assessment:
  - (i) is given three times each year;
  - (ii) gives teachers information to:
  - (A) plan appropriate instruction; and
  - (B) evaluate the effects of instruction; and
- (iii) provides data about student preparation for success on an end of year criterion referenced test.
- (3) "Components of early mathematics" means the key areas of mathematical learning including:
  - (a) conceptual understanding;
  - (b) procedural fluency;
  - (c) strategic and adaptive mathematical thinking; and
  - (d) productive disposition.
- (4) "Conceptual understanding" means the comprehension and connection of concepts, operations, and relations.
- (5) "Evidence-based" means a strategy that has demonstrated a statistically significant effect on improving student outcomes.
- (6) "Parental notification requirements" means notice by any reasonable means, including electronic notice, notice by telephone, written notice, or personal notice.
- (7) "Plan" means the Early Learning plan described in Section 53G-7-218.
- (8) "Procedural fluency" means the meaningful, flexible, accurate, and efficient use of procedures to solve problems.

- (9) "Productive disposition" means the attitude of a student who sees mathematics as useful and worthwhile while exercising a steady effort to learn mathematics.
- [(10) "Program money" means the same as that term is defined in Section 53F 2 503-](10) "Reading on Grade Level" or "ROGL" means a third grade student is scoring above benchmark and meets or exceeds 405 on the end of year benchmark reading assessment to achieve the strenuous statewide goal of 70% third grade-level proficiency as required by Section 53E-3-1001.
- (11) "Scoring above benchmark" means that a student will likely need effective core instruction to meet subsequent learning goals and may benefit from instruction on more advanced skills.
- $([4\dot{1}]\underline{12})$  "Scoring below or well below benchmark" means that a student:
- (a) performs below or well below the benchmark score on the benchmark reading or benchmark mathematics assessment; and
- (b) requires additional instruction beyond that provided to typically-developing peers to close the gap between the student's current level of achievement and that expected of all students in that grade.
- ([42]13) "Remediation interventions" means reading or mathematics instruction or activities, or both, given to students in addition to their regular instruction, during another time in the school day, outside regular instructional time, or in the summer, which is focused on specific needs as identified by reliable and valid assessments.
- ([13]14) "Strategic and adaptive mathematical thinking" means the ability to formulate, represent, and solve mathematical problems with the capacity to justify the logic used to arrive at the solution.
- ([14]15) "Utah eTranscript and Record Exchange" or "UTREx" means the same as that term is defined in Section R277-404-2.

### **R277-406-3.** Incorporation by Reference of Science of Reading Resources.

- (1) This rule incorporates by reference:
- (a) the Science of Reading Evidence Informed Core Criteria Checklist; and
  - (b) the Evidence Criteria for Evidence-Based Curriculum.
  - (2) A copy of these documents is located at:

(a)

https://www.schools.utah.gov/administrativerules/documentsincorporated; and

(b) the offices of the Utah State Board of Education.

### R277-406-[3]4. Benchmark Reading and Mathematics Assessments.

- (1) Subject to legislative appropriations, and except as provided in Subsection (2), an LEA shall administer the benchmark reading and mathematics assessments:
  - (a) annually:
  - (i) in grade 1, grade 2, and grade 3; and
- (ii) beginning with the 2024-25 school year, in kindergarten; and  $\,$ 
  - (b) within the following testing windows:
- (i) the first benchmark between the first day of school and September 30;
- (ii) the second benchmark between December 1 and January 31; and
  - (iii) the third benchmark between April 15 and June 15.

- (2) An LEA shall annually report benchmark reading and mathematics assessment results to the Superintendent by:
  - (a) October 30;
  - (b) February 28; and
  - (c) June 30.
- (3) If the benchmark reading or mathematics assessment indicates a student is scoring below or well below benchmark:
- (a) for reading, the LEA shall implement the parental notification requirements and evidence-based reading remediation interventions described in Section 53E-4-307:
- (b) for mathematics, the LEA shall implement parental notification requirements similar to those described for reading in Subsection (4)(a) and evidence-based mathematics remediation interventions.
- (4) An LEA shall report benchmark reading and mathematics assessment results annually to parents of students in grade 1, grade 2, and grade 3 by:
  - (a) October 30;
  - (b) February 28; and
  - (c) June 30.
- (5) [Beginning with the 2024-25 school year, an]An LEA shall report benchmark reading and mathematics assessment results annually to parents of students in kindergarten by the deadlines described in Subsection (4).
- (6) An LEA shall annually submit to UTREx the following information from the benchmark reading and mathematics assessment:
- (a) whether or not each student received remediation intervention; and
- (b) UTREx Special Codes related to the benchmark reading and mathematics assessment.

### R277-406-[4]5. Early Learning Plans -- LEA and Superintendent Requirements - Timelines.

- (1) [To receive program money, an] An LEA shall submit[:
- (a) a plan in accordance with [÷
- (i) Subsection 53F-2-503(4); and
  - <del>(ii)</del>] Section 53G-7-218[<del>; and</del>
  - (b) a plan] that contains:
- <u>(a)</u> the components of early mathematics <u>as defined in Section 53E-3-521;</u>
  - (b) an assurance that:
- (i) the LEA has adopted high quality instructional materials and intervention programs aligned with the effective research regarding the science of reading; and
- (ii) the LEA's reading strategies meet the criteria outlined in Section 53G-11-303;
- (c) the reading curriculum currently adopted by the LEA; and
- $([b]\underline{d})$  other required materials within established deadlines.
- (2)(a) Any time before August 1, an LEA may submit its plan to the Superintendent for pre-approval; and
- (b) For each LEA that submits a plan for pre-approval, the Superintendent shall provide feedback in preparation for the LEA submitting the plan to its local board;
- (3) An LEA shall submit a final plan to the Superintendent no later than September 1 by 5 p.m. including:
  - (a)  $[\frac{documentation}{an \ assurance} \ that [ \div$
- (i) the LEA's governing board reviewed and approved the LEA's plan in an open and public meeting; and

- [ (ii) the plan was uploaded to the appropriate system as required by the Superintendent; and]
- (b) if necessary, a revised plan reflecting changes made to the LEA's plan by the LEA's governing board.
- (4) Within three weeks of an LEA submitting a final, local board-approved plan to the Superintendent, the Superintendent shall notify the LEA if the plan was approved or if modifications to the plan are required.
- (5) If the Superintendent does not approve an LEA's plan, the LEA may, by October 15:
  - (a) incorporate needed changes or provisions;
- (b) obtain approval for the amended plan from the LEA's governing board; and
- (c) resubmit the amended plan in accordance with Subsection (3)(a) of this part.
- (6) If an LEA timely resubmits a plan that includes the required modifications, the Superintendent shall approve the plan by November 1.
- [ (7) If an LEA fails to timely resubmit an acceptable plan by October 15, the LEA is not eligible for funding in the current school year.]
- ([8]2) When reviewing an LEA plan for approval, the Superintendent shall evaluate [ $\div$
- (b) whether the plan uses evidence-based curriculum, materials, and practices, which will support the LEA in meeting its growth goals].
- ([9]8) An LEA's goals, as outlined in the LEA's plan, shall be reported to the Superintendent using a digital reporting platform.

### R277-406-[5]6. Accountability and Reporting on Early Learning Plans.

- (1) An LEA shall annually report progress toward the goals outlined in the LEA's plan to the Superintendent by June 30.
- (2) In accordance with Section[s 53F-2 503 and] 53G-7-218, a growth goal in an LEA's plan:
- (a) is calculated using the percentage of students in an LEA's grades 1 through 3 who made typical, above typical, or well-above typical progress from the beginning of the year to the end of the year, as measured by the benchmark [reading and-]mathematics assessment; and
- [ (b) sets the literacy target percentage of students in grades 1 through 3 making typical or better progress at a minimum of 60%; and]
- ([e]b) sets the mathematics target percentage of students in grades 1 through 3 making typical or better progress at a minimum of 60%[beginning in the 2021-2022 school year].
- (3) The Superintendent shall use the information provided by an LEA described in Section R277-406-[4]5 to determine the progress of each student in grades 1 through 3 within the following categories:
  - (i) well-above typical;
  - (ii) above typical;
  - (iii) typical;
  - (iv) below typical; or
  - (v) well below typical.
- (4) The Superintendent shall report the percentage of students reading on grade level in Grade 3 annually.
- ([4]5) If an LEA does not make sufficient progress toward its plan goals for two consecutive years, as defined in Subsection ([ $\frac{5}{6}$ ), the Superintendent shall assign the LEA to the Early Learning

System of Support and require the LEA to participate in interventions to improve [early literacy, ]early mathematics[, or both].

- ([5]6) [Accept]Except as provided [for-]in Subsection ([6]7), consistent with Section 53G-7-218, sufficient progress toward plan goals means the LEA meets:
  - (a) the state's growth goals for [literacy and ]math; and
- (b) at least one of the LEA-designated goals addressing performance gaps.
- ([6]2) The Superintendent shall establish the strategies, interventions, and techniques for schools that are part of the Early Learning System of Support to assist schools to achieve early learning goals.

#### R277-406-[6]7. Kindergarten Enrollment Reporting.

- (1) An LEA shall submit student membership information daily to the Superintendent using the appropriate kindergarten code through UTREx.
- (2) The Superintendent shall review October 1 and June 15 kindergarten membership information annually to inform LEA funding allocations.

KEY: reading, improvement, goals

Date of Last Change: <u>2024</u>[November 7, 2023] Notice of Continuation: January 13, 2022

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-521; 53E-4-307; 53E-4-307.5; [53F-2-

<del>503(14)(a);</del> |53G-7-203

NOTICE OF PROPOSED RULE				
TYPE OF FILING: Amendment				
Rule or Section Number:	R277-462	Filing ID: 56425		

#### **Agency Information**

1. Department:	Education		
Agency:	Administration		
Building:	Board of Education		
Street address:	250 E 50	00 S	
City, state and zip:	Salt Lake City, UT 84111		
Mailing address:	PO Box 144200		
City, state and zip:	Salt Lake City, UT 84114-4200		
Contact persons:	:		
Name:	Phone: Email:		
Angie Stallings	801- angie.stallings@schools.utah. gov		

Please address questions regarding information on

#### General Information

#### 2. Rule or section catchline:

R277-462. School Counseling Program

this notice to the persons listed above.

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

This rule is being amended to make updates to the incorporated by reference document "Utah K-12 Comprehensive School Counseling Program Components Document", and also to make updates that align with current practices.

#### 4. Summary of the new rule or change:

The amendments specifically add oversight categorization information and make updates to the incorporated by reference documents publication date and website link.

In addition, the amendments clarify the requirements related to the school counseling program and approval criteria and the allowable use of funds. The incorporated document was changed to simplify and consolidate language and requirements for Local Education Agencies (LEAs).

Changes also provide flexibility for programming at the LEA level

#### **Fiscal Information**

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

#### A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures. The changes to the school counseling document, oversight framework categorization, and clarification on school counseling programs do not add any measurable costs or savings for the Utah State Board of Education (USBE).

Clarity on not using school counseling funds for a separate matching requirement does not add any costs or savings for USBE.

The updated documents and clarification on school counseling programs provide a framework for best practices in school counseling. This does not add any measurable costs because it provides guidelines and information for school counselors and school administrators to better provide the services they are already providing. It does not create new services or add counselors, other staff, or other resources.

The oversight framework categorization is part of USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule. This categorization does not add any requirements or resources in and of itself.

#### B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The changes to the school counseling document, oversight

framework categorization, and clarification on school counseling programs do not add any measurable costs or savings for Local Education Agencies (LEAs). Clarity on not using school counseling funds for a separate matching requirement does not add any costs or savings for LEAs.

The school counseling funds have been restricted for school counseling purposes and this is not a change of practice. The updated documents and clarification on school counseling programs provide a framework for best practices in school counseling. This does not add any measurable costs because it provides guidelines and information for school counselors and school administrators to better provide the services they are already providing. It does not create new services or add counselors, other staff, or other resources.

The oversight framework categorization is part of USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule. This categorization does not add any requirements or resources in and of itself.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and LEAs.

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

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

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities.

This only affects USBE and LEAs.

# **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. The changes to the school counseling document, oversight framework categorization, and clarification on school counseling programs do not add any measurable costs or savings for USBE or LEAs. Clarity on not using school counseling funds for a separate matching requirement does not add any costs or savings for USBE or LEAs.

The updated documents and clarification on school counseling programs provide a framework for best practices in school counseling. This does not add any measurable costs because it provides guidelines and information for school counselors and school administrators to better provide the services they are already providing. It does not create new services or add counselors, other staff, or other resources.

The oversight framework categorization is part of USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule. This categorization does not add any requirements or resources in and of itself.

# **G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

#### Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

#### Citation Information

6. 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:

Article X,	Subsection	Subsection
Section 3	53E-3-401(4)	53E-2-304(2)(b)

#### Incorporations by Reference Information

#### 7. Incorporations by Reference:

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

Official Title of Materials Incorporated (from title page)	Utah K-12 Comprehensive School Counseling Model
Publisher	Utah State Board of Education
Issue Date	April 4, 2024

#### **Public Notice Information**

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.)

A)	Comments	will	be	accepted	05/31/2024
unti	il:				

9.	This	rule	change	MAY	06/07/2024
bec	ome e	effect	ive on:		

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

#### **Agency Authorization Information**

Agency head	Angie Stallings,	Date:	04/15/2024
or designee	Deputy		
and title:	Superintendent of		
	Policy		

#### R277. Education, Administration.

R277-462. Comprehensive School Counseling Program.

#### R277-462-1. Authority, [and-]Purpose, and Oversight Category.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
- (c) Subsection 53E-2-304(2)(b) which directs local boards to develop policies for the implementation of student Plan for College and Career Readiness.
  - (2) The purpose of this rule is to establish:
- (a) standards and procedures for an LEA applying for funds appropriated for the School Counseling Program;
- (b) the minimum counselor to student ratios within an LEA; and
- (c) provisions for an LEA not meeting the minimum counselor to student ratios;
- (3) This Rule R277-462 is categorized as Category 3 as described in Rule R277-111.

#### R277-462-2. Definitions.

- (1) "LEA" means, for purposes of this rule, an LEA that serves students  $\underline{in}$  any of  $[\underline{in}]$  grades 7-12.
- (2) "Program" means an LEA's school counseling program that shall be consistent with the program model described in Section R277-462-3.
- (3) "School Counselor" means an educator licensed as a school counselor consistent with <u>Rule\_R277-[\$]306</u> and assigned to provide direct and indirect services to students consistent with the program.
- (4) "Student" means, for purposes of this rule, only students in grades 7-12.

# R277-462-3. Incorporation of [College and Career Readiness] | Utah K-12 Comprehensive School Counseling Program | Components Document [Model].

- (1) This rule incorporates by reference the [College and Career Readiness-]Utah K-12 Comprehensive School Counseling Program Components Document, [Model Third Edition, 2020]April 2024.
- (2) A copy of the current [College and Career Readiness]

  <u>Utah K-12 Comprehensive</u> School Counseling Program

  <u>Components Document</u>[Model] is located at:
- $(a) \qquad [ \underline{\text{https://www.schools.utah.gov/file/058ab549-0d27-437e-be6e-}} ]$

4ee7e6421b7d]https://schools.utah.gov/administrativerules/documentsincorporated; and

(b) the Utah State Board of Education -- 250 East 500 South, Salt Lake City, Utah 84111.

### R277-462-4. School Counseling Program Approval and Qualifying Criteria.

- (1) To qualify for a funding distribution outlined in [s]Subsection (2), an LEA shall:
- (a) have a plan for college and career readiness consistent with Sections 53E-2-304 and R277-462-5;
- (b) have an approved student success framework described in Section 53G-7-1304;
- (c) <u>at least once every six years</u>, participate in an on-site program review conducted by the Superintendent which shall[-]

- assess the components of the program as outlined in Section R277-462-3:
- (i) [at least once every six years, be conducted with an LEA's accreditation review described in R277-410; and
  - (ii) assess the following components of the program:
  - (A) collaborative classroom instruction;
- $([B]\underline{ii})$  implementation of the plan for college and career readiness;
- $([\underline{\epsilon}]\underline{iii})$  program contribution to achieving the student success framework:
  - ([D]iv) systemic dropout prevention; and
  - ([E]v) overall administration of the program.
- (d) at least once every three years conduct an internal onsite review consistent with elements of the on-site review conducted by the Superintendent;
  - (e) ensure the school's program is self-evaluated annually;
- (f) participate in statewide trainings provided by the Superintendent;
- (g) provide adequate resources and program management to each program within the LEA;
- (h) conduct a program needs assessment with relevant stakeholders at least once every three years: [-including school-based]
- (i) submit an annual school-based data project[s] demonstrating program or intervention effectiveness;
- [(i)](j) provide evidence of LEA governing board approval of the program;
- [<del>(j)</del>](<u>k)</u> demonstrate parental involvement in the program including advisory [committee]council participation;
- [(k)](1) integrate collaborative classroom instruction consistent with [student success framework and-]standards identified by the [program model]LEA;
- [<del>(1)</del>](<u>m)</u> maintain the required school counselor to student ratio described in Section R277-462-6;
- $[\frac{(m)}{(n)}]$  design a program that includes the needs of diverse students; and
- $[\underline{(n)}]\underline{(o)}$  provide assistance for students in career literacy and future decision-making skills.
- (2) An LEA that meets the requirements in [\$]Subsection (1) may receive a funding distribution as follows:
  - (a) a WPU base for the first 400 students; and
- (b) a per student distribution for each additional student beyond 400 students, up to 1,200 students.
- (3) An LEA shall use the October 1 enrollment count of the previous fiscal year when determining the distribution amount to request.

#### R277-462-5. Plan for College and Career Readiness.

- (1) To qualify for funding described in Section R277-462-4 an LEA shall ensure each student within the LEA has a plan for college and career readiness.
- (2) A student, student's parent, and school counselor shall collaboratively develop the student's plan for college and career readiness.
  - (3) A plan for college and career readiness shall:
  - (a) be a four-year plan; and [-completed either:]
- (i) initiated at the beginning of a student's seventh grade year; or
- (ii) within the first year the student is enrolled in grades 7-12;
- (b) include parents in the individual planning meetings with a student;

- (c) be maintained by the counseling department in each school:
- (d) follow a student as the student progresses through each grade; and
  - (e) when applicable, transfer with a student between LEAs.
- (4) An LEA shall ensure that a student's course registration and class schedule is consistent with the student's plan for college and career readiness.
- (5) An LEA shall require all schools with<u>in</u> the LEA to document parental involvement [and participation ]in a student's planning meetings.
- (6) An LEA shall ensure the implementation [for]of a plan for college and career readiness [in]is consistent with the LEA's program goals and includes the following conference meetings:
- (a) at least one individual and one group conference meeting with a parent, school counselor and student during the student's:
  - (i) grades 7 and 8;
  - (ii) grades 9 and 10; and
  - (iii) grades 11 and 12.
  - (b) other meetings as needed.

#### R277-462-6. School Counselor to Student Ratios.

- (1) To qualify for funding described in Section R277-462-4 an LEA shall have at least one school counselor for every 350 students.
- (2) For purposes of counting toward fulfillment of this ratio, a school counselor shall be:
  - (a) a full-time equivalent within an LEA; and
  - (b) Board certified and licensed as a school counselor.
- (3) An LEA may be considered compliant with [s]Subsection (1) if less than .25 school counselors would be needed for the LEA to meet the required ratio.
- (4) No later than October 1 of each year an LEA shall certify to the Superintendent the school counselor to student ratio.
- (5) No later than [June] May 1 from submitting the LEA's certified ratio, an LEA that does not meet the required ratio in [s] Subsection (1) shall submit to the Board a plan outlining a reasonable timeline and method for achieving compliance.
- (6) If an LEA fails to fulfill the plan described in [s]Subsection (5), the LEA may be placed on a corrective action plan described in Rule R277-114.
- (7) If an LEA fails to complete the corrective action plan described in [s]Subsection (6), the LEA shall be referred to the Board for further corrective action including loss of distributed funds.

#### R277-462-7. Allowable Use of Distributed Funds.

- (1) An LEA shall ensure all funds distributed are used for any of the following purposes:
- (a) [a school ]collaborative classroom and small group curriculum-;
- (b) personnel costs, including clerical positions that support the plan for college and career readiness process;
- (c) career center equipment or materials such as computers, media equipment, computer software, or occupational information;
- $\mbox{(d) professional development for personnel involved in the program;} \label{eq:professional}$
- (e) expenses of extended hours which are required to run the program; and
- (f) membership in [the American School Counselor Association (ASCA) | Utah School Counselor Association, Utah

<u>Association for Career and Technical Education Association, and the Association for Career and Technical Education</u> for one or more school counselors per school per year.

- (2) An LEA may not use funds to supplant currently existing personnel or programs.
- (3) An LEA may not use funds as part of a matching requirement.
  - (4) Restricted rate of indirect costs will be used.

#### R277-462-8. Variances, Accountability, and Reporting.

- (1) A new LEA or existing LEA with a new program, may receive funding under Rule R277-462 if the new LEA:
  - (a) has received accreditation pursuant to <u>Rule R277-410</u>;
  - (b) has an approved program pursuant to <u>Rule R277-462</u>.
- (2) A new LEA or existing LEA with a new program, that does not meet the school counselor to student ratio described in Section R277-462-6 may receive a funding distribution after two years of planning, training, and program implementation.
- (3) No later than October 1, an LEA shall certify annually all previously qualified schools continue to meet the program criteria.
- (4) An LEA shall provide data and information about the LEA's program as requested by the Superintendent.

**KEY:** public education, counselors

Date of Last Change: 2024[December 16, 2020]

Notice of Continuation: April 15, 2024

Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-2-304(2)(b); 53E-3-401(4)

and

NOTICE OF PROPOSED RULE			
TYPE OF FILING: Amendment			
Rule or Section Number:	R277-464	Filing ID: 56426	

#### **Agency Information**

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

#### **General Information**

#### 2. Rule or section catchline:

R277-464. School Counselor Direct and Indirect Services

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

This rule is being updated to make updates to the incorporated by reference document "School Counselor Services Document", and also to make updates that align with current practices.

#### 4. Summary of the new rule or change:

The amendments specifically add oversight categorization information and make updates to the incorporated by reference documents publication date and website link.

Incorporated documents were amended to align with new code and the new due dates.

#### **Fiscal Information**

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

#### A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures. The rule changes to add oversight categorization information and the School Counselor Services Document does not add measurable costs for the Utah State Board of Education (USBE) or Local Education Agencies (LEAs).

The updated document provides best practices for school counseling services. This does not add any measurable costs because it simply provides guidelines and information for school counselors and school administrators to better provide the services they are already providing. It does not create new services or add counselors, other staff, or other resources.

The oversight framework categorization is part of USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from this rule. This categorization does not add any requirements or resources in and of itself.

#### B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The rule changes to add oversight categorization information and the School Counselor Services Document does not add measurable costs for USBE or LEAs. The updated document provides best practices for school counseling services. This does not add any measurable costs because it simply provides guidelines and information for school counselors and school administrators to better provide the services they are already providing. It does

not create new services or add counselors, other staff, or other resources.

The oversight framework categorization is part of USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule. This categorization does not add any requirements or resources in and of itself.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and LEAs.

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

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

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities.

This only affects USBE and LEAs.

# **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. The rule changes add oversight categorization information and the School Counselor Services Document does not add measurable costs for USBE or LEAs. The updated document provides best practices for school counseling services. This does not add any measurable costs because it simply provides guidelines and information for school counselors and school administrators to better provide the services they are already providing. It does not create new services or add counselors, other staff, or other resources.

The oversight framework categorization is part of USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule. This categorization does not add any requirements or resources in and of itself.

**G)** Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

#### Regulatory Impact Table

- 5 ,	•		
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0
Small Businesses			
Non-Small Businesses			
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

#### **Citation Information**

6. 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:

Article X,	Subsection	Section 53E-3-518
Section 3	53E-3-401(4)	

#### Incorporations by Reference Information

7. Incorporations by Reference:  A) This rule adds, updates, or removes the following title of materials incorporated by references:		
Publisher	Utah State Board of Education	
Issue Date	February 2024	

#### **Public Notice Information**

**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.)

	omments	will	be	accepted	05/31/2024
until:					

### 9. This rule change MAY 06/07/2024 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.

#### Agency Authorization Information

Agency head	Angie Stallings,	Date:	04/15/2024
or designee	Deputy		
and title:	Superintendent of		
	Policy		

#### R277. Education, Administration.

### R277-464. School Counselor Direct and Indirect Services. R277-464-1. Authority, [and-]Purpose, and Oversight Category.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
- (c) S[ubs]ection 53E-3-518, which directs the Board to make rules specifying:
- (i) the recommended direct and indirect services a school counselor may provide;
- (ii) the recommended amount of time a school counselor may spend on direct and indirect services; and
  - (iii) activities for a school counselor.
- (2) The purpose of this rule is to establish standards and time limits for direct and indirect services provided by a <u>school</u> counselor within an LEA.
- (3) This Rule R277-464 is categorized as Category 2 as described in Rule R277-111.

#### R277-464-2. Definitions.

- (1) "Direct services" means services provided to a student consistent with the School Counselor Services document incorporated by reference in Section R277-464-3.
- (2) "Indirect services" means all other services consistent with the School Counselor Services document incorporated by reference in Section R277-464-3.
- (3) "Non-school counselor activities" means activities inconsistent with direct and indirect services and deemed inappropriate consistent with the School Counselor Services document incorporated by reference in Section R277-464-3.
- (4) "School counselor" means the same as the term is defined in Subsection R277-462-2(3).

### R277-464-3. Incorporation of School Counselor Services Document.

- (1) This rule incorporates by reference the School Counselor Services Document, [August 2019]February 2024, which lists approved direct services and indirect services provided by a school's counseling program.
- $\ensuremath{\text{(2)}}\xspace$  A copy of the School Counselor Services Document is located at:
- (a) [https://www.schools.utah.gov/file/988f7f4f c200-449b-b96f-

b104db01be4a]https://schools.utah.gov/administrativerules/documentsincorporated; and

(b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah 84111.

#### R277-464-4. Time Allotment for Direct and Indirect Services.

- (1) An LEA shall ensure the time allotment for implementation of a school's program be allocated in the following ways:
- (a) 85% of a school program's aggregate time is devoted to providing direct services to students, including:
  - (i) collaborative classroom instruction;
- (ii) assisting in creating a plan for college and career readiness;
- (iii) dropout prevention efforts, including student social and emotional supports; and
- (iv) providing supports for a student's needs consistent with the  $program[\tau]$ ; and
- (b) no more than 15% of a school program's aggregate time is devoted to indirect services including:
  - (i) faculty meetings;
  - (ii) administrative duties related to the program;
  - (iii) professional development of a school counselor; and
  - (iv) leadership meetings.
- (2) An LEA shall ensure all direct and indirect services are consistent with the listed appropriate usage of time provided in the School Counselor Services document incorporated by reference in Section R277-464-3.
- (3) An LEA shall ensure all appropriate and prohibited inappropriate activities are consistent with the School Counselor Services document incorporated by reference in Section R277-464-3, including the elimination of non-school counseling duties such as test coordination and administration.
- (4) An LEA that receives funds pursuant to <u>Rule R277-462</u> shall be subject to the requirements of this rule and all additional requirements as described in Rule R277-462.

#### R277-464-5. Annual Assurance and Compliance.

An LEA shall provide an annual assurance of intent to comply with the time allocation described in Section R277-464-4 through the annual assurances document described in <a href="R277-108">Rule</a> R277-108.

**KEY:** school counselors, services

Date of Last Change: 2024[November 8, 2019]

Notice of Continuation: April 15, 2024

Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-401(4); 53E-3-518

NOTICE OF PROPOSED RULE			
TYPE OF FILING: New			
Rule or Section Number:	R277-631	Filing ID: 56427	

#### **Agency Information**

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

Please address questions regarding information on this notice to the persons listed above.

#### General Information

#### 2. Rule or section catchline:

R277-631. Student Toilet Training Requirements

538-

7830

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

This new rule is being created as a result of the passage of H.B. 331 during the 2024 General Session.

#### 4. Summary of the new rule or change:

This new rule is necessary to establish requirements regarding toilet training for incoming kindergartners.

#### **Fiscal Information**

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

#### A) State budget:

This new rule is not expected to have fiscal impact on state government revenues or expenditures.

The fiscal note to H.B. 331 (2024) captured any fiscal impacts and this rule does not add any additional fiscal requirements for the Utah State Board of Education (USBE) or Local Education Agencies (LEAs).

#### B) Local governments:

This new rule is not expected to have fiscal impact on local governments' revenues or expenditures. The fiscal note to H.B. 331 (2024) captured any fiscal impacts and this rule does not add any additional fiscal requirements for USBE or LEAs.

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

This new rule is not expected to have fiscal impact on small businesses' revenues or expenditures.

This only affects USBE and LEAs.

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

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

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

This new rule is not expected to have fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities.

This only affects USBE and LEAs.

**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. The fiscal note to H.B. 331 (2024) captured any fiscal impacts and this rule does not add any additional fiscal requirements for USBE or LEAs.

**G)** Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

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Regulatory In	Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026	
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 Cost	\$0	\$0	\$0	
Fiscal Benefits	FY2024	FY2025	FY2026	
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	

# H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

#### Citation Information

6. 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:

Article X,	Subsection	Section
Section 3	53E-3-401(4)	53G-7-203

#### **Public Notice Information**

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.)

# A) Comments will be accepted 05/31/2024 until:

# 9. This rule change MAY 06/07/2024 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.

#### **Agency Authorization Information**

Agency head	Angie Stallings,	Date:	04/15/2024
or designee	Deputy		
and title:	Superintendent of		
	Policy		

#### R277. Education, Administration.

### R277-631. Student Toilet Training Requirements.

#### R277-631-1. Authority, Purpose, and Oversight Category.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
- (c) Subsection 53G-7-203(6), which requires the Board to make rules related to student toilet training.
  - (2) The purpose of this rule is to:
- (a) establish toilet training requirements and exceptions; and
- (b) require each LEA to adopt policies for dealing with individual students with toilet training issues.
- (3) This Rule R277-631 is categorized as Category 2 as described in Rule R277-111.

### R277-631-2. Definitions.

- (1)(a) "Toilet trained" means that a student can;
- (i) communicate the need to use the bathroom to an adult;
- (ii) sit down on a toilet;
- (iii) use the toilet without assistance;
- (iv) undress and dress as necessary; and
- (v) tend to personal hygienic needs after toileting.
- (b) If an accident occurs a "toilet trained" child can independently tend to hygienic needs and change clothes.
- (2) A student is not "toilet trained" if the student has accidents with sufficient frequency to impact the educational experience of the student or the student's peers, as determined by an LEA.

### R277-631-3. LEA Requirements.

- (1)(a) Beginning in the 2024-2025 school year, except as provided in Subsection (b) an LEA may not enroll a student in kindergarten unless the student is toilet trained.
- (b) An LEA may enroll a student who is not toilet trained if the student's developmental delay is a result of a condition addressed by an IEP or Section 504 plan.

- (2) As part of an LEA's kindergarten enrollment process, an LEA shall require an assurance from the parent of an incoming student that the student is toilet trained as required under Subsection (1)(a).
- (3) Each LEA shall establish a policy for addressing the needs of enrolled students who lack toilet training, which shall include:
- considering whether a student's delay in toileting capability may be a sign of a disability that could impact the child's education, including initial evaluation consistent with the LEA's child find obligations, if appropriate;
- (b) referring a student and the student's parents to a school social worker or counselor:
  - (i) to provide additional family supports and resources; and
- (ii) to create an individualized plan to address the student's needs;
- (c) establishing the circumstances under which a parent or a parent's adult designee may aid in toilet training;
- (d) coordinating with appropriate LEA personnel and parents to reintegrate a student, as appropriate, once the student has become toilet trained.

### **KEY:** toilet training, kindergarten

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: Article X, Section 3; 53E-3-401(4); 53G-7-203(6)

NOTICE OF PROPOSED RULE			
TYPE OF FILING: Amendment			
Rule or Section Number:	R277-700	Filing ID: 56428	

#### **Agency Information**

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

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

Please address questions regarding information on this notice to the persons listed above.

#### General Information

#### 2. Rule or section catchline:

R277-700. The Elementary and Secondary General Core

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

This rule is being amended to update the high school credit requirements.

### 4. Summary of the new rule or change:

The amendments specifically add oversight categorization information, and also provide the requirement for LEAs to recognize high school student credits that are earned before the student starts Grade 9.

#### **Fiscal Information**

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

### A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures. oversight categorization information does not add costs or savings for the Utah State Board of Education (USBE) or Local Education Agencies (LEAs).

The requirements to recognize high school credits for credits earned prior to grade 9 is changed to include additional sources besides the Statewide Online Education Program (SOEP). This is not estimated to have a measurable fiscal impact on USBE or LEAs.

USBE does not currently have data on how many high school credits are earned prior to grade 9 by students but does not believe it to be an impactful amount. Those few students completing high school credits prior to grade 9 outside of the SOEP program will now be able to receive credit on their high school transcripts for those efforts. USBE does not anticipate a measurable change in graduation rates associated with this change, or any need for additional staff or resources.

This does not add costs as LEAs already have processes in place to record outside credit.

The oversight framework categorization is part of USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from this rule. categorization does not add any requirements or resources in and of itself.

### B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. oversight categorization information does not add costs or savings for USBE or LEAs.

The requirements to recognize high school credits for credits earned prior to grade 9 are changed to include additional sources besides the Statewide Online Education Program. This is not estimated to have a measurable fiscal impact on USBE or LEAs. USBE does not currently have data on how many high school credits are earned prior to grade 9 by students but does not believe it to be an impactful amount. Those few students completing high school credits prior to grade 9 outside of the SOEP program will now be able to receive credit on their high school transcripts for those efforts. USBE does not anticipate a measurable change in graduation rates associated with this change, or any need for additional staff or resources.

This does not add costs as LEAs already have processes in place to record outside credit.

The oversight framework categorization is part of USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule. This categorization does not add any requirements or resources in and of itself.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and LEAs.

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

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

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities.

This only affects USBE and LEAs.

**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. The oversight categorization information does not add costs or savings for USBE or LEAs.

The requirements to recognize high school credits for credits earned prior to grade 9 are changed to include additional sources besides the Statewide Online Education Program. This is not estimated to have a measurable fiscal impact on USBE or LEAs.

USBE does not currently have data on how many high school credits are earned prior to grade 9 by students but does not believe it to be an impactful amount. Those few students completing high school credits prior to grade 9 outside of the SOEP program will now be able to receive credit on their high school transcripts for those efforts.

This does not add costs as LEAs already have processes in place to record outside credit.

USBE does not anticipate a measurable change in graduation rates associated with this change, or any need for additional staff or resources. The oversight framework categorization is part of USBE's effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule. This categorization does not add any requirements or resources in and of itself.

**G)** Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

# H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

#### Citation Information

6. 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 53E-3-501(1)(b)
Section 53E-4-202	

#### **Public Notice Information**

- 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.)
- A) Comments will be accepted 05/31/2024 until:

# 9. This rule change MAY 06/07/2024 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.

### **Agency Authorization Information**

Agency head	Angie Stallings,	Date:	04/15/2024
or designee	Deputy		
and title:	Superintendent of		
	Policy		

#### R277. Education, Administration.

R277-700. The Elementary and Secondary School General Core. R277-700-1. Authority, [and-]Purpose, and Oversight Category.

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

- (c) Section 53E-3-501, which directs the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements;
  - (d) Section 53E-4-202, which directs:
- (i) the Board to establish Core Standards in consultation with LEA boards and superintendents; and
- (ii) LEA boards to adopt local evidence-based curriculum and to design programs to help students master the General Core;
- (e) Title 53E, Chapter 4, Part 2, Career and College Readiness Mathematics Competency, which directs the Board to establish college and career mathematics competency standards; and
- (f) Section 53E-4-205, which requires the Board to provide rules related to a basic civics test.
- (2) The purpose of this rule is to specify the minimum Core Standards and General Core requirements for the public schools, and to establish responsibility for mastery of Core Standard requirements.
- (3) This Rule R277-700 is categorized as Category 3 as described in Rule R277-111.

#### R277-700-2. Definitions.

For purposes of this rule:

- (1)(a) "Applied course" means a public school course or class that applies the concepts of a Core subject.
- (b) "Applied course" includes a course offered through Career and Technical Education or through other areas of the curriculum.
- (2) "Arts" means the visual arts, music, dance, theatre, and media arts.
  - (3) "Assessment" means a summative assessment for:
  - (a) English language arts grades 3 through 10;
- (b) mathematics grades 3 through 10, and Secondary I, II, and III; or
  - (c) science grades 4 through 10.
- (4) "Career and Technical Education (CTE)" means an organized educational program in secondary schools (grades 6-12) or courses, which teach current industry-specific skills and knowledge that prepares students for employment, and for additional postsecondary preparation leading to employment.
- (5) "Core Standard" means a statement of what a student enrolled in a public school is expected to know and be able to do at a specific grade level or following completion of an identified course.
- (6) "Core subject" means a course for which there is a declared set of Core Standards as approved by the Board.
- (7) "Elementary school" for purposes of this rule means a school that serves grades K-6 in whatever kind of school the grade levels exist.
- (8) "General Core" means the courses, content, instructional elements, materials, resources and pedagogy that are used to teach the Core Standards, including the ideas, knowledge, practice and skills that support the Core Standards.
- (9) "High school" for purposes of this rule means a school that serves grades 9-12 in whatever kind of school the grade levels exist.
- (10) "LEA" or "local education agency" includes the Utah Schools for the Deaf and the Blind.
- (11) "Middle school" for purposes of this rule means a school that serves grades 7-8 in whatever kind of school the grade levels exist.
- (12) "Junior High school" means a school that serves grades 7-9 in whatever kind of school the grade levels exist.

- (13) "Proficiency in keyboarding" means a student's ability to key by touch.
- (14) "Summative adaptive assessment" means an assessment that:
- (a) is administered upon completion of instruction to assess a student's achievement;
- (b) is administered online under the direct supervision of a licensed educator;
- (c) is designed to identify student achievement on the Core Standards for the respective grade and course; and
- (d) measures the full range of student ability by adapting to each student's responses, selecting more difficult questions when a student answers correctly and less difficult questions when a student answers incorrectly.

#### R277-700-3. General Core and Core Standards.

- (1) The Board establishes minimum course description standards for each course in the required General Core.
- (2)(a) The Superintendent shall develop, in cooperation with LEAs, course descriptions for required and elective courses.
- (b) The Superintendent shall provide parents and the general public an opportunity to participate in the development process of the course descriptions described in Subsection (2)(a).
- (3)(a) The Superintendent shall ensure that the courses described in Subsection (2):
  - (i) contain mastery criteria for the courses; and
- (ii) stress mastery of the course material, Core Standards, and life skills consistent with the General Core.
- (b) The Superintendent shall place a greater emphasis on a student's mastery of course material rather than completion of predetermined time allotments for courses.
- (4) An LEA board shall administer the General Core and comply with student assessment procedures consistent with state law.
- (5) An LEA shall use evidence-based best practices, technology, and other instructional media to increase the relevance and quality of instruction.

#### R277-700-4. Elementary Education Requirements.

- (1) The Core Standards and a General Core for elementary school students in grades K-6 are described in this section.
- (2) The following are the Elementary School Education Core Subject Requirements:
  - (a) English Language Arts;
  - (b) Mathematics;
  - (c) Science;
  - (d) Social Studies;
  - (e) Arts:
  - (i) Visual Arts;
  - (ii) Music;
  - (iii) Dance; or
  - (iv) Theatre;
  - (f) Health Education;
  - (g) Physical Education;
  - (h) Educational Technology, including keyboarding;
- (i) Library Media skills, integrated into the core subject areas and
- (j) Civics and character education, integrated into the core subject areas.
- (3) An LEA board shall provide access to the General Core to all students within the LEA.
- (4) An LEA board is responsible for student mastery of the Core Standards.

- (5) An LEA shall implement formative assessment practices on a regular basis to ensure continual student progress.
- (6) An LEA shall assess students for proficiency in keyboarding by grade 5 and report school level results to the Superintendent.
- (7) An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following:
  - (a) language arts;
  - (b) mathematics;
  - (c) science; and
  - (d) effectiveness of written expression in grade 5.
- (8) An LEA shall provide intervention to elementary students who do not achieve mastery of the subjects described in this section.

### R277-700-5. Middle School Education Requirements.

- (1) The Core Standards and a General Core for middle school students are described in this section.
- (2) A student in grades 7-8 shall complete the courses described in Subsection (3) to be properly prepared for instruction in grades 9-12.
- (3) The following are the Grades 7-8 General Core Requirements:
  - (a) Grade 7 Language Arts;
  - (b) Grade 8 Language Arts;
  - (c) Grade 7 Mathematics;
  - (d) Grade 8 Mathematics;
  - (e) Grade 7 Integrated Science;
  - (f) Grade 8 Integrated Science;
  - (g) United States History;
  - (h) Utah History; and
    - (i) at least one course in each of the following in grades 7

or 8:

- (A) Health Education;
- (B) College and Career Awareness;
- (C) Digital Literacy;
- (D) the Arts; and
- (E) Physical Education.
- (5) An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following:
  - (a) language arts;
  - (b) mathematics;
  - (c) science; and
  - (d) writing in grade 8.
  - (6) At the discretion of the LEA board, an LEA board may:
  - (a) offer additional elective courses;
  - (b) require a student to complete additional courses; or
  - (c) set minimum credit requirements.
- (7) Upon parental or student request, an LEA may, with parental consent, substitute a course requirement described in Subsection (3) with a course, extracurricular activity, or experience that is:
  - (a) similar to the course requirement; or
- (b) consistent with the student's plan for college and career readiness.
- (8)(a) An LEA shall establish a policy governing the substitution of a course requirement as described in Subsection (7).
- (b) An LEA's policy described in Subsection (8)(a) shall include a process for a parent to appeal an LEA's denial of a request for a substitution described in Subsection (7) to the LEA board or the LEA board designee.

#### R277-700-6. High School Requirements.

- (1) The General Core and Core Standards for students in grades 9-12 are described in this section.
- (2) A student in grades 9-12 shall earn a minimum of 24 units of credit through course completion or through competency assessment consistent with Rule R277-705 to graduate.
- (3)(a) Through recording of credits in a student's transcripts for grades 9-12, [in accordance with Subsections R277-726-5(5) and R277-726-5(6), \_] for purposes of high school graduation, an LEA shall recognize high school credits earned before grade 9[ through participation in the Statewide Online Education Program:
- (b) For funding purposes, the LEA should record the participating student's intention to graduate early].
- ([e]b) An LEA may not use high school courses to replace middle school educational requirements.
- (4) The General Core credit requirements from courses approved by the Board are described in Subsections (4) through (18).
  - (5) Language Arts (4.0 units of credit from the following):
  - (a) Grade 9 level (1.0 unit of credit);
  - (b) Grade 10 level (1.0 unit of credit);
  - (c) Grade 11 level (1.0 unit of credit); and
- (d) Grade 12 level (1.0 Unit of credit) consisting of applied or advanced language arts credit from the list of Board-approved courses using the following criteria and consistent with the student's Plan for College and Career Readiness:
- (i) courses are within the field or discipline of language arts with a significant portion of instruction aligned to language arts content, principles, knowledge, and skills;
- (ii) courses provide instruction that leads to student understanding of the nature and disposition of language arts;
- (iii) courses apply the fundamental concepts and skills of language arts;
- (iv) courses provide developmentally appropriate content; and
- (v) courses develop skills in reading, writing, listening, speaking, and presentation.
- (e) A student may receive up to a half credit of the students four required Language Arts credits for a course or school sponsored activity emphasizing verbal communication during any year between grades 9 and 12.
- (6) Mathematics (3.0 units of credit) shall be met minimally through successful completion of a combination of the foundation or foundation extended courses, Secondary Mathematics I, Secondary Mathematics II, and Secondary Mathematics III.
- (7)(a) A student may opt out of Secondary Mathematics III if the student's parent submits a written request to the school.
- (b) If a student's parent requests an opt out described in Subsection (6)(a), the student shall complete a third math credit from the Board-approved mathematics list.
- (8) A 7th or 8th grade student may earn credit for a mathematics foundation course before 9th grade, consistent with the student's Plan for College and Career Readiness if:
- (a) the student is identified as gifted in mathematics in accordance with the procedures outlined in Rule R277-707;
- (b) the student is enrolled at a middle school or junior high school and a high school;
- (c) the student qualifies for promotion one or two grade levels above the student's age group and is placed in 9th grade; or
- (d) the student takes the Board competency test in the summer before 9th grade and earns high school graduation credit for the course.

- (9) A student who successfully completes a mathematics foundation course before 9th grade shall earn 3.0 units of additional mathematics credit by:
- (a) taking the other mathematics foundation courses described in Subsection (5); and
- (b) an additional course from the Board-approved mathematics list consistent with:
  - (i) the student's Plan for College and Career Readiness; and
    - (ii) the following criteria:
- (A) courses are within the field or discipline of mathematics with a significant portion of instruction aligned to mathematics content, principles, knowledge, and skills;
- (B) courses provide instruction that lead to student understanding of the nature and disposition of mathematics;
- (C) courses apply the fundamental concepts and skills of mathematics;
- (D) courses provide developmentally appropriate content; and
- (E) courses include the Standards for Mathematical Practice as listed in the Utah secondary mathematics core.
- (10) A student who successfully completes a Calculus course with a "C" grade or higher has completed mathematics graduation requirements, regardless of the number of mathematics credits earned.
  - (11) Science (3.0 units of credit):
- (a) shall be met minimally through successful completion of 2.0 units of credit from two of the following five science foundation areas:
  - (i) Earth Science (1.0 units of credit);
  - (A) Earth Science;
  - (B) Advanced Placement Environmental Science; or
  - (C) International Baccalaureate Environmental Systems;
  - (ii) Biological Science (1.0 units of credit);
  - (A) Biology;
  - (B) Biology: Agricultural Science and Technology;
  - (C) Advanced Placement Biology;
  - (D) International Baccalaureate Biology; or
  - (E) Biology with Lab Concurrent Enrollment;
  - (iii) Chemistry (1.0 units of credit);
  - (A) Chemistry;
  - (B) Advanced Placement Chemistry;
  - (C) International Baccalaureate Chemistry; or
  - (D) Chemistry with Lab Concurrent Enrollment;
  - (iv) Physics (1.0 units of credit);
  - (A) Physics;
- (B) Advanced Placement Physics (1, 2, C: Electricity and Magnetism, or C: Mechanics);
  - (C) International Baccalaureate Physics; or
  - (D) Physics with Lab Concurrent Enrollment; or
  - (v) Computer Science (1.0 units of credit):
  - (A) Advanced Placement Computer Science;
  - (B) Computer Science Principles; or
  - (C) Computer Programming 2; and
  - (b) one additional unit of credit from:
  - (i) the foundation courses described in Subsection (10)(a);

or

- (ii) the applied or advanced science list:
- (A) determined by the LEA board; and
- (B) approved by the Board using the following criteria and consistent with the student's Plan for College and Career Readiness:

- (i) courses are within the field or discipline of science with a significant portion of instruction aligned to science content, principles, knowledge, and skills;
- (ii) courses provide instruction that leads to student understanding of the nature and disposition of science;
- (iii) courses apply the fundamental concepts and skills of science;
  - (iv) courses provide developmentally appropriate content;
- (v) courses include the areas of physical, natural, or applied sciences; and
  - (vi) courses develop students' skills in scientific inquiry.
- (12) Social Studies (3.0 units of credit) shall be met minimally through successful completion of:
  - (a) 2.5 units of credit from the following courses:
  - (i) World Geography (0.5 units of credit);
  - (ii) World History (0.5 units of credit);
  - (iii) U.S. History (1.0 units of credit); and
  - (iv) U.S. Government and Citizenship (0.5 units of credit);
  - (b) Social Studies (0.5 units of credit per LEA discretion);

and

- (c) a basic civics test or alternate assessment described in Section R277-700-8.
- (13) The Arts (1.5 units of credit from any of the following performance areas):
  - (a) Visual Arts;
  - (b) Music;
  - (c) Dance:
  - (d) Theatre; or
  - (e) Media Arts.
  - (14) Health Education (0.5 units of credit).
- (15)(a) Physical Education (1.5 units of credit from each of the following):
  - (i) Participation Skills (0.5 units of credit);
  - (ii) Fitness for Life (0.5 units of credit); and
  - (iii) Individualized Lifetime Activities (0.5 units of credit);
- (b) Notwithstanding Subsection (15)(a), a student may earn 0.5 units of credit per sport for team sport or athletic participation up to a maximum of 1.0 units of credit with LEA approval to replace participation skills and individualized lifetime activities requirements.
- (16) Career and Technical Education (1.0 units of credit from any of the following):
  - (a) Agriculture, Food and Natural Resources;
  - (b) Architecture and Construction;
  - (c) Arts, Audio/Visual Technology and Communications;
  - (d) Business, Finance and Marketing;
  - (e) Computer Science and Information Technology;
  - (f) Education and Training;
  - (g) Engineering and Technology;
  - (h) Health Science;
  - (i) Hospitality and Tourism;
  - (j) Human Services;
  - (k) Law, Public Safety, Corrections and Security;
  - (l) Manufacturing; or
  - (m) Transportation, Distribution, and Logistics.
  - (17) Digital Studies (0.5 units of credit).
- (18) Library Media Skills, [(]integrated into the subject areas[)].
  - (19) General Financial Literacy (0.5 units of credit).
  - (20) Electives (5.5 units of credit).
- (21) An LEA shall use Board-approved summative assessments to assess student mastery of the following subjects:

- (a) language arts through grade 11;
- (b) mathematics as defined in Subsection (6); and
- (c) science as defined in Subsection (11).
- (22) An LEA board may require a student to earn credits for graduation that exceed the minimum Board requirements described in this rule.
- (23) An LEA board may establish and offer additional elective course offerings at the discretion of the LEA board.
- (24)(a) An LEA may modify a student's graduation requirements to meet the unique educational needs of a student if:
  - (i) the student has a disability; and
- (ii) the modifications to the student's graduation requirements are made through the student's individual IEP.
- (b) An LEA shall document the nature and extent of a modification, substitution, or exemption made to a student's graduation requirements described in Subsection (22)(a) in the student's IEP.
- (25) The Superintendent shall provide a list of approved courses meeting the requirements of this rule.
- (26) An LEA may modify graduation requirements for an individual student to achieve an appropriate route to student success if the modification:
  - (a) is consistent with:
  - (i) the student's IEP; or
  - (ii) SEOP or Plan for College and Career Readiness;
  - (b) is maintained in the student's file;
  - (c) includes the parent's signature; and
- (d) maintains the integrity and rigor expected for high school graduation, as determined by the Board.

# R277-700-7. Student Mastery and Assessment of Core Standards.

- (1) An LEA shall ensure students master the Core Standards at all levels.
- (2) An LEA shall provide intervention for secondary students who do not achieve mastery in accordance with Section 53G-9-803.
- (3) An LEA shall provide remedial assistance to students who are found to be deficient in basic skills through a statewide assessment in accordance with Subsection 53E-5-206(1).
- (4) If a student refrains from a portion of a course or to a course in its entirety under Section 53G-10-205, the parent and school may work together to establish an alternate academic accommodation, which allows the student to demonstrate mastery of Core Standards or alternate standard, consistent with Subsection 53G-6-803(7) and Subsection 53G-10-205(2)(b).
- (5)(a) A student with a disability served by a special education program shall demonstrate mastery of the Core Standards.
- (b) If a student's disability precludes the student from successfully mastering the Core Standards, the student's IEP team, on a case-by-case basis, may provide the student an accommodation for, or modify the mastery demonstration to accommodate, the student's disability.
- (6) A student may demonstrate competency to satisfy course requirements consistent with Section R277-705-3.
- (7) LEAs are ultimately responsible for and shall comply with all assessment procedures, policies and ethics as described in Rule R277-404.

#### R277-700-8. Civics Education Initiative.

- (1) For purposes of this section:
- (a) "Student" means:

- (i) a public school student who graduates on or after January 1, 2016; or
- (ii) a student enrolled in an adult education program who receives an adult education secondary diploma on or after January 1, 2016.
- (b) "Basic civics test" means the same as that term is defined in Subsection 53E-4-205(1)(b).
  - (2) Except as provided in Subsection (3), an LEA shall:
- (a) administer a basic civics test in accordance with the requirements of Section 53E-4-205; and
- (b) require a student to pass the basic civics test as a condition of receiving:
  - (i) a high school diploma; or
  - (ii) an adult education secondary diploma.
- (3) An LEA may require a student to pass an alternate assessment if:
  - (a)(i) the student has a disability; and
  - (ii) the alternate assessment is consistent with the student's

IEP; or

- (b) the student is within six months of intended graduation.
- (4) Except as provided in Subsection (5), the alternate assessment shall be given:
- (a) in the same manner as an exam given to an unnaturalized citizen; and
  - (b) in accordance with 8 C.F.R. Sec. 312.2.
- (5) An LEA may modify the manner of the administration of an alternate assessment for a student with a disability in accordance with the student's IEP.
- (6) If a student passes a basics civics test or an alternate assessment described in this section, an LEA shall report to the Superintendent that the student passed the basic civics test or alternate assessment.
- (7) If a student who passes a basic civics test or an alternate assessment transfers to another LEA, the LEA may not require the student to re-take the basic civics test or alternate assessment.

# R277-700-9. College and Career Readiness Mathematics Competency.

- (1) For purposes of this section, "senior student with a special circumstance" means a student who:
  - (a) is pursuing a college degree after graduation; and
- (b) has not met one of criteria described in Subsection (2)(a) before the beginning of the student's senior year of high school.
- (2) Except as provided in Subsection (4), in addition to the graduation requirements described in Section R277-700-6, beginning with the 2016-17 school year, a student pursuing a college degree after graduation shall:
  - (a) receive one of the following:
- (i) a score of 3 or higher on an Advanced Placement (AP) calculus AB or BC exam;
- (ii) a score of 3 or higher on an Advanced Placement (AP) statistics exam:
- (iii) a score of 5 or higher on an International Baccalaureate (IB) higher level math exam;
- (iv) a score of 50 or higher on a College Level Exam Program (CLEP) pre-calculus or calculus exam;
- (v) a score of 26 or higher on the mathematics portion of the American College Test (ACT) exam;
- (vi) a score of 640 or higher on the mathematics portion of the Scholastic Aptitude Test (SAT) exam; or

- (vii) a "C" grade in a concurrent enrollment mathematics course that satisfies a state system of higher education quantitative literacy requirement; or
- (b) if the student is a senior student with a special circumstance, take a full year mathematics course during the student's senior year of high school.
- (3) Except as provided in Subsection (4), in addition to the graduation requirements described in Section R277-700-6, beginning with the 2016-17 school year, a non-college and degree-seeking student shall complete appropriate math competencies for the student's career goals as described in the student's Plan for College and Career Readiness.
- (4) An LEA may modify a student's college or career readiness mathematics competency requirement under this section if:
  - (a) the student has a disability; and
- (b) the modification to the student's college or career readiness mathematics competency requirement is made through the student's IEP.
- (5)(a) An LEA shall report annually to the LEA's board the number of students within the LEA who:
  - (i) meet the criteria described in Subsection (2)(a);
- (ii) take a full year of mathematics as described in Subsection (2)(b);
- (iii) meet appropriate math competencies as established in the students' career goals as described in Subsection (3); and
- (iv) meet the college or career readiness mathematics competency requirement established in the students' IEP as described in Subsection (4).
- (b) An LEA shall provide the information described in Subsection (5)(a) to the Superintendent by October 1 of each year.

KEY: graduation requirements, standards Date of Last Change: [January 10,] 2024 Notice of Continuation: June 4, 2021

Authorizing, and Implemented or Interpreted Law: Art X Sec 3;

53E-3-501(1)(b); 53E-4-202; 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section R313-28-20 Filing ID: 56419		

### **Agency Information**

1. Department:	Environmental Quality		
Agency:	Waste Management and Radiation Control, Radiation		
Room number:	2nd Floor		
Building:	MASOB		
Street address:	195 N 1950 W		
City, state and zip:	Salt Lake City, UT 84116		
Mailing address:	PO Box 144880		
City, state and zip:	Salt Lake City, UT 84114-4880		

Contact persons:		
Name:	Phone:	Email:
Tom Ball	385- 454- 5574	tball@utah.gov

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule or section catchline:

R313-28-20. Definitions

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

During recent discussions with an x-ray registrant, it was suggested that a definition of the term "Healing Arts" was needed in the x-ray rules to assist the regulated community in understanding what is covered under the rules for use of x-rays in the healing arts.

#### 4. Summary of the new rule or change:

This amendment adds a definition of the term "Healing Arts" to the definitions contained in Section R313-28-20.

#### **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, as this rule amendment adds a definition to this rule to clarify a term and does not add, remove, or change any requirements found in this rule. The amendment will have no impact on how the Division of Waste Management and Radiation Control, Radiation functions.

#### B) Local governments:

This rule amendment is not expected to have a fiscal impact on local governments because it only clarifies preexisting requirements for entities regulated by this rule and does not add, remove, or change any requirements.

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

This rule amendment is not expected to have a fiscal impact on small businesses because it only clarifies preexisting requirements for entities regulated by this rule and does not add, remove, or change any requirements.

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

This rule amendment is not expected to have a fiscal impact on non-small businesses because it only clarifies pre-existing requirements for entities regulated by this rule and does not add, remove, or change any requirements.

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

This rule amendment is not expected to have a fiscal impact on persons other than small businesses, non-small businesses, state or local governments because it only clarifies pre-existing requirements for entities regulated by this rule and does not add, remove, or change any requirements.

# **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 with this rule amendment. The amendment clarifies preexisting requirements for entities regulated by this rule and does not add, remove, or change any requirements.

**G)** Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

# Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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	\$0	\$0	\$0
Benefi	its			

# H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kimberly Shelley, has reviewed and approved this regulatory impact analysis.

#### **Citation Information**

6. 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 19-3-104 | Section 19-6-107

#### **Public Notice Information**

- **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.)
- A) Comments will be accepted 05/31/2024 until:

# 9. This rule change MAY 06/17/2024 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.

#### Agency Authorization Information

Agency head or designee	Douglas J. Hansen, Director	Date:	04/11/2024
and title:	,		

# R313. Environmental Quality, Waste Management and Radiation Control, Radiation.

R313-28. Use of X-Rays in the Healing Arts.

#### **R313-28-20.** Definitions.

As used in Rule R313-28, the following definitions apply:

- "Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.
  - "Actual focal spot" refer to "Focal spot."
- "Aluminum equivalent" means the thickness of aluminum, type 1100 alloy, affording the same attenuation, under specified conditions, as the material in question. The nominal chemical composition of type 1100 aluminum alloy is 99.00% [percent]minimum aluminum, 0.12% [percent]copper.
- "Assembler" means individuals engaged in the business of assembling, replacing, or installing one or more components into an x-ray system or subsystem. The term includes the owner of an x-ray system or [his or her]an employee or agent if they assemble components into an x-ray system that is subsequently used to provide professional or commercial services.

"Attenuation block" means a block or stack, having appropriate dimensions 20 cm by 20 cm by 3.8 cm, of type 1100 aluminum alloy or other materials having equivalent attenuation.

"Automatic EXPOSURE control" means a device [which]that automatically controls one or more technique factors [in order to obtain]to get, at a preselected location, a required quantity of radiation. Phototimer and ion chamber devices are included in this category.

"Barrier" refer to "Protective barrier".

"Beam axis" means a line from the source through the centers of the x-ray fields.

"Beam-limiting device" means a device [which]that provides a means to restrict the dimensions of the x-ray field.

"Certified components" means components of x-ray systems [which]that are subject to regulations promulgated under Public Law 90-602, the Radiation Control for Health and Safety Act of 1968.

"Certified system" means an x-ray system  $[\frac{which}{that}]$  has one or more certified components.

"Changeable filters" means filters designed to be removed by the operator.  $\,$ 

"Coefficient of variation (C)" means the ratio of the standard deviation to the mean value of a population of observations.

"Computed tomography" means the production of a tomogram by the acquisition and computer processing of x-ray transmission data.

"Control panel" means that part of the x-ray control [upon which are mounted]where the switches, knobs, push buttons, and other hardware necessary for setting the technique factors are mounted.

"Cooling curve" means the graphical relationship between heat units stored and cooling time.

"CT" means computed tomography.

"CT gantry" means the tube housing assemblies, beamlimiting devices, detectors, and the supporting structures and frames [which]that house these components.

"Dead-man switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

"Diagnostic source assembly" means the tube housing assembly with a beam-limiting device attached.

"Diagnostic x-ray system" means an x-ray system designed for irradiation of part of the human body for the purpose of recording or visualization for diagnostic purposes.

"Entrance EXPOSURE rate" means the EXPOSURE free in air per unit time at the point where the useful beam enters the patient.

"Equipment" refer to "X-ray equipment".

"Field emission equipment" means equipment [which]that uses an x-ray tube [in which]where electron emission from the cathode is due solely to the action of an electric field.

"Filter" means material placed in the useful beam to absorb preferentially selected radiations.

"Fluoroscopic imaging assembly" means a subsystem [in which]where x-ray photons produce a fluoroscopic image. It includes equipment housing, electrical interlocks, the primary protective barrier, and structural material providing linkage between the image receptor and the diagnostic source assembly.

"Focal spot" means the area on the anode of the x-ray tube bombarded by the electrons accelerated from the cathode and [from which]where the useful beam originates. Also referred to as "Actual focal spot."

"Gonad shield" means a protective barrier for the testes or ovaries.

"Half-value layer or HVL" means the thickness of specified material [which]that attenuates the beam of radiation to an extent that the EXPOSURE rate is reduced to one-half of its original value. In this definition, the contribution of scatter radiation, other than scatter radiation that [which ]might be present initially in the beam concerned, is [deemed]considered to be excluded.

"Healing arts" means any system, treatment, operation, diagnosis, prescription, or practice for ascertaining cure, relief, palliation, adjustment, or correction of any health indications, human disease, ailment, deformity, injury, or unhealthy or abnormal physical or mental condition.

"Healing arts screening" means the use of x-ray equipment to examine individuals who are asymptomatic for the disease [for which]that is the reason the screening is being performed and the use of x-rays are not specifically and individually ordered by a licensed practitioner of the healing arts legally authorized to order x-ray tests for the [purpose of]diagnosis.

"Heat unit" means a unit of energy equal to the product of the peak kilovoltage, milliamperes, and seconds[÷], for example, kVp times mA times seconds.

"HVL" refers to "half[-]-value layer."

"Image intensifier" means a device installed in its housing [which]that instantaneously converts an x-ray pattern into a light image of higher energy density.

"Image receptor" means a device, for example, a fluorescent screen radiographic film, solid state detector, or gaseous detector, [which]that transforms incident x-ray photons to produce a visible image or stores the information in a form [which]that can be made into a visible image. [In those cases where]When means are provided to preselect a portion of the image receptor, the term "image receptor" shall mean the preselected portion of the device.

"Irradiation" means the exposure of matter to ionizing radiation.

"Kilovolts peak" refer to "Peak tube potential".

"kV" means kilovolts.

"kVp" refer to "Peak tube potential."

"Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

"Leakage radiation" means radiation emanating from the diagnostic source assembly except for:

- (a) the useful beam[7]; and
- (b) radiation produced when the exposure switch or timer is not activated.

"Leakage technique factors" means the technique factors associated with the diagnostic source assembly [which]that are used in measuring leakage radiation. They are defined as follows:

- (a) For diagnostic source assemblies intended for capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being ten millicoulombs, ten milliampere seconds, or the minimum obtainable from the unit, whichever is larger.
- (b) For diagnostic source assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential.
- (c) For other diagnostic source assemblies, the maximumrated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

"Light field" means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points [at which]where the illumination is one-fourth of the maximum in the intersection.

"mA" means tube current in milliamperes.

"mAs" means milliampere second or the product of the tube current in milliamperes and the time of exposure in seconds.

"Mammography imaging medical physicist" means an individual who conducts mammography surveys of mammography facilities.

"Mammography survey" means an evaluation of x-ray imaging equipment and oversight of a mammography facility's quality control program.

"Mobile x-ray equipment" [refer to "X-ray equipment"]means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

"Multiple scan average dose" means the average dose at the center of a series of scans, specified at the center of the axis of rotation of a CT x-ray system.

"New installation" means change, modification or relocation of new or existing shielding or equipment.

"Operator of diagnostic x-ray equipment" means either[:

(a) T] the individual responsible for insuring that the appropriate technique factors are set on the x-ray equipment[;] or[
(b) T] the individual who makes the radiation exposure.

"Patient" means an individual subjected to healing arts

"Patient" means an individual subjected to healing art examination, diagnosis, or treatment.

"PBL" refer to "Positive beam limitation."

"Peak tube potential" means the maximum value of the potential difference across the x-ray tube during an exposure.

"Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation.

"PID" refer to "Position indicating device."

"Portable x-ray equipment" [refer to "X-ray equipment"]means x-ray equipment designed to be hand-carried.

"Position indicating device (PID)" means a device, on dental x-ray equipment [which]that [indicates]shows the beam position and establishes a definite source-surface, [(]skin[)], distance. The device may or may not incorporate or serve as a beam-limiting device.

"Positive beam limitation" means the automatic or semiautomatic adjustment of an x-ray beam to the size of the selected image receptor, whereby exposures cannot be made without [sueh]the adjustment.

"Primary beam scatter" means scattered radiation [which]that has been deviated in direction or energy by materials irradiated by the primary beam.

"Primary protective barrier" refer to "Protective barrier".

"Protective apron" means an apron made of radiation absorbing materials, used to reduce radiation exposure.

"Protective barrier" means a barrier of radiation absorbing material used to reduce radiation exposure.

- (a) "Primary protective barrier" means the material, excluding filters, placed in the useful beam to reduce the radiation exposure for protection purposes.
- (b) "Secondary protective barrier" means the material [which]that attenuates stray radiation.

"Protective glove" means a glove made of radiation absorbing materials used to reduce radiation exposure.

"Radiation therapy simulation system" means a radiographic or fluoroscopic x-ray system intended for localizing the volume to be exposed during radiation therapy and for confirming the position and size of the therapeutic irradiation field.

"Radiograph" means an image receptor [on which]that the image is created directly or indirectly on by an x-ray pattern and results in a permanent record.

"Rating" means the operating limits of an x-ray system or subsystem as specified by the component manufacturer.

"Recording" means producing a permanent form of an image resulting from x-ray photons.

"Reference plane" means a plane [which]that is displaced from and parallel to the tomographic plane.

"Scan" means the complete process of collecting x-ray transmission data for the production of a tomogram. Data can be collected simultaneously during a single scan for the production of one or more tomograms.

"Scan increment" means the amount of relative displacement of the patient with respect to the computer tomographic x-ray system between successive scans measured along the direction of [such]the displacement.

"Scattered radiation" means radiation that, during passage through matter, has been deviated in direction, energy or both direction and energy. Also refer to "Primary Beam Scatter".

"Shutter" means a device attached to the tube housing assembly [which]that can intercept the entire cross sectional area of the useful beam and [which]that has a lead equivalency at least that of the tube housing assembly.

"SID" refer to "Source-image receptor distance".

"Source" means the focal spot of the x-ray tube.

"Source to image receptor distance" means the distance from the source to the center of the input surface of the image receptor.

"Special purpose x-ray system" means [that which]a system that is designed for irradiation of specific body parts.

"Spot film" means a radiograph [which]that is made during a fluoroscopic examination to permanently record conditions [which]that exist during that fluoroscopic procedure.

"Spot film device" means a device intended to transport or position a radiographic image receptor between the x-ray source and fluoroscopic image receptor, including a device intended to hold a cassette over the input end of an image intensifier [for the purpose of to mak ing a radiograph.

"SSD" means the distance between the source and the skin entrance plane of the patient.

"Stationary x-ray equipment" [refer to "X-ray equipment"]means x-ray equipment that is installed in a fixed location.

"Stray radiation" means the sum of leakage and scattered radiation.

"Technique factors" means the following conditions of operation[-]:

- (a) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs.
- (b) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of x-ray pulses.
- (c) For other equipment, peak tube potential in kV and either;
- (i) the tube current in mA and exposure time in seconds[7]; or
  - (ii) the product of tube current and exposure time in mAs.

"Termination of irradiation" means the stopping of irradiation in a fashion [which]that will not permit continuance of irradiation without the resetting of operating conditions at the control panel.

"Tomogram" means the depiction of the x-ray attenuation properties of a section through the body.

"Tomographic plane" means that geometric plane [which]that is identified as corresponding to the output tomogram.

"Tomographic section" means the volume of an object whose x-ray attenuation properties are imaged in a tomogram.

"Tube" means an x-ray tube, unless otherwise specified.

"Tube housing assembly" means the tube housing with tube installed. It includes high-voltage or filament transformers and other appropriate elements [when]if they are contained within the tube housing.

"Tube rating chart" means the set of curves [which]that specify the rated limits of operation of the tube in terms of the technique factors.

"Useful beam" means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam[-]-limiting device when the switch or timer is activated.

"Visible area" means that portion of the input surface of the image receptor [over which]where incident x-ray photons are producing a visible image.

"X-ray exposure control" means a device, switch, button, or other similar means [by which]that an operator uses to initiate[s] or terminate[s] the radiation exposure. The x-ray exposure control may include associated equipment, for example, timers and back-up timers.

"X-ray equipment" means an x-ray system, subsystem, or component thereof. See definitions for "Mobile x-ray equipment", "Portable x-ray equipment", and "Stationary x-ray equipment". [Types of x-ray equipment are as follows:

(a) "Mobile" means x ray equipment mounted on a permanent base with wheels or easters for moving while completely assembled.

(b) "Portable" means x-ray equipment designed to be hand-carried.

(c) "Stationary" means x-ray equipment which is installed in a fixed location.

"X-ray field" means that area of the intersection of the useful beam and one of the sets of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points [at which] where the EXPOSURE rate is one-fourth of the maximum in the intersection.

"X-ray high-voltage generator" means a device [which]that transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the x-ray tube high-voltage switches, electrical protective devices, and other appropriate elements.

"X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components [which]that function with the system are considered integral parts of the system.

"X-ray tube" means an electron tube [which]that is designed to be used primarily for the production of x-rays.

KEY: dental, X-rays, mammography, beam limitation Date of Last Change: 2024[January 17, 2023]

Notice of Continuation: April 8, 2021

Authorizing, and Implemented or Interpreted Law: 19-3-104;

19-6-107

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R315-309	Filing ID: 56420

#### **Agency Information**

1. Department:	Environmental Quality		
Agency:	Waste Management and Radiation Control, Waste Management		
Room number:	2nd Floor		
Building:	MASOB		
Street address:	195 N 1	950 W	
City, state and zip:	Salt Lake City, UT 84116		
Mailing address:	PO Box 144880		
City, state and zip:	Salt Lake City, UT 84114-4880		
Contact persons:	persons:		
Name:	Phone: Email:		
Tom Ball	385- 454- 5574	tball@utah.gov	

Please address questions regarding information on this notice to the persons listed above.

#### General Information

#### 2. Rule or section catchline:

R315-309. Financial Assurance

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

The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct rule references that have changed due to other rule and statute amendments and providing clarifying language.

The Division is also correcting typographical and rule formatting errors.

#### 4. Summary of the new rule or change:

Clarifying language is being added in Subsection R315-309-1(1). The language makes it clear that financial assurance is required for any solid waste facility subject to the requirements of Subsection R315-310(1)(a). There are some approvals such as a plan of operation that are considered a permit by definition but are not routinely subject to financial assurance.

Additional language was added to this rule to give the director of the Division some discretion to require financial assurance for other facility types if necessary.

The rule citation to Subsections R315-309-3(6)(b) and (c) was corrected to Subsections R315-309-9(6)(b) and (c).

#### **Fiscal Information**

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

#### A) State budget:

There is no cost or savings to the state budget due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

#### B) Local governments:

There is no cost or savings to local governments due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

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

There is no cost or savings to small businesses due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

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

There is no cost or savings to non-small businesses due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

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 cost or savings to persons other than small businesses, non-small businesses, state or local government entities due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

**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.

The changes add clarification to existing requirements with no fiscal impact.

**G)** Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in

this table. Inestimable impacts will be included in narratives above.)

Regulatory	Impact	Tabl	е
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FY2024	FY2025	FY2026
\$0	\$0	\$0
\$0	\$0	\$0
\$0	\$0	\$0
\$0	\$0	\$0
\$0	\$0	\$0
\$0	\$0	\$0
FY2024	FY2025	FY2026
\$0	\$0	\$0
\$0	\$0	\$0
\$0	\$0	\$0
\$0	\$0	\$0
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# H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kim Shelley, has reviewed and approved this regulatory impact analysis.

#### Citation Information

6. 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 19-6-105

#### **Public Notice Information**

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.)

A)	Comments	will	be	accepted	05/31/2024
unti	il.				

# 9. This rule change MAY 06/17/2024 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.

#### **Agency Authorization Information**

Agency head or designee	Douglas J. Hansen. Division	Date:	04/11/2024
and title:	Director		

# R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-309. Financial Assurance.

### R315-309-1. Applicability.

- (1) The owner or operator of any solid waste disposal facility [requiring a permit]subject to the requirements for a permit under Subsection R315-310-1(a), or as otherwise required by the director, shall establish financial assurance sufficient to assure adequate closure, post-closure care, and corrective action, if required, of the facility by compliance with one or more financial assurance mechanisms acceptable to and approved by the [Đ]director.
- (2) Financial assurance is not required for a solid waste disposal facility that is owned or operated by [the State of Utah]this state or the [F]federal government.
  - (3) Existing Facilities.
- (a) An existing facility shall have the financial assurance mechanism in place and effective according to the compliance schedule as established for the facility by the [Đ]director.
- (b) In the case of corrective action, the financial assurance mechanism shall be in place and effective no later than 120 days after the corrective action remedy has been selected.
- (4) A new facility or an existing facility seeking lateral expansion shall have the financial assurance mechanism in place and effective before the initial receipt of waste at the facility or the lateral expansion.

### R315-309-8. Local Government Financial Test.

- (1) The terms used in Section R315-309-8 are defined as follows.
- (a) "Total revenues" means the revenues from [all-]taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue form funds managed by local government on behalf of a specific third party.
- (b) "Total expenditures" means [all—]expenditures excluding capital outlays and debt repayments.
- (c) "Cash plus marketable securities" means [all-]the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.
- (d) "Debt service" means the amount of principal and interest due on a loan in a given time period, typically the current year.
- (2) A local government owner or operator of a solid waste facility may demonstrate financial assurance up to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care and the cost estimate as required by Subsection R315-309-2(5) for corrective action, if required, or up to the amount specified in Subsection R315-309-8(6), [which ever]whichever is less, by meeting the following requirements.

- (a) If the local government has outstanding, rated general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or other guarantee, it [must]shall have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's or AAA, AA, A, or BBB, as issued by Standard and Poor's on [such]the general obligation bonds.
- (b) If the local government has no outstanding general obligation bonds, the local government shall satisfy each of the following financial ratios based on the local government's most recent audited annual financial statement:
- (i) a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and
- (ii) a ratio of annual debt service to total expenditures less than or equal to 0.20.
- (c) The local government [must]shall prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant.
- (d) The local government [must]shall place a reference to the closure and post-closure care costs assured through the financial test into the next comprehensive annual financial report and in [every]each subsequent comprehensive annual financial report during the time [in which]when closure and post-closure care costs are assured through the financial test. A reference to corrective action costs [must]shall be placed in the comprehensive annual financial report [not later than]before 120 days after the corrective action remedy has been selected. The reference to the closure and post-closure care costs shall contain:
- (i) the nature and source of the closure and post-closure care requirements;
  - (ii) the reported liability at the balance sheet date;
- (iii) the estimated total closure and post-closure care costs remaining to be recognized;
  - (iv) the percentage of landfill capacity used to date; and
  - (v) the estimated landfill life in years.
- (3) A local government is not eligible to assure closure, post-closure care, or corrective action costs at its solid waste disposal facility through the financial test if it:
- (a) is currently in default on any outstanding general obligation bonds  $[7]_{\stackrel{.}{2}}$  or
- (b) has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's; or
- (c) has operated at a deficit equal to 5%, or more, of the total annual revenue in each of the past two fiscal years; or
- (d) receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant, or appropriate state agency auditing its financial statement. The  $[\mathbf{D}]\underline{\mathbf{d}}$ irector may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases  $[\underline{\mathbf{where}}]\underline{\mathbf{if}}$  the  $[\mathbf{D}]\underline{\mathbf{d}}$ irector  $[\underline{\mathbf{deems}}]\underline{\mathbf{considers}}$  the qualification insufficient to warrant disallowance of use of the test.
- (4) The local government owner or operator [must]shall submit the following items to the [Đ]director for approval and place a copy of these items in the operating record of the facility:
- (a) a letter signed by the local government's chief financial officer that:
- (i) lists  $[all]\underline{the}$  current cost estimates covered by a financial test; and
- (ii) provides evidence and certifies that the local government meets the requirements of Subsections R315-309-8(2) and R315-309-8(6);

- (b) the local government's independently audited year-end financial statements for the latest fiscal year including the unqualified opinion of the auditor, who [must]shall be an independent certified public accountant;
- (c) a report to the local government from the local government's independent certified public accountant stating the procedures performed and the findings relative to:
- (i) the requirements of Subsections R315-309-8(2)(c).[ and] R315-309-8(3)(c). and R315-309-8(3)(d); and
- (ii) the financial ratios required by Subsection R315-309-8(2)(b), if applicable; and
- (d) a copy of the comprehensive annual financial report used to comply with Subsection R315-309-8(2)(d).
- (e) The items required by Subsection R315-309-8(4) are to be submitted to the [D]director and copies placed in the facility's operating record as follows:
- (i) in the case of closure and post-closure care, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;
- (ii) in the case of closure and post-closure care, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and
- (iii) in the case of corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).
- (5) A local government [must]shall satisfy the requirements of the financial test at the close of each fiscal year.
- (a) The items required in Subsection R315-309-8(4) shall be submitted as part of the facility's annual report required by Subsection R315-302-2(4).
- (b) If the local government no longer meets the requirements of the local government financial test it shall, within 210 days following the close of the local government's fiscal year:
- (i) [obtain]get alternative financial assurance that meets the requirements of <u>Subsection</u> R315-309-1(1); and
- (ii) submit documentation of the alternative financial assurance to the  $[\underline{\theta}]\underline{d}$  irector and place copies of the documentation in the facility's operating record.
- (c) The  $[\mathbf{P}]\underline{\mathbf{d}}$ irector, based on a reasonable belief that the local government may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the  $[\mathbf{P}]\underline{\mathbf{d}}$ irector finds that the local government no longer meets the requirements of the local government financial test, the local government shall be required to provide alternative financial assurance on a schedule established by the  $[\mathbf{P}]\underline{\mathbf{d}}$ irector.
- (6) The portion of the closure, post-closure, and corrective action costs for which a local government owner or operator may assume under the local government financial test is determined as follows:
- (a) If the local government does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43% of the local government's total annual revenue.
- (b) If the local government assures any other environmental obligation through a financial test, it [must]shall add those costs to the closure, post-closure, and corrective action costs it seeks to assure by local government financial test. The total that may be assured [must]may not exceed 43% of the local government's total annual revenue.
- (c) The local government shall [obtain]get an alternate financial assurance mechanism for those costs that exceed 43% of the local government's total annual revenue.

- (7) Local Government Guarantee.
- (a) An owner or operator of a solid waste facility may demonstrate financial assurance for closure, post-closure, and corrective action by [obtaining]getting a written guarantee provided by a local government. The local government providing the guarantee shall meet the requirements of the local government financial test in Section R315-309-8 and shall comply with the terms of the written guarantee as specified in Subsections R315-309-8(7)(b) and R315-309-8(7)(c).
- (b) The guarantee  $[\underline{\text{must}}]\underline{\text{shall}}$  be effective for closure and post-closure care:
- (i) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;
- (ii) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and
- (iii) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).
- (c) The guarantee shall provide that if the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guaranter will:
- (i) perform, or pay a third party to perform, closure, postclosure, or corrective action as required; or
- (ii) establish a fully funded trust fund as specified in Section R315-309-4 in the name of the owner or operator.
- (d) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the  $[\underline{\mathbf{P}}]\underline{\mathbf{d}}$ irector. Cancellation may not occur until 120 days after the date the notice is received by the  $[\underline{\mathbf{P}}]\underline{\mathbf{d}}$ irector.
- (e) If the guarantee is canceled, the owner or operator shall, within 90 days following the receipt of the cancellation notice:
- (i) [obtain]get alternate financial assurance that meets the requirements of Subsection R315-309-1(1);
- (ii) submit documentation of the alternate financial assurance to the  $[\mbox{$\Theta$}]$ <u>director</u>; and
- (iii) place copies of the documentation of the alternate financial assurance in the facility's operating record.
- (iv) If the owner or operator fails to provide alternate financial assurance within the 90-[—]day period, the guarantor [must]shall provide the alternate financial assurance within 120 days following the guarantor's notice of cancellation, submit documentation of the alternate financial assurance to the [D]director for review and approval, and place copies of the documentation in the facility's operating record.

#### R315-309-9. Corporate Financial Test.

- (1) The terms used specifically in Section R315-309-9 are defined as follows.
- (a) "Assets" means [all]the existing and probable future economic benefits [obtained]received or controlled by a particular entity.
- (b) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.
- (c) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.
- (d) "Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 40 CFR 144.62(a), (b), and (c) (2001) which is [adopted and ]incorporated by reference.

- (e) "Independently audited" means an audit performed by and independent certified public accountant in accordance with generally accepted auditing standards.
- (f) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.
- (g) "Net working capital" means current assets minus current liabilities.
- (h) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.
- (i) "Tangible net worth" means the tangible assets that remain after deducting liabilities; [such]these assets would not include intangibles such as goodwill and rights to patents or royalties.
- (2) A corporate owner or operator of a solid waste facility may demonstrate financial assurance up to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care and the cost estimate required by Subsection R315-309-2(5) for corrective action, if required, by meeting the following requirements.
- (a) The owner or operator  $[\frac{must}{shall}]$  satisfy one of the following three conditions:
- (i) a current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; or
- (ii) a ratio of less than 1.5 comparing total liabilities to net worth[+]; or
- (iii) a ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10,000,000[-million], to total liabilities.
- (b) The tangible net worth of the owner or operator [must]shall be greater than:
- (i) the sum of the current closure, post-closure care, and corrective action cost estimates and any other environmental obligation, including guarantees, covered by a financial test plus \$10,000,000[-million] except as provided in Subsection R315-309-9(2)(b)(ii); or
- (ii) \$10,000,000[-million] in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided [all of] the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the [D]director.
- (c) The owner or operator [must]shall have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test.
- (3) The owner or operator [must]shall place the following items into the facility's operating record and submit a copy of these items to the  $[\mathbb{D}]$ director for approval:
- (a) a letter signed by the owner's or operator's chief financial officer that:
- (i) lists [all]the current cost estimates for closure, postclosure care, corrective action, and any other environmental obligations covered by a financial test; and
- (ii) provides evidence demonstrating that the firm meets the conditions of Subsection R315-309-9(2)(a)(i), [or]R315-309-9(2)(a)(ii), or R315-309-9(2)(a)(iii) and Subsections R315-309-9(2)(b) and R315-309-9(2)(c); and

- (b) a copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year.
- (i) To be eligible to use the financial test, the owner's or operator's financial statements [must]shall receive an unqualified opinion from the independent certified public accountant.
- (ii) The  $[\underline{\theta}]\underline{d}$ irector may evaluate qualified opinions on a case-by-case basis and allow use of the financial test  $[\underline{where}]\underline{if}$  the  $[\underline{\theta}]\underline{d}$ irector  $[\underline{deems}]\underline{considers}$  the matters which form the basis for the qualification are insufficient to warrant disallowance of the test.
- (c) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies Subsection R315-309-9(2)(a)(i) or R315-309-9(2)(a)(ii) that are different from data in the audited financial statements or data filed with the Securities and Exchange Commission, then a special report from the owner's or operator's independent certified public accountant is required. The special report shall:
- (i) be based upon an agreed upon procedures engagement in accordance with professional auditing standards;
- (ii) describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements;
  - (iii) describe the findings of that comparison; and
  - (iv) explain the reasons for any differences.
- (d) If the chief financial officer's letter provides a demonstration that the firm has assured environmental obligations as provided in Subsection R315-309-9(2)(b)(ii), then the letter shall include a report from the independent certified public accountant that:
- (i) verifies that [all]each of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements;
- (ii) explains how these obligations have been measured and reported; and
- (iii) certifies that the tangible net worth of the firm is at least \$10,000,000[-million] plus the amount of [all]the guarantees provided.
- (e) The items required by Subsection R315-309-9(3) are to be submitted to the [D]director and copies placed in the facility's operating record as follows:
- (i) in the case of closure and post-closure care, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;
- (ii) in the case of closure and post-closure care, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and
- (iii) in the case of corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).
- (4) A firm [must]shall satisfy the requirements of the financial test at the close of each fiscal year by submitting the items required in Subsection R315-309-9(3) as part of the facility's annual report required by Subsection R315-302-2(4).
- (5) If the firm no longer meets the requirements of the corporate financial test it shall, within 120 days following the close of the firm's fiscal year:
- (a) [obtain]get alternative financial assurance that meets the requirements of Subsection R315-309-1(1); and
- (b) submit documentation of the alternative financial assurance to the  $[\underline{\mathbf{D}}]\underline{\mathbf{d}}$  irector and place copies of the documentation in the facility's operating record.

- (c) The  $[\underline{\mathbf{D}}]\underline{\mathbf{d}}$ irector, based on a reasonable belief that the firm may no longer meet the requirements of the corporate financial test, may require additional reports of financial condition from the firm at any time. If the  $[\underline{\mathbf{D}}]\underline{\mathbf{d}}$ irector finds that the firm no longer meets the requirements of the corporate financial test, firm shall be required to provide alternative financial assurance on a schedule established by the  $[\underline{\mathbf{D}}]\underline{\mathbf{d}}$ irector.
  - (6) Corporate Guarantee.
- (a) A corporate owner or operator of a solid waste facility may demonstrate financial assurance for closure, post-closure care, and corrective action by [obtaining]getting a written guarantee provided by a corporation.
- (i) The guarantor [must]shall be the direct or higher[-]\_tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a substantial business relationship with the owner or operator.
- (ii) The firm shall meet the requirements of the corporate financial test in Section R315-309-9 and shall comply with the terms of the written guarantee as specified in Subsections R315-309-[3]9(6)(b) and R315-309-9(6)(c).
- (A) A certified copy of the guarantee along with copies of the letter from the guarantor's chief financial officer and accountant's opinions [must]shall be submitted to the [D]director and placed in the facility's operating record.
- (B) If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer [must]shall describe the value received in consideration of the guarantee.
- (C) If the guarantor is a firm with a substantial business relationship with the owner or operator, the letter from the chief financial officer [must]shall describe this substantial business relationship and the value received in consideration of the guarantee.
- $(\bar{b})$  The guarantee  $[\underline{\text{must}}]\underline{\text{shall}}$  be effective for closure and post-closure care:
- (i) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;
- (ii) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and
- (iii) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).
- (c) The guarantee shall provide that if the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guaranter will:
- (i) perform, or pay a third party to perform, closure, postclosure, or corrective action as required; or
- (ii) establish a fully funded trust fund as specified in Section R315-309-4 in the name of the owner or operator.
- (d) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the  $[\underline{\mathbf{P}}]\underline{\mathbf{d}}$ irector. Cancellation may not occur until 120 days after the date the notice is received by the  $[\underline{\mathbf{P}}]$ director.
- (e) If the guarantee is canceled, the owner or operator shall, within 90 days following the receipt of the cancellation notice:
- (i) [obtain]get alternate financial assurance that meets the requirements of Subsection R315-309-1(1);
- (ii) submit documentation of the alternate financial assurance to the [D]<u>director</u>; and
- (iii) place copies of the documentation of the alternate financial assurance in the facility's operating record.

- (iv) If the owner or operator fails to provide alternate financial assurance within the 90[-]-day period, the guarantor [must]shall provide the alternate financial assurance within 120 days following the guarantor's notice of cancellation, submit documentation of the alternate financial assurance to the [D]director for review and approval, and place copies of the documentation in the facility's operating record.
- (f) If a corporate guarantor no longer meets the requirements of the corporate financial test as specified in Section R315-309-9:
- (i) the owner or operator [must]shall, within 90 days, [obtain]get alternate financial assurance; and
- (ii) submit documentation of the alternate financial assurance to the [Đ]director and place copies of this documentation in the facility's operating record.
- (iii) If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor [must]shall provide that alternate assurance within the next 30 days.

KEY: solid waste management, waste disposal Date of Last Change: 2024[April 25, 2013]
Notice of Continuation: November 30, 2022

Authorizing, and Implemented or Interpreted Law: 19-6-105; 40

**CFR 258** 

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R315-310	Filing ID: 56421

#### **Agency Information**

1. Department:	Environmental Quality		
Agency:	Waste Management and Radiation Control, Waste Management		
Room number:	2nd Floor		
Building:	MASOB		
Street address:	195 N 1	950 W	
City, state and zip:	Salt Lake City, UT 84116		
Mailing address:	PO Box 144880		
City, state and zip:	Salt Lake City, UT 84114-4880		
Contact persons:	Contact persons:		
Name:	Phone:	Email:	
Tom Ball	385- 454- 5574	tball@utah.gov	

Please address questions regarding information on this notice to the persons listed above.

#### General Information

#### 2. Rule or section catchline:

R315-310. Permit Requirements for Solid Waste Facilities

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

The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct rule references that are incorrect, providing clarifying language, and amending rule language in accordance with legislation.

The Division is also correcting typographical and rule formatting errors.

#### 4. Summary of the new rule or change:

Language was added to Section R315-310-1 to clarify that facility types not addressed specifically in sections of Rule R315-310 and to also require permits as found in other applicable parts of the rules.

The amendment prevents disagreement between Section R315-310-1 and other parts of the rules, including the definition of "permit" in Subsection R315-301-2(55).

The change will require compost facilities, transfer stations, recycling facilities, and waste pile facilities to apply for renewal of their permit every 10 years.

The citations to Subsection R315-310-1(a) found in Subsection R315-310-1(5) are being changed to the correct citation to Subsection R315-310-1(1).

Language is being added to Section R315-310-3 as required by H.B. 357 that was passed during the 2013 General Session of the Utah Legislature. The language details the financial information that local governments must submit with a permit application for a new facility.

Language has been deleted from Subsection R315-310-2(2) which required two copies of a permit application to be submitted to the director. Permit applications are now being received electronically and duplicate copies are not needed.

Language has been added to Subsection R315-310-3(1)(b) that extends the exemption for engineer signatures on designs and drawings to facility types not listed in Subsection R315-310-1(1)(b).

The citation to Subsection R315-310-3(3)(a)(i) found in Subsection R315-310-3(2)(a)(ii) and Subsection R315-310-3(2)(b) is being changed to the correct citation to Subsection R315-310-3(2)(a)(i).

Language has been added to Subsection R315-310-3(3)(a) to clarify that information to demonstrate that the requirements of Subsection 19-6-108(11) have been satisfied must be included with the permit application for a Commercial Solid Waste Disposal facility.

The citation to Subsections R315-310-3(2)(a), (b), and (c) found in Subsection R315-310-3(3)(d) is being changed to the correct citation to Subsections R315-310-3(3)(a), (b), and (c).

Language is being added to Subsection R315-310-3(3)(e) as required by S.B. 68 that was passed during the 2011 General Session of the Utah Legislature. The language clarifies that the governor's and legislature's approvals may be automatically revoked in accordance with the Utah Code.

Language has been added to Subsection R315-310-10(1) that consolidates the information requirements for a post-closure care permit into one location to make it easier for applicants to locate the requirements. The language contains citations to the various sections of the solid waste rules where each of the requirements can be found.

A new requirement for operators of waste piles was added at Subsection R315-310-10(1)(e) that requires these operators to submit the information required by Subsection R315-314-2(2)(f).

#### **Fiscal Information**

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

### A) State budget:

It is not anticipated that there will be any cost or savings to the state budget based on these amendments. The majority of the changes are clarifications and corrections.

New requirements that may have a cost impact include a permit renewal requirement for compost facilities, transfer stations, recycling facilities, and waste pile facilities. The state does not currently operate any of these and it is not anticipated that it will in the future so there are no costs to the state budget due to these requirements.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable. The state does not operate an affected waste pile facility.

### B) Local governments:

The majority of the changes are clarifications and corrections.

However, there are 23 facilities operated by local governments that will now be required to apply for a permit renewal every 10 years. The facilities affected include compost facilities, transfer stations, recycling facilities, and waste pile facilities. It is typical for these facilities to make corrections or updates to their permits as needed. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operation on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable. No local governments currently operate an affected waste pile facility.

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

The majority of the changes are clarifications and corrections.

However, there are 13 facilities operated by small businesses that will now be required to apply for a permit renewal every 10 years. The facilities affected include compost facilities, transfer stations, recycling facilities, and waste pile facilities. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable.

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

The majority of the changes are clarifications and corrections.

However, there are 10 facilities operated by non-small businesses that will now be required to apply for a permit renewal every 10 years. The facilities affected include compost facilities, transfer stations, recycling facilities, and waste pile facilities. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable.

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 majority of the changes are clarifications and corrections.

However, there is 1 waste pile facility operated by a person other than a small business, non-small business, state, or local government that will now be required to apply for a permit renewal every 10 years. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable.

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

The amendments include new requirements for compost facilities, transfer stations, recycling facilities, and waste pile facilities to apply for a permit renewal every 10 years. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

**G)** Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory In	Regulatory Impact Table		
Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026

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

# H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kim Shelley, has reviewed and approved this regulatory impact analysis.

#### **Citation Information**

6. 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 19-6-105 Section 19-6-108 Section 19-6-109

### **Public Notice Information**

- 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.)
- A) Comments will be accepted 05/31/2024 until:

# 9. This rule change MAY 06/17/2024 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.

### **Agency Authorization Information**

Agency head	Douglas J.	Date:	04/11/2024
or designee	Hansen, Division		
and title:	Director		

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-310. Permit Requirements for Solid Waste Facilities. R315-310-1. Applicability.

(1) [The following s]Solid waste facilities subject to the requirements of Rules R315-301 through R315-320 require a permit as follows:

- (a) The following solid waste facilities are subject to the requirements of Sections R315-310-2 through R315-310-12:
- (i) New and existing Class I, II, III, IV, V, VI, and coal combustion residual (CCR) Landfills and coal combustion residual surface impoundments;
- $([b]\underline{ii})$  Class I, II, III, IV, V, and VI Landfills that have closed but have not met the requirements of Subsection R315-302-3(7);
- $([e]\underline{iii})$  incinerator facilities that are regulated by Rule R315-306:
- $([a]\underline{iv})$  land[-]treatment disposal facilities that are regulated by Rule R315-307; and
  - ([d]v) waste tire storage facilities.
- (b) Solid waste facilities not listed in Subsection R315-310-1(1)(a) are subject to the permitting requirements of Sections R315-310-2, R315-310-3, R315-310-9, and R315-310-11.
- (c) The following solid waste facilities are subject to Subsection R315-310-1(b) and the post-closure permit requirements of Section R315-310-10:
  - (i) compost facilities; and
- (ii) waste piles, when post-closure monitoring is required under Subsection R315-314-2(f)(ii).
- (2) Permits are not required for corrective actions at solid waste facilities performed by the state or in conjunction with the United States Environmental Protection Agency or in conjunction with actions to implement the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), or corrective actions taken by others to comply with a state or federal cleanup order.
- (3) The requirements of Sections R315-310-2 through R315-310-12 apply to each existing and new solid waste facility as indicated.
- (a) The  $[D]\underline{d}$ irector may incorporate a compliance schedule for each existing facility to ensure that the owner or operator, or both, of each existing facility meet the requirements of Rule R315-310.
- (b) The owner or operator, or both, where the owner and operator are not the same person, of each new facility or expansion at an existing solid waste facility, for which a permit is required, shall:
- (i) apply for a permit according to the requirements of Rule R315-310:
- (ii) not begin the construction or the expansion of the solid waste facility until a permit has been granted; and
- (iii) not accept waste at the solid waste facility [prior to]before receiving the approval required by Subsection R315-301-5(1).
- (4) A landfill may not change from its current class, or subclass, to any other class, or subclass, of landfill except by meeting [all]each requirement[s] for the desired class, or subclass, to include [obtaining]getting a new permit from the [D]director for the desired class, or subclass, of landfill.
- (5) Any facility that is in operation [at the time that]when a permit is required for the facility by Subsection R315-310-1[(a)](1) and has submitted a permit application within six months of the date the facility became subject to the permit requirements of Subsection R315-310-1[(a)](1) may continue to operate during the permit review period but [must]shall meet [all]the applicable requirements of [ $\dagger$ ]Rules R315-301 through R315-320 unless an alternative requirement has been approved by the [ $\dagger$ ]director.

#### R315-310-2. Procedures for Permits.

- (1) Prospective applicants may request the  $[\underline{\mathbf{P}}]\underline{\mathbf{d}}$  irector to schedule a pre-application conference to discuss the proposed solid waste facility and application contents before the application is filed.
- (2) Any owner or operator who intends to operate a facility subject to the permit requirements [must]shall apply for a permit with the [D]director.[—Two copies of the application, signed by the owner or operator and received by the Director are required before permit review can begin.]
- (3) Applications for a permit [must]shall be completed in the format prescribed by the [Đ]director.
- (4) An application for a permit, [all]any reports required by a permit, and other information requested by the  $[D]\underline{d}$  irector shall be signed as follows:
- (a) for a corporation: by a principal executive officer of at least the level of vice[-] president;
- (b) for a partnership or sole proprietorship: by a general partner or the proprietor;
- (c) for a municipality, [\$\sigma\) tate, [\$\frac{F}{1}\) federal, or other public agency: by either a principal executive officer or ranking elected official; or
- (d) by an [duly-]authorized representative of the person [above]specified in Subsections R315-310-2(4)(a) through R315-310-2(4)(c), as appropriate.
- (i) A person is an [duly-]authorized representative only if the authorization is made in writing, to the [ $\bigcirc$ ]director, by a person described in Subsection[ $\bigcirc$ ] R315-310-2(4)(a), R315-310-2(4)(b), or R315-310-2(4)(c), as appropriate.
- (ii) \_The authorization may specify either a named individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of facility manager, director, superintendent, or other position of equivalent responsibility.
- (iii) If an authorization is no longer accurate and needs to be changed because a different individual or position has responsibility for the overall operation of the facility, a new authorization that meets the requirements of Subsections R315-310-2(4)(d)(i) and R315-310-2(4)(d)(ii) shall be submitted to the [P]director [prior to]before or together with any report, information, or application to be signed by the authorized representative.
  - (5) Filing Fee and Permit Review Fee.
- (a) A filing fee, as required by the Annual Appropriations Act, shall accompany the filing of an application for a permit. The review of the application will not begin until the filing fee is received.
- (b) A review fee, as established by the Annual Appropriations Act, shall be charged at an hourly rate for the review of an application. The review fee shall be billed quarterly and shall be due and payable quarterly.
- (6) [All]Any content[s] and material[s] submitted as a permit application shall become part of the approved permit and shall be part of the operating record of the solid waste disposal facility.
- (7) The owner or operator, or both, of a facility shall apply for renewal of the facility's permit every ten years.

# R315-310-3. General Contents of a Permit Application for a New Facility or a Facility Seeking Expansion.

- (1) Each permit application for a new facility or a facility seeking expansion shall contain the following:
- (a) the name and address of the applicant, property owner, and responsible [party]person for the site operation;

- (b) a general description of the facility accompanied by facility plans and drawings and, except for Class IIIb, IVb, and Class VI Landfills, [and]facilities addressed in Subsection R315-310-1(1)(b) and, waste tire storage facilities, unless required by the [D]director, the facility plans and drawings shall be signed and sealed by a professional engineer registered in [the State of ]Utah;
- (c) a legal description and proof of ownership, lease agreement, or other mechanism approved by the  $[\mathbf{D}]\underline{\mathbf{d}}$ irector of the proposed site, latitude and longitude map coordinates of the facility's front gate, and maps of the proposed facility site including land use and zoning of the surrounding area;
- (d) the types of waste to be handled at the facility and area served by the facility;
- (e) the plan of operation required by Subsection R315-302-2(2);
- (f) the form used to record weights or volumes of wastes received required by Subsection R315-302-2(3)(a)(i);
- (g) an inspection schedule and inspection log required by Subsection R315-302-2(5)(a);
- (h) the closure and post-closure plans required by Section R315-302-3;
- (i) documentation to show that any [waste water]wastewater treatment facility, such as a run-off or a leachate treatment system, is being reviewed or has been reviewed by the Division of Water Quality;
- (j) a proposed financial assurance plan that meets the requirements of Rule R315-309; and
- (k)  $[A]\underline{a}$  historical and archeological identification efforts, which may include an archaeological survey conducted by a person holding a valid license to conduct surveys issued under  $\underline{Rule}$  R694-1
- (l) An application for a new facility that is owned or operated by a local government shall include financial information that discloses the costs of establishing and operating the facility, including:
  - (i) land acquisition and leasing;
  - (ii) construction;
    - (iii) estimated annual operation;
  - (iv) equipment;
    - (v) ancillary structures;
    - (vi) roads;
      - (vii) transfer stations; and
- (viii) other operations not contiguous to the proposed facility that are necessary to support the facility's construction and operation.
  - (2) Public Participation Requirements.
  - (a) Each permit application shall provide:
- (i) the name and address of [all]each owner[s] of property within 1,000 feet of the proposed solid waste facility; and
- (ii) documentation that a notice of intent to apply for a permit for a solid waste facility has been sent to [all]each property owner[s] identified in Subsection R315-310-3[(3)](2)(a)(i)[-]; and
- (iii) [the Director with-]the name of the local government with jurisdiction over the site and the mailing address of that local government office.
- (b) The [Đ]director shall send a letter to each person identified in Subsections R315-310-3[(3)](2)(a)(i) and R315-310-3(2)(a)(iii) requesting that [they]the person reply, in writing, if [they]the person desires [their name]to be placed on an interested [party]persons list to receive further public information concerning the proposed facility.

- (3) Special Requirements for a Commercial Solid Waste Disposal Facility.
- (a) The permit application for a commercial nonhazardous solid waste disposal facility shall contain the information required by Subsection[s] 19-6-108[(9) and ](10), including information to demonstrate that the requirements of Subsection 19-6-108(11) are satisfied.
- (b) [Subsequent to]After the issuance of a solid waste permit by the [ $\underline{\mathcal{P}}$ ]director, a commercial nonhazardous solid waste disposal facility shall meet the requirements of Subsection 19-6-108(3)(c) and provide documentation to the [ $\underline{\mathcal{P}}$ ]director that the solid waste disposal facility is approved by the local government, the Legislature, and the governor.
- (c) Construction of the <u>commercial</u> solid waste disposal facility may not begin until the requirements of Subsection[s] R315-310-3(2)(b) are met and approval to begin construction has been granted by the [Đ]director.
- (d) Commercial solid waste disposal facilities solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government are not subject to Subsections R315-310-3[(2)](3)(a), R315-310-3(3)(b), and R315-310-3(3)(c).
- (e) The governor's approval and legislative approval may be automatically revoked in accordance with Subsections 19-6-108(3)(c)(iv) and 19-6-108(3)(c)(v).

# R315-310-5. Contents of a Permit Application for a New or Expanding Class III, IV, or VI Landfill.

- (1) Each application for a permit for a new Class III, IV, or VI [1]Landfill or for a permit to expand an existing Class III, IV, or VI Landfill shall contain the information required in Section R315-310-3.
- (2) Each application shall also contain an engineering report, plans, specifications, and calculations that address:
- (a) the information and maps required by Subsections R315-310-4(2)(a)(i) and R315-310-4(2)(a)(ii);
- (b) the design and location of the run-on and run-off control systems;
- (c) the information required by Subsections R315-310-4(2)(d) and R315-310-4(2)(e);
  - (d) the area to be served by the facility; and
- (e) how the facility will meet the requirements of Rule R315-304, for a Class III Landfill, or Rule R315-305, for a Class IV or VI Landfill.
- (3) Each application for a Class IIIa or Class IVa Landfill permit shall also contain the applicable information required in Subsections R315-310-4(2)(b) and R315-310-4(2)(c).

# R315-310-7. Contents of a Permit Application for a New or Expanding Incinerator Facility.

- (1) Each application for a new or expanding incinerator facility permit shall contain the information required in Section R315-310-3.
  - (2) Each application for a permit shall also contain:
- (a) engineering report, plans, specifications, and calculations that address:
- (i) the design of the storage and handling facilities on-site for incoming waste as well as fly ash, bottom ash, and any other wastes produced by air or water pollution controls; and
- (ii) the design of the incinerator or thermal treater, including charging or feeding systems, combustion air systems, combustion or reaction chambers, including heat recovery systems,

ash handling systems, and air pollution and water pollution control systems. Instrumentation and monitoring systems design shall also be included[-]:

- (b) an operational plan that, in addition to the requirements of Section R315-302-2, addresses:
- (i) cleaning of storage areas as required by Subsection R315-306-2(5);
- (ii) alternative storage plans for breakdowns as required in Subsection R315-306-2(3);
- (iii) inspections to [insure]ensure compliance with state and local air pollution laws and to comply with Subsection R315-302-2(5)(a). The inspection log or summary [must]shall be submitted with the application;
- (iv) how and where the fly ash, bottom ash, and other solid waste will be disposed; and
- (v) a program for excluding the receipt of hazardous waste equivalent to requirements specified in Subsection R315-303-4(7)[-];
- (c) documentation to show that air pollution and water pollution control systems are being reviewed or have been reviewed by the Division of Air Quality and the Division of Water Quality[-];
  - (d) a closure plan to address:
  - (i) closure schedule;
- (ii) closure costs and a financial assurance mechanism to cover the closure costs;
- (iii) methods of closure and methods of removing wastes, equipment, and location of final disposal; and
  - (iv) final inspection by regulatory agencies.

### R315-310-9. Contents of an Application for a Permit Renewal.

The owner or operator, or both, where the owner and operator are not the same person, of each existing facility who intend to have the facility continue to operate, shall apply for a renewal of the permit by submitting the applicable information and application specified in Section[s] R315-310-3, R315-310-4, R315-310-5, R315-310-6, R315-310-7, or R315-310-8, as appropriate. Applicable information, that was submitted to the [Đ]director as part of a previous permit application, may be copied and included in the permit renewal application so that [all]the required information is contained in one document. The information submitted shall reflect the current operation, monitoring, closure, post-closure, and [all]any other aspects of the facility as currently established at the time of the renewal application [submittle]submittal.

### R315-310-10. Contents of an Application for a Permit for a Facility in Post-Closure Care.

- (1) The application for a Post-Closure Care permit shall contain the applicable information required in [Section R315-310-3 and documentation as to how the facility will meet the requirements of Section R315-302-3(5) and (6).]Subsections R315-310-3(1)(a) through R315-310-3(1)(c), and R315-310-3(1)(g) through R315-310-3(1)(j), and:
  - (a) for landfills, except CCR facilities:
- (i) proof of recording with the county recorder as required by Subsection R315-302-2(6);
- (ii) for Class I, II, IIIa, IVa, and V Landfills, demonstrate that the applicable requirements of Subsection R315-303-3(4) have been met;
- (iii) for each Class III Landfill, the applicable requirements of Section R315-304-5;
- (iv) for each Class IV or VI Landfill, the applicable requirements of Section R315-305-5;

- (v) the applicable requirements for groundwater monitoring according to Rule R315-308; and
- (vi) the financial assurance update requirements of Subsection R315-311-1(5);
- (b) for incinerator facilities the required financial assurance for incinerators according to Section R315-306-2 or R315-306-3, as applicable;
- (c) for landtreatment disposal facilities the applicable information required in Section R315-307-4;
- (d) for composting facilities the applicable information required in Subsection R315-312-3(5);
- (e) for waste piles subject to Rule R315-314 that are likely to produce leachate the applicable information required in Subsection R315-314-2(2)(f); and
- (f) for CCR facilities the applicable information required in Sections R315-319-100 through R315-319-104.

### R315-310-11. Permit Transfer.

- (1) A permit may not be transferred without approval from the  $[\mathbf{D}]\underline{\mathbf{d}}$ irector, nor shall a permit be transferred from one property to another.
- (2) The new owner or operator shall submit to the  $[\mathbf{D}]\underline{\mathbf{d}}$ irector:
- (a) [A]a revised permit application no later than 60 days [prior to]before the scheduled change; and
- (b) [A]a written agreement containing a specific date for transfer of permit responsibility between the current permittee and the new permittee[s].
  - (3) The new permittee shall:
- (a) assume permit requirements and [all\_]financial responsibility;
- (b) provide adequate documentation that the permittee has or shall have ownership or control of the facility for which the transfer of permit has been requested;
- (c) demonstrate adequate knowledge and ability to operate the facility in accordance with the permit conditions; and
- (d) demonstrate adequate financial assurance as required in the permit and Rule R315-309 for the operation of the facility.
- (4) [When]If a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of Rule R315-309 until the new owner or operator has demonstrated that it is complying with the requirements of that rule.
- (5) An application for permit transfer may be denied if the [D]director finds that the applicant has:
- (a) knowingly misrepresented a material fact in the application;
- (b) refused or failed to disclose any information requested by the [₱]director;
- (c) exhibited a history of willful disregard of any state or federal environmental law; or
- (d) had any permit revoked or permanently suspended for cause under any state or federal environmental law.

KEY: solid waste management, waste disposal Date of Last Change: 2024[July 15, 2016]
Notice of Continuation: November 30, 2022

Authorizing, and Implemented or Interpreted Law: 19-6-105;

19-6-108; 19-6-109; 40 CFR 258

NOTICE OF PROPOSED RULE			
TYPE OF FILING:	TYPE OF FILING: Amendment		
Rule or Section Number:	R426-5	Filing ID: 56430	

#### Agency Information

1. Department:	Health and Human Services	
1. Department.	Ticaliti and Hamaii Octviocs	
Agency:	Population Health, Emergency Medical Services	
Room number:	2438	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142004	
City, state and zip:	Salt Lake City, UT 84114-2004	
Contact persons:		
Name:	Phone: Email:	

- Contract personner		
Name:	Phone:	Email:
Dean Penovich	801- 913- 2621	dpenovich@utah.gov
Mariah Noble	385- 214- 1150	mariahnoble@utah.gov

Please address questions regarding information on this notice to the persons listed above.

#### General Information

### 2. Rule or section catchline:

R426-5. Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards

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

The purpose of this amendment is to update it to comply with changes in national educational and licensure standards.

The agency's staff reviewed changes with the national registry of EMTs and determined it was necessary to update this rule to ensure Utah requirements mirror national standards and that this rule addresses Emergency Medical Services (EMS) professionalism.

### 4. Summary of the new rule or change:

This change updates EMS education requirements in accordance with the national standard.

It also addresses and updates the Department of Health and Human Services (DHHS) EMS training practices and policies to better serve the EMS community and system.

It removes EMT-IA from this rule, as DHHS no longer licenses those.

Additionally, it adds a professional conduct and code of ethics for EMS personnel to the rule through an incorporation by reference.

#### **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, as it clarifies updates to pre-existing requirements that are already in practice but does not add to those requirements.

Furthermore, DHHS has not been licensing EMT-IAs and therefore the removal of EMT-IA from this rule will not result in a cost or savings to the state budget.

### B) Local governments:

This rule proposal is not expected to have a fiscal impact on local governments' revenues or expenditures, as it primarily clarifies updates to pre-existing requirements that are already in practice for districts but does not add to those requirements.

Any other changes to this rule do not apply to local governments.

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

This rule proposal is not expected to have a fiscal impact on small businesses' revenues or expenditures, as it primarily clarifies updates to pre-existing requirements that are already in practice but does not add to those requirements.

Any other changes to this rule do not apply to small businesses.

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

This rule proposal is not expected to have a fiscal impact on non-small businesses' revenues or expenditures, as it primarily clarifies updates to pre-existing requirements that are already in practice but does not add to those requirements.

Any other changes to this rule do not apply 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*):

This rule proposal is not expected to have a fiscal impact on other persons, as it primarily clarifies updates to preexisting requirements that are already in practice but does not add to those requirements.

Any other changes to this rule do not apply 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 for affected persons. The rule proposal primarily clarifies updates to pre-existing requirements that are already in practice but does not add to those requirements.

Any other changes to this rule do not apply.

**G)** Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

### **Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

#### **Citation Information**

6. 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 26B-4-101 Section 26B-4-102

### Incorporations by Reference Information

### 7. Incorporations by Referenc :

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

Official Title of Materials Incorporated (from title page)	Course Coordinator Manual
Publisher	Utah Department of Health and Human Services
Issue Date	March 2023

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

Official Title of Materials Incorporated (from title page)	EMT Student Handbook
Publisher	Utah Department of Health and Human Services
Issue Date	July 2023

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

Official Title of Materials Incorporated (from title page)	Recertification Guide
Publisher	National Registry of Emergency Medical Technicians
Issue Date	February 1, 2023
Issue or Version	Version 4

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

Official Title of
Materials
Incorporated
(from title page)

Standards and Guidelines for the Accreditation of Educational Programs in the Emergency Medical Services Professions

	Commission on Accreditation of Allied Health Education Programs (CAAHEP)
Issue Date	2023

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

title of materials incorporated by references:					
Official Title of Materials Incorporated (from title page)	Training Officer Manual				
Publisher	Utah Department of Health and Human Services				
Issue Date	July 2023				

#### **Public Notice Information**

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.)

	,			
A)	Comments	will be	accepted	05/31/2024
unti	l:			

# 9. This rule change MAY 06/07/2024 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.

### **Agency Authorization Information**

	Tracy S. Gruber, Executive Director	04/15/2024
and title:	Executive Director	

# R426. Health and Human Services, Population Health, Emergency Medical Services.

R426-5. Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards.

### R426-5-100. Authority and Purpose.

- (1) Authority for this rule is found in Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.
  - (2) The purpose of this rule is to:
- (a) [Đ]describe requirements for training, certification, endorsements, and licensing of individuals who provide emergency medical services[-]; and
- (b) [P]provide uniform minimum standards to be met by those providing emergency medical services within the state.

#### R426-5-110. Definitions as Used in this Rule.

- (1) "Advanced Emergency Medical Technician" (AEMT) as defined in Subsection R426-1-200(1).
  - (2) "Committee" as defined in Subsection 26B-4-101(5).
- (3) "Crisis Response Technician" (CRT) is a person who provides "Behavioral Emergency Services" as defined in Subsection 26B-4-101(4)(a)(b).

- (4) "Department" as defined in Subsection R426-1-200(13).
- (5) "Emergency Medical Responder" (EMR) as defined in Subsection R426-1-200(16).
- (6) "Emergency Medical Services" (EMS) as defined in Subsection R426-1-200[-](20).
- (7) "Emergency Medical Technician" (EMT) as defined in Subsection R426-1-200(17).
- (8) "[Emergency Medical Technician Intermediate Advanced" (EMT IA) as defined in Subsection R426-1-200(18).

  (9) "]Paramedic" as defined in Subsection R426-1-200(41).
  - (9) "Provider" as defined in Subsection R426-1-200(57).

### R426-5-200. Scope of Practice.

- (1) The [Đ]department may license an individual as an EMR, EMT, AEMT, [EMT-IA, Paramedie]paramedic, or CRT who meets the requirements in this rule.
- (2) The [C]committee adopts [as-]the standard for EMR, EMT, AEMT, [EMT-IA, ]and [P]paramedic training and competency as defined in the National Association of State EMS Official's[-] National EMS Scope of Practice Model 2019 (Report No. DOT HS 812-666). Washington, DC: National Highway Traffic Safety Administration, which is incorporated by reference.
- (3) An EMR, EMT, AEMT, [EMT-IA, Paramedie]paramedic, or CRT may perform the skills to their level of licensure, as adopted in this section.
- (4) A CRT may perform skills including crisis response triage, discussion of available resources, and referral to appropriate mental health professions as determined by [Đ]department-[]approved training and local mental health authority[–]-approved protocols[-] in the corresponding response area.

### R426-5-210. Professional Conduct and Code of Ethics for EMS Personnel.

- EMS personnel shall maintain professional conduct and follow the code of ethics from the 2023 EMT Student Handbook, incorporated by reference in this rule.
- (1) The following are examples of conduct, while providing patient care and transport, that may result in investigation of an EMS personnel's license or a provider's license or designation pursuant to Subsection R426-5-3300(2):
- (a) theft or inappropriate removal or possession of property;
  - (b) falsification of personal or hospital records;
- (c) functioning under the influence of alcohol, illegal drugs, or medications that may impair judgment or capability;
- (d) possession, distribution, sale, transfer, or use of alcohol or illegal drugs;
  - (e) fighting or threatening violence;
- (f) negligence or improper conduct leading to damage of property;
- (g) violation of safety or health rules that threatens the safety of patients receiving care;
  - (h) sexual or other unlawful or unwelcome harassment;
- (i) possession of dangerous or unauthorized materials, such as explosives or illegal firearms;
- (j) unauthorized access or disclosure of confidential information;
  - (k) misrepresentation of an individual's level of licensure;
- (1) performing procedures or skills beyond the level of an individual's EMS licensure or provider's licensure; and

- (m) violation of laws pertaining to medical practice, drugs, or controlled substances.
- (2) Complaints regarding EMS personnel's actions or behaviors, on or off duty, that can be interpreted as possible violations of this section:
  - (a) must be submitted to the department in writing; and
- (b) if determined a potential violation, will be investigated pursuant to Section R425-5-3300.
- (3) Any EMS personnel who is found to have violated this section may be subject to license suspension or revocation.

# R426-5-300. EMS [Individual]Personnel Licensure for EMRs, EMTs, AEMTs, Paramedics, and CRTs.

- (1) The department may license an EMR, EMT, AEMT, [EMT-IA, Paramedic, and CRT.
- (1) The Department may license an EMR, EMT, AEMT, EMT IA, Paramedie] paramedic, or CRT for a two-year period. The department may modify a license period to standardize renewal cycles.
- (2) An individual who wishes to become licensed as an EMR[-], EMT, AEMT, [EMT-IA, Paramedic] paramedic, or CRT shall:
- (a) successfully complete a [D]department-approved EMR, EMT, AEMT, [EMT-IA, Paramedie]paramedic, or CRT course:
- (b) be able to perform the functions listed in the National EMS Education Standards referenced in Subsection R426-5-200(2) as verified by personal attestation and successful accomplishment by [Đ]department-endorsed EMS instructors;
- (c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of training requirements for an EMR, EMT, AEMT, [EMT-IA, Paramedic paramedic, or CRT [certification] licensure;
- (d) submit the applicable fees and a completed application, including [social security]Social Security number, to the [D]department;
- (e) submit to and pass a background investigation, including an FBI background investigation; and
- (f) [retain]keep documentation of having completed a [Đ]department[-]-approved cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for the [‡]Level of Adult and Pediatric Healthcare Cardiopulmonary Resuscitation [(CPR)) and Emergency Cardiac Care [(ECC)]Basic Life Support[(BLS); and].
  - (g) retain tuberculosis test results.
- (3) An individual who wishes to become licensed as a CRT shall:
- (a) successfully complete a  $[\underline{\theta}]\underline{d}$ epartment-approved CRT course[-as described in this rule];
- (b) be able to perform the functions as described in Subsection R426-5-200[-](4);
- (c) submit the applicable fees and a completed application, including [social security]Social Security number, to the [Department;]department; and
- (d) submit to and pass a background investigation, including an FBI background investigation[; and
  - (e) retain tuberculosis test results].
    - (4) Age requirements:
    - (a) EMR may be licensed at 16 years of age or older;
- (b) EMT, AEMT, [EMT-IA-]and [P]paramedic may be licensed at 18 years of age or older; and

- (c) CRT may be licensed at 21 years of age or older.
- (5) Within two years after the official course end date, the applicant for EMR, EMT, AEMT, [EMT-IA, Paramedic]paramedic, or CRT licensure shall successfully complete the [Đ]department's approved National Registry of Emergency Medical Technician's written and practical EMR, EMT, AEMT, [EMT-IA, ]or [P]paramedic examinations, or [reexaminations]re-examinations, if necessary.
- (6) Licensed personnel shall [retain]keep and submit upon request by the  $[\underline{\mathbf{D}}]\underline{\mathbf{d}}$ epartment any documentation required for licensure.
- (7) An individual who wishes to enroll in an AEMT[<del>,</del> EMT-IA,] or [P]paramedic course shall have as a minimum a Utah EMT license, and the license shall remain current until the new license level is obtained.
- (8) An individual who wishes to enroll in a CRT course shall be a licensed EMS [provider]personnel or a law enforcement officer for at least two years before enrollment[5] or have at least two years of equivalent experience before enrollment into a CRT course or program.
- (9) Upon successful completion of the program, written verification of the successful candidates shall be submitted to the  $[\mathbf{D}]\underline{d}$ epartment for review.
- (10) The [Đ]department may extend time limits for an individual who has unusual circumstances or hardships.

#### R426-5-400. Licensure at a Lower Level.

- [(1) \_\_]An individual who [has taken]completed a [P]paramedic course, but has not been recommended for licensure, may request to become licensed at the AEMT levels if:
- ([a]1) the [P]paramedic course coordinator submits to the [P]department a favorable letter of recommendation stating that the individual has successfully obtained the knowledge and skills of the AEMT level as required by this rule; and
- ([b]2) the individual successfully completes other application and testing requirements for an AEMT.

### R426-5-500. License Challenges for EMTs or AEMTs.

- (1) The [Đ]department may license an individual as an[d] EMT or AEMT, in consecutive order, who has military medical training, a Utah registered nurse license, a Utah nurse practitioner license, a Utah physician assistant license, or a Utah physician license, and:
- (a) can demonstrate knowledge, proficiency, and competency to perform the functions listed in the National EMS [Education Standards] education standards as described in Subsection R426-5-200(2[]), as verified by personal attestation and successful demonstration to a currently certified course coordinator and an off-line medical director;
  - (b) has a knowledge of:
  - (i) medical control protocols;
  - (ii) state and local protocols; and
- (iii) the role and responsibilities of an EMT or AEMT, respectively;
- (c) maintains and submits documentation of having completed a CPR course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for [Adult and Pediatric Healthcare Professional | Cardiopulmonary Resuscitation and Emergency Cardiovascular [Care Basic Life Support], which is incorporated by reference; and
  - (d) is 18 years of age or older.

- (2) To become licensed as either an EMT or AEMT, the individual shall:
- (a) submit the applicable fees and a completed application, including [social security]Social Security number, signature, and proof of current Utah license as a registered nurse, a physician assistant, or a medical doctor, or military transcripts for training;
- (b) successfully complete the [Department approved written and practical] National Registry of Emergency Medical Technicians EMT or AEMT cognitive and psychomotor examinations, or [reexaminations] re-examinations, if necessary; and
- (c) submit to and pass a background screening clearance [as], per Section R426-5-3200.
- (3) The [D]department may license as a CRT an individual with military mental health training, or a licensed mental health professional in Utah, who:
- (a) can demonstrate knowledge, proficiency, and competency to perform the functions as verified by personal attestation and successful demonstration to a county mental health authority or designee;
  - (b) has a knowledge of:
  - (i) crisis response protocols;
  - (ii) state and local protocols; and
  - (iii) the role and responsibilities of a CRT;
- (c) maintains and submits documentation of having completed a cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for [Adult and Pediatric Healthcare Professional ] Cardiopulmonary Resuscitation and Emergency Cardiovascular [Care Basic Life Support; and(d) is 21 years of age or older.R426 5 510. License Challenges for CRT.]; and
  - ([4) |d) is 21 years of age or older.

#### R426-5-510. License Challenges for CRTs.

- \_To become licensed as a CRT, the individual shall:
- ([a]1) submit the applicable fees and a completed application, including [social security]Social Security number, signature, and proof of current Utah license as a mental health professional, or military transcripts for training;
- ([b]2) successfully complete the [D]department[-]- approved written and practical CRT examinations, or [reexaminations]re-examinations, if necessary; and
- ([e]3) submit to and pass a background screening clearance $[-as]_a$  per Section R426-5-3200.

# R426-5-600. License Renewal Requirements for [EMR, EMT, AEMT, EMT-IA] EMRs, EMTs, AEMTs, and Paramedics.

- (1) The Ddepartment may renew an individual license for a two-year period or for a shorter. The department may modify the period as modified by the Department for a license to standardize renewal cycles.
  - (2) An individual seeking license renewal shall:
- (a) submit the applicable fees and a completed application, including [social security]Social Security number, to the [D]department;
- (b) submit [to and pass-]a [background screening clearance as per Section R426-5-3200;
- (c) retain documentation of having ]completed [a cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 version of the American Heart Association Guidelines for the level of Adult and Pediatric Healthcare Professional Cardiopulmonary Resuscitation and Emergency

- Cardiovascular Care Basic Life Support. Cardiopulmonary Resuscitation shall be kept current during licensure; and
- (d) provide documentation of completion of Departmentapproved continuing medical education requirements.
- (3) The EMR, EMT, AEMT, EMT IA and Paramedic shall complete the required continuing medical education hours, as outlined in the Department's Renewal Protocol for]Utah EMS [Personnel Manual. The hours shall be completed throughout the prior two years.
- (4) The EMR, EMT, AEMT, EMT-IA, or Paramedic shall complete and provide documentation upon request of demonstrating the psychomotor skills listed in the 2019 National EMS Education Standards at their level of licensure.
- (5) An EMR, EMT, AEMT, EMT-IA, or Paramedic who is affiliated with a licensed or designated EMS provider shall have the licensed or designated EMS provider's training officer submit a letter verifying the completion of the renewal requirements. An EMR, EMT, AEMT, EMT-IA, or Paramedic who is not affiliated with a licensed or designated EMS provider shall provide upon the request of the Department verification of renewal requirements directly to the Department.
- (6) An AEMT, EMT-IA or Paramedic shall obtain verification from a certified off line medical director recommending the individual for renewal verifying the individual has demonstrated proficiency in the psychomotor skills listed in the 2019 National EMS Education Standards at their license level.
- (7) Individuals are responsible to complete and submit required renewal material to the Department at one time]application to the department, no later than 30 days and no earlier than six months before the individual's current license expiration date[. Renewal material submitted less than 30 days may result in a license expiration. The Department processes renewal material in the order received.];
- ([8]c) have a current National Registry of Emergency Medical Technicians certification for their current license level;
- (d) submit to and pass a background screening clearance, per Section R426-5-3200;
- (e) keep documentation and submit, upon request, proof of having completed a department-approved cardiopulmonary resuscitation course within the prior two years that is consistent with the 2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular;
- (f) provide documentation of completion of departmentapproved continuing medical education requirements; and
- (g) maintain cardiopulmonary resuscitation certification during licensure period.
- (3) The EMR, EMT, AEMT, and paramedic shall complete the required continuing medical education hours, as outlined in Recertification Guide Version 4, published by the National Registry of Emergency Medical Technicians, incorporated by reference in this rule. The hours shall be completed throughout the prior two years.
- (4) An individual is responsible to complete and submit required renewal material and the recertification application to the National Registry of Emergency Medical Technicians, per the guidance provided under "Renewal License" on the department website.
- (5) A [D]department[-]-approved entity [who]that provides continuing medical education may compile [and submit-]renewal materials on behalf of an EMR, EMT, AEMT, [EMT-IA, -]or [P]paramedic; however, the individual EMR, EMT, AEMT, [EMT-IA, -]or [P]paramedic is responsible for a timely and complete submission.

([9]6) The [ $\mathbb{P}$ ]department may not lengthen an individual's license period to more than [the-]two years, unless the individual is a member of the National Guard or [ $\mathbb{F}$ ]Reserve component of the [armed forces]Armed Forces and is on active duty when the license expire[ $\mathbb{A}$ ]s.

### R426-5-700. License Renewal Requirements for CRTs.

- (1) A CRT applying for <u>a</u> renewal <u>license</u> shall be in good standing with the local mental health authority. The local mental health authority or designee may revoke a CRT's license upon written request to the [<del>D</del>]department.
- (2) [Complete Department-]A CRT applying for a renewal license shall complete department-approved continuous education requirements of no less than [8]eight hours every two years.
- (3) [Individuals are]An individual is responsible to complete and submit required renewal materials to the [Đ]department at one time, no later than 30 days and no earlier than one year before the individual's current license expiration date. [-]Renewal materials submitted less than 30 days before license expiration may result in license expiration. [-]The [Đ]department processes renewal material in the order received.
  - (4) The [D] department may shorten a CRT's license period.
- (5) The [D]department may not lengthen an individual's license period to more than two years unless the individual is a member of the National Guard or [r]Reserve component of the [armed forces]Armed Forces and [was]is on active duty when the [ir] license expire[d]s.

# R426-5-800. Reciprocity for [EMR, EMT, AEMT] EMRs, EMTs, AEMTs, and Paramedics.

- (1) The [Đ]department may license an individual as an EMR, EMT, AEMT, or [₱]paramedic who is licensed or certified by another state or certifying body if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.
- (2) An individual seeking reciprocity for licensure in Utah based on out-of-state training and experience shall:
- (a) submit the applicable fees and a completed application, including [social security]Social Security number, to the [D]department; and[-complete the following within two years of submitting the application;]
- (b) <u>complete the following within two years of submitting the application:</u>
- (i) submit to and pass a background screening clearance as per Section R426-5-3200;
- ([d]iii) successfully complete the National Registry of Emergency Medical [Technician's written and practical] Technician cognitive and psychomotor for EMR, EMT, AEMT, or [P]paramedic examinations, or [reexaminations] if necessary; and
- ([e]iv) submit a current certification or license from one of the states of the United States or its possessions, or current

- registration and the name of the training institution if registered with the National Registry of EMTs.
- (3) A paramedic candidate shall also keep documentation of successful completion of Advanced Care Life Support or equivalent.
- (4) AEMT and paramedic licensed personnel shall keep documentation of PEPP, PALS, or equivalent courses within the prior two years.

### R426-5-810. Reciprocity for CRTs.

- (1) The [₱]department may license an individual as [an]a CRT who is licensed or certified by another state or certifying body if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.
- (2) An individual seeking reciprocity for <u>CRT</u> licensure in Utah based on out-of-state training and experience shall:
- (a) [ $\underline{S}$ ]submit the applicable fees and a completed application, including [social security]Social Security number, to the [ $\underline{D}$ ]department; and
- (b) complete the following within two years of submitting the application[;]:
- ([b]i) submit to and pass a background screening clearance[-as], per Section R426-5-3200;
- ([e) retain]ii) keep documentation of having completed a CPR course within the prior two years that is consistent with the 2020 [version of the] American Heart Association Guidelines for [the level of Adult and Pediatric Healthcare Professional] Cardiopulmonary Resuscitation and Emergency Cardiovascular [Care Basic Life Support]; and
- $([d]\underline{iii})$  submit a current certification or license from one of the states of the United States or its possessions, or current registration and the name of the training institution.

# R426-5-900. Lapsed Licenses with National Registry of Emergency Medical Technician Certification.

- (1) An individual whose EMR, EMT, AEMT, [EMT-IA, Paramedie]paramedic, or CRT license has expired for less than one year [may, within one year after expiration,]shall recertify with the National Registry of Emergency Medical Technicians.
- (2) An individual whose license for EMR, EMT, AEMT, or paramedic has expired for more than one year shall:
- (a) comply with the recertification requirements per the guidance of the National Registry of Emergency Medical Technicians;
  - (b) pay a late licensure fee; and
- (c) complete renewal requirements[, pay a late licensure fee. Individuals may be required to successfully pass the Department's approved written examination to become licensed. The individual's].
- (3) If an EMR, EMT, AEMT, or paramedic license for an individual remains expired for more than a year, any new license will be issued with an expiration date [will be ]two years from the previous license's expiration[-date].
- ([2] $\underline{4}$ ) An individual whose license for [EMR, EMT, AEMT, EMT-IA, or Paramedie]CRT has expired for more than one year shall:
- (a) submit a letter of recommendation including results of an oral examination, from a [eertified off-line medical director, verifying proficiency in patient care skills at the licensure level;
- (b) successfully complete the applicable Department's approved written examination;

- (c) complete renewal requirements; and
- (d) the individual's new expiration date will be two years from the completion of renewal materials.
- (3) An individual whose license for CRT has expired for more than one year shall:(a) submit a letter of recommendation including results of an oral examination, from a ]county mental health director or designee, verifying proficiency in behavioral health care skills at the licensure level[;(b) successfully complete the applicable Department's approved written examination;(e) complete renewal requirements; and(d) the individual's new expiration date will be two years from the completion of renewal materials.];
- - (c) complete renewal requirements.
- (5) If a CRT license for an individual remains expired for more than a year, any new CRT license will be issued with an expiration date two years from the completion of renewal materials.
- (6) An individual whose certification or license has lapsed, is not authorized to provide care as an EMR, EMT, AEMT, [EMT-IA, Paramedic] paramedic, or CRT until the individual completes the renewal process.

# R426-5-1000. Emergency Medical Care During Clinical Training.

A student enrolled in a [Đ]department-approved training program may, under the direct supervision of the course coordinator, an instructor in the course, or a preceptor for the course, perform activities delineated within the training curriculum that otherwise require[s] licensure to perform.

### R426-5-1100. Instructor Requirements.

- (1) The  $[\underline{\Phi}]\underline{d}$ epartment may endorse an individual as an EMS  $[\underline{Instructor an individual}]$  instructor who:
- (a) meets the initial licensure requirements in <u>Section</u> R426-5-1200:[-and]
- (b) is currently in Utah as an EMR, EMT, AEMT, [EMT-IA,] or [Paramedic.] paramedic; and
- (c) has been a licensed EMR, EMT, AEMT, or paramedic for a minimum of two years.
- (2) The [D]department adopts the United States Department of Transportation's ["]EMS Instructor Training Program as the standard for EMS [I]instructor training and competency in the state, which is [adopted and ]incorporated by reference in this rule.
- (3) An EMS instructor may only teach up to the license level to which the instructor is licensed.
- (4) An EMS instructor shall comply with the teaching standards and procedures in the [EMS Instructor Manual]March 2023 Course Coordinator Manual as incorporated by reference in this rule.
- (5) An EMS instructor shall maintain the EMS license for the level the instructor is endorsed to teach. [-]If an individual's EMS license lapses, the instructor endorsement is invalid until the EMS license is renewed.
- [ (6) The Department may waive a particular instructor endorsement requirement if the applicant can demonstrate the applicant's training and experience requirements are equivalent or greater to what are required in Utah.

#### R426-5-1200. Instructor Endorsement.

(1) The [Đ]department may endorse [a license]an individual who is [an]a licensed EMR, EMT, AEMT, [EMT-IA,]or [P]paramedic as an EMS [I]instructor for a two-year period.

- (2) An individual who wishes to become endorsed as an EMS [Hinstructor shall:
  - (a) submit an application and pay [all-]applicable fees;
- (b) submit [three letters]one letter of recommendation regarding EMS skills and teaching abilities[\(\frac{1}{2}\)] from a licensed or designated agency, which must be on department or agency letterhead and signed;
- (c) submit documentation of 15 hours of teaching experience [\(\frac{1}{2}\)] with teaching experience in EMS or other related medical discipline, such as first aid or CPR, being preferred; and
- (d) successfully complete [all required examinations; and

  (e) successfully complete ]the [D]department-sponsored initial EMS instructor training course[, or equivalent].
- (3) An individual who wishes to be[eome] endorsed as an EMS [I]instructor to teach EMR, EMT, AEMT, or [P]paramedic courses or CME shall provide documentation of [30 hours]a minimum of 25 patient [eare]contacts within the prior year with a licensed or designated agency or an emergency health care facility. Documentation must be on department or agency letterhead and signed.
- (4) [The Department may waive portions of the initial EMS instructor training courses for previously completed Department approved instructor programs.

#### R426-5-1300. Instructor Endorsement Renewal.

- [<del>(1)</del>]An EMS instructor who wishes to renew an endorsement as an instructor shall:
  - ([a]1) maintain current EMS licensure;
- ([b]2) attend the required [D]department-approved instructor seminar at least once in the two<math>[-]-year endorsement renewal cycle; and
  - ([e]3) submit an application and pay[-all] applicable fees.

### R426-5-1400. Instructor Lapsed Endorsement.

- (1) An EMS instructor whose instructor endorsement [has ]expired [for-]less than [two years]one year ago may again become endorsed by [-completing the endorsement requirements.]:
  - (a) completing endorsement requirements;
  - (b) submitting an application; and
  - (c) paying any associated fees.
- (2) An EMS instructor whose instructor endorsement has expired for more than [two years]one year shall complete [all]any initial instructor endorsement requirements and reapply as if there were no prior endorsement[, however the Department may waive portions of the initial EMS instructor training courses if the individual is able to demonstrate competency to the Department].

### R426-5-1500. Training Officer Endorsement.

- (1) The  $[D]\underline{d}$ epartment may endorse a licensed $[-of\ an]$  individual who is an endorsed EMS instructor as a training officer for a two-year period.
- (2) An individual who wishes to become endorsed as an EMS [Ŧ]training officer shall:
- (a) [Be currently endorsed as an]have completed a minimum of 30 hours of EMS instruction within the past year and have a current EMS instructor endorsement;

- (b) successfully complete the  $[\underline{\mathbf{P}}]\underline{\mathbf{d}}$ epartment's course for new training officers;
  - (c) submit an application and pay [all-]applicable fees; and
- (d) submit biennially a completed and signed ["Training Officer Contract"]training officer contract to the [D]department agreeing to abide by the standards and procedures in the [then current]July 2023 Training Officer Manual, incorporated by reference in this rule.
- (3) A training officer shall maintain <u>an EMS</u> instructor endorsement[-to-retain training officer endorsement].
- (4) An EMS training officer shall abide by the terms of the [Training Officer Contract,]training officer contract and comply with the standards and procedures in the Training Officer Manual as incorporated into the respective [Training Officer Contract]training officer contract.

#### R426-5-1600. Training Officer Endorsement Renewal.

- [(1) A training officer who wishes to renew an endorsement as a training officer shall:
- ([a) Attend]1 attend a training officer seminar at least once in the two[-]-year endorsement renewal cycle;
- ([b]2) maintain <u>a current EMS instructor endorsement and EMS license</u>;
- ([e]3) submit an application and pay [ell-]applicable fees;[
  (d) successfully complete any Department examination requirements;] and
- ([e]4) submit a completed and signed new ["T]training [ $\Theta$ ]offficer [G]contract["] to the [H]department agreeing to abide by the standards and procedures in the current [H]Training [H]Offficer [H]Manual.

### R426-5-1700. Training Officer Lapsed Endorsement.

- (1) An individual whose training officer endorsement [has ]expired [for-]less than [two-years]one year ago may again become endorsed by completing the endorsement renewal requirements and paying applicable fees. The individual's new expiration date will be two years from the old expiration date.
- (2) An individual whose training officer endorsement [has] expired [for-]more than [two]one year ago shall complete [all]each initial training officer endorsement requirement[s] and reapply as if there were no prior endorsement.

#### R426-5-1800. Course Coordinator Endorsement.

- (1) The  $[\underline{\Phi}]\underline{d}$ epartment may endorse an individual as an EMS course coordinator for a two-year period.
- (2) An individual who wishes to become endorsed as a course coordinator shall:
  - (a) [Be]be endorsed as an EMS instructor;
- (b) be a co-coordinator of record for one  $[\underline{D}]\underline{d}$ epartment-approved course with  $[\underline{a}]\underline{an}$  endorsed course coordinator;
- [ (c) co-coordinate a course equivalent to what they will be functioning as a course coordinator;
- <u>(d)</u> submit a written evaluation and recommendation from the course coordinator in the co-coordinated course;
- $([\underline{4}]\underline{e})$  complete endorsement requirements within one year of completion of the  $[\underline{D}]\underline{d}$ epartment's course for new course coordinators;
  - ([e]f) submit an application and pay [ef] applicable fees;
- ([f]g) complete the  $[D]\underline{d}$ epartment's course for new course coordinators;
- $([g]\underline{h})$  sign and submit the ["Course Coordinator Contract"] course coordinator contract to the  $[\underline{\mathcal{D}}]\underline{d}$ epartment agreeing

- to abide to the standards and procedures in the [then current]March 2023 Course Coordinator Manual; and
  - ([h]i) maintain EMS instructor endorsement.
- (3) A [Course Coordinator]course coordinator may only coordinate courses up to the licensure level to which the course coordinator is licensed.
- (4) A course coordinator shall abide by the terms of the ["Course Coordinator Contract"]course coordinator contract and comply with the standards and procedures in the March 2023 Course Coordinator Manual as incorporated into the ["Course Coordinator Contract."]course coordinator contract.
- (5) A [Course Coordinator] course coordinator shall maintain an EMS [4] instructor endorsement and the EMS license for the level that the course coordinator is endorsed to coordinate. If an individual's EMS license or EMS instructor endorsement lapses, the [Course Coordinator] course coordinator endorsement is invalid until EMS license or EMS instructor endorsement is renewed.

#### R426-5-1900. Course Coordinator Endorsement Renewal.

- [<del>(1)</del> ]A course coordinator who wishes to renew an endorsement as a course coordinator shall:
- (1) <u>maintain\_a[) Maintain</u>] current EMS instructor <u>endorsement\_and EMR, EMT, AEMT, [EMT-IA, ]</u>or [P]paramedic license:
- ([b]2) coordinate or co-coordinate at least one [D]department-approved course every two years;
- ([e]3) attend a course coordinator seminar at least once in the two[-]-year endorsement renewal cycle;
- $([\mbox{\ensuremath{\textbf{d}}}]\underline{4})$  submit an application and pay  $[\mbox{\ensuremath{\textbf{all-}}}]$  applicable fees; and
- ([e]5) sign and submit a [Course Coordinator Contract] course coordinator contract to the [D]department agreeing to abide by the policies and procedures in the [then current]March 2023 Course Coordinator Manual.

### R426-5-2000. Course Coordinator Lapsed Endorsement.

- (1) An individual whose course coordinator endorsement [has-]expired [for-]less than [two]one year ago may again become endorsed by completing the renewal requirements. The individual's new expiration date will be two years from the [renewal]old expiration date.
- (2) An individual whose course coordinator endorsement has expired for more than [two]one year shall complete [all]each initial course coordinator endorsement requirement[s] and reapply as if there were no prior endorsement. The [D]department may waive [portions of the initial course coordinator requirements such as ]the co-coordinator requirement[s] if the candidate [has]provides written verification they coordinated or co-coordinated a course within the past [three]two years.

### R426-5-2100. Critical Care Paramedic Endorsement.

- (1) The  $[D]\underline{d}$  epartment may endorse an individual as a critical care paramedic for up to a four-year period.
- (2) An individual who wishes to become endorsed as a critical care paramedic shall:
  - (a) [Be]be a licensed paramedic in [the State of ]Utah;
- (b) be certified by the International Board of Specialty Certification as a:
- (i) [Certified Critical Care Paramedic ]certified critical care paramedic (CCP-C[-)]); or
- (ii) [Certified Flight Paramedie]certified flight paramedic (FP-C[-)]):

- (c) submit an application for critical care paramedic certification and pay[-all] applicable fees;
- (d) submit proof of certification from the International Board of Specialty Certification; and
  - (e) maintain a paramedic license.
- (3) Education cannot be used in lieu of a valid and current [IBSC Critical Care or Flight Paramedic] International Board of Specialty Certification critical care or flight paramedic certification to maintain the critical care endorsement.

#### R426-5-2200. Critical Care Paramedic Endorsement Renewal.

[ (1) A Critical Care Paramedie] A critical care paramedic who wishes to renew shall:

- ([a) Maintain]1) maintain a paramedic license;
- ([b]2) submit an application for critical care paramedic;
- ([e]3) pay [all-]applicable fees; and
- ([4]4) submit proof of certification from the International Board of Specialty Certification.

### R426-5-2300. Course Approvals.

- [(1)—]A course coordinator offering EMS training to individuals who wish to become licensed as an EMR, EMT, AEMT, [EMT-IA, ]or [P]paramedic shall obtain [D]department approval [prior to]before initiating an EMS training course. [—]The [D]department shall approve a course if:
- ([a) The]1) the applicant submits the course application and fees no earlier than 90 days and no later than 30 days [prior to]before commencing the course;
- $([\frac{b}{2}])$  the applicant has sufficient equipment available for the training  $[-or\ if]$ :
- (3) the [equipment is available for rental from the Department;
- (c) the Department | department finds the course meets | all | the | D| department rules and contracts governing training;
- ([4]4) the course coordinators and instructors hold current respective course coordinator and EMS instructor endorsements; and
- ( $[\underline{e}]\underline{5}$ ) the  $[\underline{D}]\underline{d}$ epartment has the capacity to offer the applicable examinations in a timely manner after the conclusion of the course.

# R426-5-2400. Paramedic Training Institutions Standards Compliance.

- (1) A person shall be authorized by the  $[\underline{\theta}]\underline{d}$ epartment to provide training leading to the licensure of a  $[\underline{P}]\underline{p}$ aramedic.
- (2) To become authorized and maintain authorization to provide [P]paramedic training, a person shall follow:
- (a) [Enter into ]the [Department's standard Paramedic training contract; and
- (b) adhere to the terms of the contract, including the requirement to provide training in compliance with the March 2023 Course Coordinator Manual and the Utah Paramedic Training Program Accreditation Standards Manual.
- (b) the 2023 Standard and Guidelines for the Accreditation of Education Programs in the Emergency Medical Services Professions, incorporated by reference in this rule.

### R426-5-2500. Off-line Medical Director Requirements.

- (1) The [Đ]department may certify an off-line medical director for a four-year period.
  - (2) An off-line medical director shall be:

- (a) a physician actively engaged in [the provision of]providing emergency medical care or meets this requirement at the discretion of the [S]state EMS [Medical Director]medical director;
- (b) familiar with Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System and applicable [state]EMS administrative rules under Title R426; and
- (c) familiar with medical equipment and medications required.

#### R426-5-2600. Off-line Medical Director Certification.

- (1) An individual who wishes to certify as an off-line medical director shall:
- (a) [have completed]complete an American College of Emergency Physicians or National Association of Emergency Medical Services Physicians medical director training course or the [Đ]department's medical director training course within [twelve]12 months of becoming a medical director;
  - (b) submit an application; and[;]
  - (c) pay[-all] applicable fees.
- (2) An individual who wishes to recertify as an off-line medical director shall:
- (a) attend the medical directors annual workshop at least once every four years;
  - (b) submit an application; and
  - (c) pay [all-]applicable fees.

# R426-5-2700. Epinephrine Auto-Injector and Stock Albuterol Use.

- (1)(a) Any qualified entit[ies]y or qualified adult[s] shall receive training approved by the [D]department.
  - ([a]b) The epinephrine auto-injector training shall include:
- (i) recognition of life[—]\_threatening symptoms of anaphylaxis;
- (ii) appropriate administration of an epinephrine auto-injector;
  - (iii) proper storage of an epinephrine auto-injector;
  - (iv) disposal of an epinephrine auto-injector; and
  - (v) an initial and annual refresher course.
  - ([b]c) The stock albuterol training shall include:
- (i) \_recognition of life [–]\_threatening symptoms of an asthma emergency;
  - (ii) appropriate administration of stock albuterol;
  - (iii) proper storage of stock albuterol;
  - (iv) disposal of stock albuterol; and
  - (v) an initial and annual refresher course.
- (2) The annual refresher course requirement may be waived if:
- (a) the qualified entities or qualified adults are currently licensed at the EMR or higher level by the state; or
- (b) the approved [trainings are]training is the Red Cross Anaphylaxis and [American Heart Association epinephrine auto-injector modules]Epinephrine Auto-Injector course, found within the online classes and training section of https://redcross.org.
- (3) Training in the school setting shall be based on approved [D]department trainings found on [http://www.choosehealth]https://heal.utah.gov/[prek-12/sehool-nurses.php]SN-training/ pursuant to Sections 26B-4-107 and 26B-4-108.
- (4) To become qualified, a teacher or school employee who is 18 years of age or older shall successfully complete the training program listed in Subsection [R426-5-2700](1).

- (5) [All]Any epinephrine auto[-]-injector[s] and stock albuterol shall be kept in a secure unlocked location for use in an emergency.
- <u>(6)</u> Devices  $sh[\underline{\bullet u}]\underline{a}l[\underline{d}]\underline{l}$  be disposed of following the manufacturer's specifications.

### R426-5-2800. Law Enforcement Blood Draws Authorized Individual Qualifications.

- [(1)—]Individuals who are not authorized to draw blood pursuant to [Utah Code Title]Subsection 41-6a-523(1)(b), or individuals who are not licensed by the [Đ]department, such as AEMTs, [EMT-IAs,—]or [P]paramedics, shall meet one of the following requirements as a prerequisite for authorization to withdraw blood [for the purpose of determining]to determine its alcohol or drug content when requested to do so by a peace officer:
- ( $[\frac{n}{2}]$ ) training in blood withdrawal procedures obtained as a defined part of a successfully completed college or university course taken for credit[ $\frac{n}{2}$  or  $\frac{n}{2}$ ];
- ([b]2) training in blood withdrawal procedures obtained as a defined part of a successfully completed training course [which]that prepares individuals to function in routine clinical or emergency medical situations[7]; or
- ([e]3) training of no less than three weeks duration in blood withdrawal procedures under the guidance of a licensed physician.

#### R426-5-2900. Permits for Blood Draws.

- (1) The [Đ]department may issue permits to withdraw blood [for the purpose of determining]to determine the alcohol or drug content therein, when requested by a peace officer, to qualified applicants, as determined by the [Đ]department.[–] Individuals described in Section R426-5-2800 are exempt from permit requirements.
- (2) [Application to obtain a permit]An applicant shall [be made]submit to the [BEMSP-]department an application on forms [provided by-]the [Department]department provides.
- (3) When the permit holder is requested to withdraw blood for the [above stated-]purpose [at a location other than the facility indicated above, they-]stated in Subsection (1), the permit holder shall [possess]have a valid permit card.
- (4) Permits shall be valid for a three[-]-year period. [-]The date the permit expires shall appear on the permit.
- [\_\_\_\_\_(5) Application] (5) An individual shall submit an application to the department on department-provided forms to renew permits [shall be made to the Department] within three months [prior to]before the expiration date to ensure that it will not lapse. [-Such application shall be made on forms provided by the Department.] The permit holder shall either verify that [he has]they have been engaged in performing blood withdrawal procedures during the current permit period or submit verification signed by a physician attesting to their competence to perform blood withdrawal procedures.
- (6) Permit holders shall notify the  $[\mathbf{D}]\underline{\mathbf{d}}$ epartment within 15 days of a change in name or mailing address.

# R426-5-3000. Cause for Blood Draw Permit Termination or Revocation.

- [(1)-]Permits shall be subject to termination or revocation under any [one-] of the following <u>conditions</u>:
- $([a]\underline{1})$  the permit holder has made  $[any]\underline{a}$  misrepresentation of a material fact in  $[\underline{his}]\underline{the}$  application, or any other communication to the  $[\underline{D}]\underline{d}$ epartment or its representatives, which misrepresentation was material to the eligibility of the permit holder;

- ([b]2) the permit holder is not qualified to hold a permit;
- ([e]3) the permit holder after having received a permit has been convicted of a felony or of a misdemeanor [which misdemeanor]that involves moral turpitude; or
- $([\underline{4}]\underline{4})$  the permit holder does not comply with the possession requirements.

### R426-5-3100. Published List of Individuals Permitted to Draw Blood.

- (1) The [Department will]department shall make available to the public a list of individuals permitted to withdraw blood for determination of its alcohol or drug content.
- (2) The  $[D]\underline{d}$ epartment may publish amended lists $[-when \frac{deemed necessary}{deemed}]$ .

# R426-5-3200. Background Screening Clearance for EMS Licensure.

- (1) The [Đ]department shall conduct a background screening on each individual who seeks licensure or renewal as an EMR, EMT, AEMT, [EMT-IA, Paramedic]paramedic, or EMD. []The [Đ]department shall approve EMS licensure upon successful completion of a background screening.[–] Background clearance indicates the individual does not pose an unacceptable risk to public health and safety.
- (2) The individual seeking licensure or renewal shall submit the completed applications, including fees, [prior to]before submission of [finger prints]fingerprints.
- (3) The  $[\underline{\Theta}]\underline{d}$ epartment may review relevant information obtained from the following sources:
- (a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;
- (b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209:
- (c) federal criminal background databases available to the state;
- (d) the Department of Health and Human Services' Division of Child and Family Services Licensing Information System described in Section 80-2-1001;
- (e) child abuse or neglect findings described in Section  $78A-6-[\frac{323}{3a};$
- (f) the Department of Health and Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210; and
- (g) licensing and certification records of individuals licensed or certified by the Division of [Occupational and ]Professional Licensing under Title 58, Occupations and Professions.
- (4) If the [D]department determines an individual is not eligible for licensure based upon the criminal background screening and the individual disagrees with the information provided by the Criminal Investigations and Technical Services Division or court record, the individual may challenge the information as provided in [Utah Code Annotated Sections] Title 77[-], Chapter 18a, The Appeal.
- (5) If the [D]department determines an individual is not eligible for licensure based upon the [non-eriminal]noncriminal background screening and the individual disagrees with the information provided, the individual may challenge the information through the appropriate agency.
  - (6) Exclusion from licensure.
  - (a) Criminal Convictions or Pending Charges:

- ([A]a) any felony or [e]Class A misdemeanor under Title 76, Chapter 5, Offenses Against the [Person, Utah Criminal Code]Individual;
- ([B]b) any felony or [e]Class A misdemeanor under Title 76, Chapter 9, Offenses Against Public Order and Decency, [Utah Criminal Code] excluding [s]Sections 76-9-103 and 76-9-108;
- $([\underline{G}]\underline{c})$  any felony or  $[\underline{e}]\underline{C}$ lass A or B <u>misdemeanor</u> under the following  $[\underline{U}$ tah Criminal Codes]:
  - ([1)-]i) Section 76-9-301.8, Bestiality;
  - ([H)-]ii) Section 76-9-702.1, Sexual [Battery; and]battery;

or

- ([<del>III)</del>-]<u>iii) Section</u> 76-9-702.5, Lewdness [<del>Involving</del> Child]involving a child.
- ([#]7) If an individual has been convicted or has pleaded no contest for the following offenses, 15 years have passed since the last conviction, and the offense cannot be expunged, they shall be considered for licensure:
- ([A]a) any felony or [e]Class A misdemeanor under Title 76, Chapter 5, Offenses Against the [Person, Utah Criminal Code]Individual;
- ([B]b) any felony or [e]Class A misdemeanor under Title 76, Chapter 9, Offenses Against Public Order and Decency, [Utah Criminal Code] excluding [s]Sections 76-9-103 and 76-9-108; or
- ([C]c) any felony or [e]Class A or B <u>misdemeanor</u> under the following <u>Utah Criminal Codes</u>:
  - ([<del>1)</del>]<u>i) Section</u> 76-9-301.8, Bestiality;
  - ([H)-]ii) Section 76-9-702.1, Sexual [Battery; and]battery;

<u>or</u>

- ([HI)-]iii) Section 76-9-702.5, Lewdness [Involving Child]involving a child.
- ([iii]8) If an individual has been convicted, has pleaded no contest, is subject to a plea in abeyance, or a diversion agreement, for the following offenses, they shall be considered for licensure:
- ( $[A]\underline{a}$ ) any felony or  $[elass\ A\ under\ Utah\ Criminal\ Code]\underline{Class\ A\ misdemeanor}$  not listed in  $[R426\ 5\ 3200]\underline{Subsections}$  (6)(a[+(i)]) through (6)(c).
- ([B]b) any class B or C misdemeanor under Title 76, Chapter 5. Offenses Against the [Person, Utah Criminal Code] Individual;
- ([G]c) any felony, [e]Class A misdemeanor under Title 76, Chapter 6, Offenses Against Property[, Utah Criminal Code];
- $([\underline{\Phi}]\underline{d})$  any felony or  $[\underline{e}]\underline{C}$ lass A<u>misdemeanor</u> under Title 76, Chapter 6a, Pyramid [Schemes, Utah Criminal Code]Scheme Act;
- ([<u>E]e</u>) any felony or [e]<u>C</u>lass A<u>misdemeanor</u> under Title 76, Chapter 8, Offenses Against the Administration of Government[<del>-</del> <del>Utah Criminal Code</del>];
- ([F]f) any felony, [e]Class A misdemeanor under Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare[, Safety] and Morals[, Utah Criminal Code];
- ([G]g) any felony, [e]Class A, B, or C  $\underline{\text{misdemeanor}}$  under the following[-Utah Criminal Codes]:
- ([1]i) <u>Sections</u> 76-10-1201 [to]through 79-10-1229.5, Pornographic and Harmful Materials and Performances; and
- ([<u>H</u>]<u>ii</u>) <u>Sections</u> 76-10-1301 [<u>to</u>]<u>through</u> 76-10-1314, Prostitution;

- ([\frac{HH}{iii}) any felony or [e]Class A misdemeanor under [\frac{Utah Criminal Code | Section | 76-10-2301, Contributing to the Delinquency of a Minor;
- ([H]h) any felony or [e]Class A or B  $\underline{\text{misdemeanor}}$  under Utah Motor Vehicles Traffic Code  $\underline{\text{Sections}}$  41-6a-502,  $\underline{\text{41-6a-}}$ 502.5, and  $\underline{\text{41-6a-}}$ 517.
- ([ $\overline{1}$ ]) any felony or [ $\underline{e}$ ]Class A or B <u>misdemeanor</u> under [<u>Utah Occupations and Professions</u>]Title 58, Chapter 37, Utah Controlled Substances Act[ $\overline{-58}$ - $\overline{37}$ ].
- ([]-]) any felony or [e]Class A or B misdemeanor under [Aleoholie Beverage Control Act] Section 32B-4-409.
- $([\kappa]\underline{k}]$  any criminal conviction or pattern of convictions that may represent an unacceptable risk to public health and safety.
- ([i+]9) An individual seeking licensure who has been convicted or has pleaded no contest, is subject to a plea in abeyance, a diversion agreement, a warrant for arrest, arrested or charged for any of the identified offenses in <u>Subsection</u> R426-5-3200([6)(a)(iii]8), shall be considered for licensure.
- ([ $\frac{10}{2}$ ]) A licensed EMS [ $\frac{10}{2}$ ] individual] personnel who is subject to a warrant of arrest, arrested or charged for any of the identified offenses in Subsection R426-5-3200([ $\frac{6}{2}$ )(a)(iii]8), and after an investigation and [ $\frac{1}{2}$ ] Review Board] peer review board process as established in Section R426-5-3400, the [ $\frac{1}{2}$ ] department may issue license, [ $\frac{1}{2}$ ] suspend or revoke a license, or place a license on probation.
- ([vi]]11) A licensed EMS [individual]personnel who is subject to a warrant of arrest, arrested, or charged for any of the identified offenses in <u>Subsection R426-5-3200(6[)(a)(i), i)</u>]) shall immediately have the individual's EMS license placed on restriction pending the outcome of a [D]department investigation as per the process established in <u>Section R426-5-3300</u>.

#### (b) Juvenile Records.

- (i) (12) As required by [Utah Code | Subsection 26B-4-124(5)(b), juvenile court records shall be reviewed if an individual is:
  - $([A]\underline{a})$  under the age of 28; or
- ([B]b) over the age of 28 and has convictions or pending charges identified in <u>Subsection</u> R426-5-3200(6[(AB)).
- ([#i]13) Adjudications by a juvenile court may exclude the individual from licensure if the adjudications refer to an act that, if committed by an adult, would be a felony or a misdemeanor [any-]of the identified offenses in Subsection R426-5-3200(6])(a).
  - ([e) Non-Criminal Records.
- $\frac{(i)14}{(i)14}$ ) The  $[\Phi]\underline{d}$ epartment may deny licensure based on a supported finding from:
- ([A]a) the Department of Health and Human Services' Division of Child and Family Services Licensing Information System described in Section 80-2-1001;
- ([B] $\underline{b}$ ) child abuse or neglect findings described in Section 78A-6-[323;]3a; or
- ([<u>G</u>]<u>c</u>) the Department of Health and Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;
- ([#]]15) The [D]department may deny licensure based on a finding from licensing records of individuals licensed by the Division of [Occupational and ]Professional Licensing under Title 58, Occupations and Professions.

#### ([d) Review of Relevant Information.

(i)16) Results of background screening review, as listed [above-]in Subsection R426-5-3200([6)(a)(ii) (iii), (b)]7), (8), (12), or ([e)]14), may be reviewed to determine under what circumstance,

if any, the individual may be granted licensure. [-]The following factors may be considered:

- $([A]\underline{a})$  types and number;
- ([B]b) passage of time;
- ([C]c) surrounding circumstances;
- ([Đ]d) intervening circumstances; and
- $([\underline{E}]\underline{e})$  steps taken to correct or improve.
- ([#]]17) The [D]department shall rely on relevant information identified in <u>Subsection</u> R426-5-3200(2) as conclusive evidence and may deny licensure based on that information.

### (e) Appeal of Department licensure decision.

- ([7]19) A licensed EMS [individual]personnel who has been arrested, charged, or convicted shall notify the [Đ]department and [all employers]each employer or affiliated entit[ies]y who utilizes the EMS [individual's]personnel's license within [7]seven business days. [-]The licensed EMS [individual]personnel shall also notify the [Đ]department of [all entities]each entity they work for or are affiliated with.
- ([8) All]20) A licensed or designated EMS provider[s] who [are]is notified or becomes aware of a licensed EMS [individual]personnel's arrest, charge, or conviction shall notify the [D]department within [7]seven business days.

# R426-5-3300. Review and Investigation of Complaints and Referrals.

- (1) The  $[\underline{D}]\underline{d}$ epartment shall review  $[\underline{all\ complaints}]\underline{each\ complaint}$  filed against an EMS provider and a licensed EMS  $[\underline{individual}]\underline{personnel}$ .
- (2[) Designated])(a) The department may investigate designated or licensed provider complaints[-will be investigated by the Department].
- ([a]b) The  $[b]\underline{d}$ epartment may conduct interviews with  $[\underline{the}]a$  provider or EMS personnel.
- ([b]c) The [Department will]department may allow the licensed EMS personnel or provider an opportunity to respond to the allegations and to provide supporting witnesses and documentation.
- ([e]d) Based on the investigation, the [Department will]department shall make a recommendation to the [Department's Bureau Director]department's office director.
- ([ $\frac{1}{2}$ ]e) If the [ $\frac{1}{2}$ ]department's recommendation is that the licensed EMS personnel or provider is to be placed on probation or suspension, the [ $\frac{1}{2}$ ]department's recommendation sh[ $\frac{1}{2}$ ] include terms and conditions.
- $([e]\underline{f})$  The  $[\underline{ heta}]\underline{d}$ epartment may take action against a designated or licensed provider's license or designation based on the investigative findings.
- ([f]g) The  $[\underline{\Theta}]\underline{d}$ epartment shall notify the <u>licensed EMS</u> <u>personnel or provider</u> in writing of the  $[\underline{\Theta}]\underline{d}$ epartment's decision within 30 days of completion of the investigation.
- (3)(a) Licensed EMS [individual]personnel complaints [will]shall be investigated either by the [D]department or by the [Primary Affiliated Provider]primary affiliated provider (PAP).
- ([a]b) The [D]department shall investigate and may take action if the [D]department determines any of the following applies to a licensed EMS [individual; personnel:
- (i) the licensed EMS [individual]personnel demonstrates a threat to [him or herself]themselves or to a coworker[7];

- (ii) the licensed EMS [individual]personnel demonstrates a threat to the public health[ $\tau$ ];
- (iii) the licensed EMS [individual]personnel demonstrates a threat to the safety or welfare of the public[-];
- (iv) the licensed EMS [individual]personnel potentially violated <u>Subsection</u> R426-5-3200(4[7]); or
- (v) the  $[\underline{\mathbf{P}}]\underline{\mathbf{d}}$ epartment determines the risk cannot be reasonably mitigated.
- ( $[\frac{vi}]c$ ) The  $[\underline{\mathcal{P}}]\underline{d}$ epartment may place the licensed EMS  $[\underline{individual}]\underline{personnel}$  on a restricted license while an investigation is pending until terms are reached for a provisional license using the process outlined in  $\underline{Subsection}$  R426-5-3300(5)( $[e]\underline{f})(\underline{i})$ .
- ([vii]d) The [D]department may conduct interviews with [all parties ]any individual necessary. [—]The [Department will]department may gather information and evidence, which may include requiring the licensed EMS [individual]personnel to submit to a drug or alcohol screening or any other appropriate evaluation.
- ([viii]e) The licensed EMS [individual]personnel shall have an opportunity to respond to the allegations and to provide supporting witnesses and documentation.
- ([i\*]f) Once the [Đ]department has completed its investigation, it shall submit the report with [all]any findings and recommendations to the [Peer Review Board]peer review board per Subsection R426-5-3400(4) for review.
- ([b]g)(i) The PAP shall investigate a complaint against the licensed EMS [individual]personnel who the  $[D]\underline{d}e$ partment refers to the PAP.
  - ([i]ii) The PAP investigation shall:
- (A) be investigated by the licensed or designated EMS provider's EMS[-]-endorsed training officer or designee; and
- (B) be completed and findings submitted to the [Đ]department within 30 calendar days from receipt of complaint from the [Đ]department;
- (iii) If the  $[\underline{\mathcal{P}}]\underline{d}$ epartment determines that the PAP actions are insufficient, the  $[\underline{\mathcal{P}}]\underline{d}$ epartment may initiate an investigation of the licensed EMS  $[\underline{individual}]\underline{personnel}$  which follows the  $[\underline{\mathcal{P}}]\underline{d}$ epartment and the  $[\underline{Peer}]\underline{d}$ epartment and  $[\underline{Pe$
- (4) The [Đ]department shall investigate an EMS [individual's]personnel's license[—or], a provider's license or designation, or an individual's department endorsement for any of the following reasons:
- (a) refusal to submit to a drug test requested by the EMS provider or the  $[\![\mathcal{D}]\!]$ department;
- (b) failure to report by an individual or any affiliated provider pursuant to <u>Subsections</u> R426-5-3200([<del>7]</del>]19) and[<del>(8</del>] R426-5-3200(20);
  - (c) non-prescribed use of or addiction to narcotics or drugs;
- (d) use of alcoholic beverages or being under the influence of alcoholic beverages at any level while on call or on duty as an EMS personnel or while driving an [¥] EMS vehicle;
- (e) being under the influence of a prescribed or non-prescribed medication or drug[{], legal or illegal[}], while on call or on duty as a licensed EMS [individual who]personnel that affects the person's ability to operate or function safely[-];
- (f) failure to comply with the training, licensing, or relicensing requirements for the license;
- (g) failure to comply with a contractual agreement as an EMS instructor, a training officer, or a course coordinator. Action taken by the [D]department on this item shall only be against the individual's ability to perform this particular function and would not affect their base EMS license;

- (h) fraud or deceit in applying for or obtaining a license;
- (i) fraud, deceit, lack of professional competency, patient abuse, or theft in the performance of the duties as a licensed EMS [individual]personnel;
- (j) false or misleading information or failure to disclose criminal background information during an investigation or an EMS [Personnel Peer Review Board]personnel peer review board proceeding;
- (k) unauthorized use or removal of narcotics, medications, supplies, or equipment from a provider, emergency vehicle, or health care facility;
- (l) performing procedures or skills beyond the level of an individual's EMS licensure or provider's licensure;
- (m) violation of laws pertaining to medical practice, drugs, or controlled substances;
- (n) mental incompetence as determined by a court of competent jurisdiction;
- (o) demonstrated inability and failure to perform adequate patient care;
- (p) inability to provide [emergency medical services]EMS with reasonable skill and safety because of illness, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated;
  - (q) misrepresentation of an individual's level of licensure;
- (r) failure of a licensed EMS [individual]personnel to display a clearly identifiable level of EMS licensure during an EMS response:
- (s) unsafe, unnecessary or improper operation of an emergency vehicle that would likely cause concern or create a danger to the general public; or
  - (t) improper or unnecessary use of emergency equipment.
- (5)(a) Background screening referrals may be submitted to the [D]department for review and investigation.
- ([a]b) The [b]department shall review any case referred under Section R426-5-3200.
- ( $[\underline{\mathfrak{b}}]\underline{\mathfrak{c}}$ ) The  $[\underline{\mathfrak{D}}]\underline{\mathfrak{d}}$ epartment may require the licensed EMS  $[\underline{\mathsf{individual}}]\underline{\mathsf{personnel}}$  to provide the proper criminal background documentation.
- ([e]d) The licensed EMS [individual]personnel shall notify the [D]department of [all entities]each entity they work for or are affiliated with or that they may become affiliated with in connection [to]with their EMS licensure.
- ([ $\underline{4}$ ] $\underline{e}$ ) Failure to comply with any [ $\underline{D}$ ] $\underline{d}$ epartment requirements may result in disciplinary action against the [ $\underline{l}$ icensed ]EMS [ $\underline{i}$ individual's]personnel's licensure.
- $([i]\underline{ii})$  When the  $[\underline{\mathcal{D}}]\underline{d}$ epartment determines  $[\underline{a}]\underline{d}$ emS  $[\underline{individual's}]\underline{personnel's}$  license will be restricted, the  $[\underline{\mathcal{D}}]\underline{d}$ epartment shall notify both the licensed EMS  $[\underline{individual}]\underline{personnel}$  and  $[\underline{all}]\underline{each}$  licensed or designated  $[\underline{providers}]\underline{d}$  they are  $[\underline{provider}]\underline{d}$  affiliated with.
- (iii) The [Department will attempt]department shall try to contact and begin negotiations with the PAP and the licensed EMS personnel. Each individual[.—All parties will] shall [attempt]try to determine reasonable terms and conditions to the [licensed\_]EMS [individual's]personnel's license[-].

- ([iii]iv) If terms and conditions are agreed upon between the parties, the licensed EMS [individual]personnel and [all]each affiliated licensed or designated provider[s] shall be notified immediately. [-]This notification [will]shall include information that the licensed EMS [individual]personnel is under a provisional license with terms and conditions until the resolution of any criminal charge or the completion of an investigation.
- ([iv]v) If the licensed EMS [individual]personnel is not employed or affiliated with a licensed or designated provider or if terms and conditions are not agreed upon, the [D]department may [take action] act as necessary to protect the public's best interest.
- ([\*]vi) The [\*]department, the licensed EMS [individual]personnel, and the PAP, if applicable, shall sign the terms of the provisional licensure agreement.[—] Any other affiliated licensed or designated EMS providers shall be notified of the provisional license and its terms and conditions.
- (vii) Once the provisional license has been signed, [all-]the department shall notify any known EMS [providers who]provider the licensed EMS [individual]personnel is affiliated with[—will—be notified immediately by the Department].
- (viii) If an[y] affiliated licensed or designated EMS provider[s] or the licensed EMS [individual]personnel fail to abide by the terms and conditions of a provisional license, they may be subject to sanctions by the [D]department.
- ([ $\pm$ ]g) The [ $\pm$ ]department shall submit recommended background clearance actions for licensed EMS [individuals]personnels to the [Peer Review Board]peer review board under Section R426-5-3400.
  - (6) Appeal process[;]:
- (a)(i) If a licensed or designated EMS provider or a licensed EMS personnel chooses to appeal an action by the [Đ]department, they may appeal to the EMS [C]committee or pursue a remedy under the Utah Administrative Procedures Act, Title 63G, Chapter 4, Administrative Procedures Act.
- $([i]\underline{i})$  If the  $[\underline{\mathbf{D}}]\underline{\mathbf{d}}$ epartment action is appealed to the EMS  $[\underline{\mathbf{C}}]\underline{\mathbf{c}}$ committee, then the recommendation shall be given to the  $[\underline{\mathbf{Department}}\ \underline{\mathbf{Executive}}\ \underline{\mathbf{Director}}]\underline{\mathbf{department}}\ \underline{\mathbf{executive}}\ \underline{\mathbf{director}}$  for a final decision.
- (b) If a licensed EMS [individual]personnel chooses to appeal an action by the [D]department, they may appeal to the [Executive Director]executive director, or pursue a remedy under the Utah Administrative Procedures Act, Title 63G, Chapter 4, Administrative Procedures Act.

### R426-5-3400. EMS Personnel Peer Review Board.

- (1) The EMS [Personnel Peer Review Board]personnel peer review board is created under Subsection 26B-4-102(4).
- [ (1) Membership of the EMS Personnel Peer Review Board.] (2) The EMS [Personnel Peer Review Board]personnel peer review board shall be composed of the following 15 members appointed by the [Executive Director]executive director of the Department of Health and Human Services:
- (a) [ $\Theta$ ]one EMS administrative officer representing a licensed ambulance provider, a licensed paramedic provider, or a designated quick response unit provider from a county of the first or second class;
- (b) [Q]one EMS administrative officer representing a licensed ambulance provider, a licensed paramedic provider, or a designated quick response unit provider from a county of the third through sixth class;
- (c)  $[\Theta]$ one educational representative from an accredited EMS training program;

- (d) [Θ]one physician certified and practicing as an EMS [Medical Director] medical director;
  - (e) [One licensed]one EMD;
- (f) [Ŧ]two representatives from professional employee groups, one fire based, and one non-fire based;
  - (g) [<del>T</del>]two endorsed EMS training officers;
  - (h) [<del>T</del>]two non-supervisory licensed EMT[<del>'</del>]s;
  - (i) [Two]two non-supervisory licensed AEMTs; and
  - (i) two non-supervisory licensed [AEMT's;]paramedics.
  - (i) Two non-supervisory licensed Paramedics;
- (2)—] (3) The EMS [Personnel Peer Review Board member]personnel peer review board member's terms of office[±] shall comply with the following criteria.
- (a) Except as provided in [s]Subsection (2)(b[)], members shall be appointed for a six[-]-year term[-beginning no later than October 1, 2015].
- (b) The  $[\underline{\vartheta}]\underline{d}$ -epartment shall adjust the length of terms to ensure the terms of members of the board are staggered so  $[\underline{approximately}]\underline{about}$  one  $[\underline{-}]\underline{-}$ third of the board is appointed every two years.
  - (c) No member shall serve consecutive full terms.
- (d) When a vacancy occurs in the membership of the board for any reason, the [Executive Director] executive director of the [D]department shall appoint the replacement for the balance of the unexpired term.[-] If the balance of the term is greater than 50% of the initial term, then the term shall be considered a full term.
- (e) The EMS [Personnel Peer Review Board]personnel peer review board shall organize and select one of its members as [C]chair and one of its members as [Vice Chair]vice chair to serve no more than two years in each position.
- (f) If a board member becomes ineligible for the EMS [Personnel Peer Review Board]personnel peer review board membership position through promotion, an increase in level of licensure, or transfer out of the employment position [which]that qualified them for the appointment, they shall be replaced at the next two[-]-year interval.
- (g) An equitable mix of urban and rural members is preferred.
- $\underbrace{ ([3)-]4) \quad The}_{\mbox{Meetings.}} \ \mbox{EMS} \ \ [\mbox{Personnel Peer Review Board}_{\mbox{Meetings.}} \label{eq:entropy}$
- (a) Regular meetings of the Peer Review Board]personnel peer review board meeting shall [be scheduled]take place quarterly.
- ([i]a) Regular meetings shall be noticed and posted to employers and posted in accordance with the Utah Open and Public Meetings Act, Section 52-4-202.
- $([\frac{i+1}{2}]\underline{b})$  Failure to attend three or more consecutive meetings by any member may be grounds for removal of that member and replacement in accordance with  $[\frac{1}{2}]\underline{S}$ ubsection (2)(d).
- ( $[iii]\underline{c}$ ) A member may not receive compensation or benefits from the  $[\underline{D}]\underline{d}$ epartment for the member's service. [-]The member may receive per diem and travel expense  $[\underline{d}]\underline{s}$  in accordance with  $[\underline{D}]\underline{d}$ epartment rules and policies.
- ([4]5) Once a complaint or background screening finding against a licensed EMS [individual]personnel is investigated, the [Đ]department shall refer the case and provide a report with [all]any findings and recommendations to the EMS [Personnel Peer Review Board] personnel peer review board.
- ([5]6) If the EMS [Personnel Peer Review Board] personnel peer review board chooses to recommend any action that deviates from the [D]department recommendation, the [B] board shall provide written justification for that recommendation.

- ([6]7) The EMS [Personnel Peer Review Board]personnel peer review board may make[
- - (a) no [D]department action[, or];
  - (b) a letter of notice[, or];
- (c) probation of the licensed EMS [individual's]personnel's license with specific terms and conditions for a period[of time, or];
- (d) suspension of the licensed EMS [individual's]personnel's license for a defined period[-of time, or];
- (e) permanent revocation of the licensed EMS [individual's]personnel's license[5]; or
  - $([\underline{d}]\underline{f})$  a combination of any of these actions.
- ([7]8) If the [Department's Bureau Director]department's office director modifies the recommended action of the EMS [Personnel Peer Review Board]personnel peer review board, the [Department's Bureau Director]department's office director shall attach a written letter of dissent noting the reasoning for the decision. [-]The [Department's Bureau Director]department's office director shall then notify the EMS [Personnel Peer Review Board]personnel peer review board of the dissent and action taken.
- ([8]9) The <u>department shall notify the licensed EMS</u> [individual shall be notified by the <u>Department]personnel</u> of any action taken within 15 days of the decision by mail.
- ([9]10) An action to restrict, place on probation, suspend, or revoke the licensed EMS [individual's]personnel's license shall be done in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

#### R426-5-3500. EMS Rules Task Force.

- (1) The EMS [Rules Task Force]rules task force is created under Title 26B, Chapter 4, Part 1, Utah EMS System.
- ([4]2) The EMS [Rules Task Force]rules task force shall be composed of the following members appointed by the [Executive Director]executive director of the Department of Health and Human Services:
  - (a) a representative from the Utah Fire Chiefs' Association;
- (b) a representative from the Utah Rural EMS Directors' Association;
  - (c) [a]an EMS medical director;
- (d) a <u>representative from a privately</u> owned EMS [<u>representative</u>] <u>agency;</u>
  - (e) a rural EMS medical dispatch representative;
  - (f) a paramedic licensed[-provider] representative;
  - (g) an urban EMS medical dispatch representative;
  - (h) an Emergency Nurses Association representative;
- (i) a course coordinator from an accredited EMS training program;
  - (j) an endorsed EMS training officer;
  - (k) a representative from the [S]state EMS [C]committee;
  - (l) a designated trauma center representative;
  - (m) a designated patient receiving facility representative;

and

- (n) a designated nonemergency secured behavioral patient transport representative.
- ([2)-]3) The EMS [Rules Task Force member]rules task force member's terms of office[÷] will comply with the following criteria.
- (a) Except as provided in  $[\underline{s}]\underline{S}$ ubsection (2)( $b[\underline{t}]\underline{t}$ , members shall be appointed for a three[-]-year term.

- (b) The [Đ]department shall adjust the length of terms to ensure the terms of members of the EMS [Rules Task Force]rules task force are staggered so [approximately]about one[-]\_third of the EMS [Rules Task Force]rules task force is appointed every two years.
  - (c) Members may serve two consecutive full terms.
- (d) When a vacancy occurs in the membership for any reason, the [Đ]department shall solicit applications for replacement for the balance of the unexpired term.[-] If the balance of the term is greater than 50% of the initial term, then the term shall be considered a full term.
- (e) The EMS [Rules Task Force may ]rules task force shall organize and select one of its members as [C]chair and one of its members as [Vice Chair]vice chair to serve no more than two years in each position.
- (f) If [a]an EMS [Rules Task Force]rules task force member becomes ineligible for the EMS [Rules Task Force]rules task force membership position through promotion, an increase in level of license, or transfer out of the employment position [which]that qualified them for the appointment, they shall be replaced at the next two[-]-year interval.
- (g) An equitable mix of urban and rural members is preferred.

(3) EMS Rules Task Force Meetings.

(a) (4) Regular meetings of the EMS [Rules Task Force]rules task force shall be scheduled as determined by the membership and the [D]department.

**KEY:** emergency medical services

Date of Last Change: [November 5, 2023] 2024 Notice of Continuation: November 16, 2021

Authorizing, and Implemented or Interpreted Law: 26B[-

Chapter | -4[, Part | -1

NOTICE OF PROPOSED RULE				
TYPE OF FILING: Amendment				
Rule or Section Number:	R426-8	Filing ID: 56431		

#### **Agency Information**

1. Department:	Health and Human Services				
Agency:	Population Health, Emergency Medica Services				
Room number:	2438				
Building:	Cannon	Health Building			
Street address:	288 N 1	460 W			
City, state and zip:	Salt Lake City, UT 84116				
Mailing address:	PO Box 142004				
City, state and zip:	Salt Lake City, UT 84114-2004				
Contact persons:					
Name:	Phone: Email:				
Dean Penovich	801- dpenovich@utah.gov 913- 2621				

Mariah Noble	385- 214- 1150	mariahnoble@utah.gov
	214- 1150	

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule or section catchline:

R426-8. Emergency Medical Services Ground Ambulance Rates and Charges

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

Section 26B-4-152 mandates the Department of Health and Human Services (Department) to set ground ambulance rates, which is done annually and must be made effective on the first day of the new fiscal year, July 1, 2024, according to Medicaid payment schema.

The purpose of this change is to update the maximum allowable charges for ground ambulance providers.

#### 4. Summary of the new rule or change:

This amendment updates maximum allowable charges for ground ambulance providers and corrects department reference language.

It also clarifies what costs are included in base EMS transport rates.

It clarifies what can be charged by EMS for transports, as well as scene care when EMS treats an individual but does not provide transport.

The rates set in Subsections R426-8-200(6)(a) through (e) have undergone a 7.9% increase.

Additionally, the amendment removes an antiquated line about older EMT-IA agencies.

#### **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.

The amendments do not affect costs or revenues since the state does not provide ground ambulance services.

#### B) Local governments:

72 local governments including counties, cities, towns, and special service districts provide ground ambulance services based licensed issued by the Department.

Anticipated revenues for local governments that provide ground ambulance services will have a net increase of 4.13% based on a gross rate increase of 7.9% for base rates. The net revenue increase is based on a statewide estimate of allowable billing charges compared to actual revenue collections.

Factors that reduce billable charges to collected revenues include fixed payer amounts for Medicare, Medicaid, and Veterans Administration, non-payments, negotiated payments, and private insurance payments. Financial data is obtained directly from all ground ambulance providers.

Local government-operated ground ambulance patient transports total is estimated at 103,699 transports based on the previous reported calendar year.

Increased rates will require additional costs for local governments to the State EMS Medicaid fund of an additional estimate of \$2.66 per transport. 103,699 (total estimated transports) x \$2.66 (EMS Medicaid assessment rate increase) = \$275,839 (estimated local government costs).

Gross billed charges for local governments are estimated from past annual fiscal reports and billing data. Gross billed charge estimates from patient transports for local government providers were \$231,568,028. \$231,568,028 x 7.9% raise in rate = \$18,293,874 increased gross billed charges.

Net payments for local governments are estimated from past annual fiscal reports and billing data. Net payments from patient transport for local governments was \$95,565,843. \$95,565,843 x 4.13% (net effect of 7.9% raise in rate) = \$3,946,869 increased net payments.

Net revenues for local governments are calculated as follows: \$3,946,869 (increased net payments) - \$275,839 (Medicaid

assessment increase) = \$3,671,030 (net revenue or benefit for local governments).

As this rule is expected to be made effective July 1, 2024, it is not anticipated to have any fiscal impact during FY2024.

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

One small business operates an ambulance service in Utah based on licenses issued by the Department.

Anticipated revenues for small businesses that provide ground ambulance services will have a net increase of 4.13% based on a gross rate increase of 7.9%. The net revenue increase is based on a statewide estimate of allowable billing charges compared to actual revenue collections.

Factors that reduce billable charges to collected revenues include fixed payer amounts for Medicare, Medicaid, and Veterans Administration, non-payments, negotiated payments, and private insurance payments. Financial data is obtained directly from all ground ambulance providers.

Small business operated ground ambulance patient transports total is estimated at 411 transports based on the previous reported calendar year.

Increased rates will require additional costs for small businesses to the State EMS Medicaid fund of an additional estimate of \$2.66 per transport. 411 (total estimated transports) x \$2.66 (EMS Medicaid assessment rate increase) = \$1,093 (estimated small business costs).

Gross billed charges for small businesses are estimated from past annual fiscal reports and billing data. Gross billed charge estimates from patient transport for small businesses were \$917,795. \$917,795 x 7.9% rise in rate = \$72,506 increased gross billed charges.

Net payments for small businesses are estimated from past annual fiscal reports and billing data. Net payments from patient transport for small businesses was \$378,765. \$378,765 x 4.13% (net effect of 7.9% raise in rate) = \$15,643 increased net payments.

Net revenues for small businesses are calculated as follows: \$15,643 (increased net payments) - \$1,093 (Medicaid assessment increase) = \$14,550 (net revenue or benefit for small businesses).

As this rule is expected to be made effective July 1, 2024, it is not anticipated to have any fiscal impact during FY2024.

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

There are two non-small businesses that provide ground ambulance services based licensed issued by the Department.

Anticipated revenues for non-small businesses that provide ground ambulance services will have a net increase of 4.13% based on a gross rate increase of 7.9%. The net revenue increase is based on a statewide estimate of allowable billing charges compared to actual revenue collections.

Factors that reduce billable charges to collected revenues include fixed payer amounts for Medicare, Medicaid, and Veterans Administration, non-payments, negotiated payments, and private insurance payments. Financial data is obtained directly from all ground ambulance providers.

Non-small business operated ground ambulance patient transports total is estimated at 59,623 transports based on the previous reported calendar year.

Increased rates will require additional costs for non-small businesses to the State EMS Medicaid fund of an additional estimate of \$2.66 per transport. 59,623 (total estimated transports) x \$2.66 (EMS Medicaid assessment rate increase) = \$158,597 (estimated non-small business costs).

Gross billed charges for non-small businesses are estimated from past annual fiscal reports and billing data. Gross billed charge estimates from patient transports for non-small businesses was \$133,142,851. \$133,142,851 x 7.9% rise in rate = \$10,518,285 increased gross billed charges.

Net payments for non-small businesses are estimated from past annual fiscal reports and billing data. Net payments from patient transport for non-small businesses was \$54,946,743. \$54,946,743 x 4.13% (net effect of 7.9% raise in rate) = \$2,269,300 increased net payments.

Net revenues for non-small businesses are calculated as follows: \$2,269,300 (increased net payments) - \$158,597 (Medicaid assessment increase) = \$2,110,703 (net revenue or benefit for non-small businesses).

As this rule is expected to be made effective July 1, 2024, it is not anticipated to have any fiscal impact during FY2024.

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 seven agencies that fall into this category.

Anticipated revenues for this other category that provide ground ambulance services will have a net increase of 4.13% based on a gross rate increase of 7.9%. The net revenue increase is based on a statewide estimate of allowable billing charges compared to actual revenue collections.

Factors that reduce billable charges to collected revenues include fixed payer amounts for Medicare, Medicaid, and Veterans Administration, non-payments, negotiated payments, and private insurance payments.

Financial data is obtained directly from all ground ambulance providers. This other category operated ground ambulance patient transports total is estimated at 2,915 transports based on the previous reported calendar year.

Increased rates will require additional costs for this other category to the State EMS Medicaid fund of an additional estimate of \$4 per transport. 2,915 (total estimated transports) x \$2.66 (EMS Medicaid assessment rate increase) = \$7,754 (estimated other category costs).

Gross revenues for this other category are estimated from past annual fiscal reports and billing data. Gross revenue estimate from patient transport for this other category is \$6,509,424. \$6,509,424 x 7.9% raise in rate = \$514,245 increase gross billing estimate.

Net payments for this other category are estimated from past annual fiscal reports and billing data. Net payments from patient transports for this other category was \$2,686,375. \$2,686,375 x 4.13% (net effect of 7.9% raise in rate) = \$110,947 increased net payments.

Net revenues for this other category are calculated as follows: \$110,947 (net revenue increase estimate) - \$7,754 (Medicaid assessment increase) = \$103,193 (net revenue or benefit for this other area).

As this rule is expected to be made effective July 1, 2024, it is not anticipated to have any fiscal impact during FY2024.

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

Compliance costs for affected persons remain unchanged.

**G)** Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory In	Regulatory Impact Table				
Fiscal Cost	FY2024	FY2025	FY2026		
State Government	\$0	\$0	\$0		
Local Governments	\$0	\$275,839	\$275,839		
Small Businesses	\$0	\$1,093	\$1,093		
Non-Small Businesses	\$0	\$158,597	\$158,597		
Other Persons	\$0	\$7,754	\$7,754		
Total Fiscal Cost	\$0	\$443,284	\$443,284		
Fiscal Benefits	FY2024	FY2025	FY2026		
State Government	\$0	\$0	\$0		
Local Governments	\$0	\$3,946,869	\$3,946,869		
Small Businesses	\$0	\$15,643	\$15,643		
Non-Small Businesses	\$0	\$2,269,300	\$2,269,300		

Other Persons	\$0	\$110,947	\$110,947
Total Fiscal Benefits	<b>\$</b> 0	\$6,342,760	\$6,342,760
Net Fiscal Benefits	\$0	\$5,899,476	\$5,899,476

## H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

#### Citation Information

6. 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 26B-4-152 Section 26B-4-102

#### **Public Notice Information**

- **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.)
- A) Comments will be accepted 05/31/2024 until:

### 9. This rule change MAY 06/07/2024 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.

#### **Agency Authorization Information**

or designee	Tracy S. Gruber, Executive Director	04/15/2024
and title:		

R426. Health and Human Services, [Family Health and Preparedness] Population Health, Emergency Medical Services. R426-8. Emergency Medical Services Ground Ambulance Rates and Charges.

#### R426-8-100. Authority and Purpose.

- (1) This rule is established pursuant to Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System Act.
- (2) This rule establishes maximum ambulance rates and charges for Utah licensed ground ambulance providers.

### R426-8-200. Ground Ambulance Transportation Revenues, Rates, and Charges.

- (1) A licensed ground ambulance provider [shall]may not charge more than the rate described pursuant to Subsections R426-8-200(6) through  $(1[\theta]2)$  on ambulance transports.
- (2) Net income and subsidies for a licensed ground ambulance provider [shall]may not exceed 10% of gross revenue.

- (3) A licensed ground ambulance provider may lower a rate at their discretion.
- (4) A licensed ground ambulance provider [shall]may not charge a base rate for transportation to a patient who is not transported.
- (5) The [Đ]department may adjust each rate annually based on financial data received from licensed ground ambulance providers.
- (6) Ground ambulance base rates for patient transport to a hospital or patient receiving facility are as follows:
- (a) EMT ground ambulance license level [\$1,090]\$1,176.11 per transport;
- (b) [A]advanced EMT ground ambulance license level [\$1,439]\$1,552.68 per transport;
- (c) [Advanced EMT ground ambulance license level, who before June 30, 2016 was licensed as an EMT-IA ground licensed ambulance provider \$1,771 per transport;
- (d) P]paramedic ground ambulance license level [\$2,104]\$2,270.22 per transport; and
- $[\underbrace{(e)}](\underline{d})$  [A]any EMT or AEMT level licensed ground ambulance provider with a paramedic on-board [\$2,104]\$2,270.22 per transport if:
- (i) a designated [E]emergency [M]medical [S]service dispatch center dispatches a licensed paramedic provider to treat the individual;
- (ii) the licensed paramedic provider has initiated advanced life support;
- (iii) online medical control directs that a paramedic remain with the patient during transport; and
- (iv) the licensed ground ambulance provider has a reimbursement for paramedic services agreement with a paramedic licensed provider for the service provided.
  - (7) A base rate may not include costs for:
  - (a) providing procedures to an individual; or
  - (b) administering medications.
- (8) A mileage rate may be charged up to a maximum of \$42.24 per mile computed from the location of the patient upon ambulance arrival to the destination hospital or patient receiving facility. [-]A fuel fluctuation surcharge of \$0.25 per mile may be added when the diesel fuel price exceeds \$5.10 per gallon, or the gasoline price exceeds \$4.25 per gallon as invoiced.
- [(8)](9) A surcharge of \$1.50 per mile may be assessed if an ambulance is required to travel two or more miles on unpaved roads.
- [(9)](10) If more than one patient is transported from the location of the patients to the same destination hospital or patient receiving facility, a charge shall be assessed to each patient as follows:
  - (a) The transportation base rate; and
- (b) the mileage rate divided equally between the total number of patients.
- [(10)](11) A licensed ground ambulance provider may charge separately for a round trip if the following conditions apply:
- (a) no charge is billed to the patient for at least 30 minutes at the hospital or a patient receiving facility at the halfway point of the trip; and
- (b) no more than \$22.05 per quarter hour is charged for time over 30 minutes.
- (12) A licensed ground ambulance provider may charge for disposable supplies used and medications administered during patient care, in addition to the base rate and mileage rate if the

<u>disposable</u> <u>supplies</u> <u>and</u> <u>medications</u> <u>are priced fairly and</u> <u>competitively</u> with a similar product in the local area.

[(11)](13) A [L]licensed ground ambulance provider may charge for supplies, providing supplies, medications, and administering medications on a response if:

- (a) supplies <u>and medications</u> are priced fairly and competitively with a similar product in the local area;
  - (b) the individual does not refuse the service; and
- (c) the licensed ground ambulance personnel assess or treats the individual, but does not transport.

[(12)](14) A licensed ground ambulance provider may petition the [ $\mathbb{P}$ ]department for a temporary service-specific surcharge when there is a temporary escalation of costs. [-]The petition shall specify the surcharge amount and financial justification. [-]The [ $\mathbb{P}$ ]department will make a final decision on the proposed surcharge within 30 days of receipt of the petition.

[(13)](15) A licensed ground ambulance provider shall submit a fiscal report in accordance with the instructions, guidelines, and review criteria as specified by the [D]department.

- (a) A fiscal report shall be submitted within six months of the end of their fiscal year.
- (b) The  $[\underline{\mathbf{H}}]\underline{\mathbf{d}}$ epartment shall provide guidance and a template for a fiscal report. [–]Guidance will be posted on the  $[\underline{\mathbf{H}}]\underline{\mathbf{d}}$ epartment's website.
- (c) The  $[D]\underline{d}$ epartment shall provide a summary of fiscal reports to the EMS Committee before adjusting a maximum base rate for a licensed ground ambulance provider.

[(14)](16) The [(D)]department may review a licensed ground ambulance provider's fiscal report for compliance. [-]The [(D)]department may perform financial audits to ensure compliance to reporting requirements.

[(15)](17) Each licensed ground ambulance provider shall submit a written total number of billed patient transports for each calendar year to the  $[\underline{\theta}]\underline{d}$ epartment for calculating Medicaid assessments.

- (a) A written patient transport number shall be submitted within 90 days after the end of the calendar year.
- (b) The submission shall include a written justification when a patient transport number is not in agreement with patient care data submitted to the  $[\underline{\mathbf{D}}]\underline{\mathbf{d}}$ epartment pursuant to Rule R426-7. [-]A written justification shall include a description of each data reporting error[ $_{7}$ ] and a plan to correct future data submission.
- (c) Any submitted patient transport number not in agreement with patient care report data may be evaluated, corrected, or audited by the [D]department.

KEY: emergency medical services, rates Date of Last Change: <u>2024[July 1, 2023]</u> Notice of Continuation: September 24, 2020

Authorizing, and Implemented or Interpreted Law: 26B-4-152;

26B-4-102

NOTICE OF PROPOSED RULE				
TYPE OF FILING: Amendment				
Rule or Section Number:	R547-13	Filing ID: 56432		

#### **Agency Information**

1. Department:	Health and Human Services				
Agency:	Juvenile Justice and Youth Services				
Room number:	3rd Floo	r			
Building:	MASOB				
Street address:	195 N 1	950 W			
City, state and zip:	Salt Lake City, UT 84116				
Contact persons:	s:				
Name:	Phone:	Email:			
Brett Peterson	385- 394- 4407	brett@utah.gov			
Reg Garff	801- 602- 6261	rgarff@utah.gov			
Mariah Noble	385-	mariahnoble@utah.gov			

Please address questions regarding information on this notice to the persons listed above.

214-

1150

#### **General Information**

#### 2. Rule or section catchline:

R547-13. Guidelines for Admission to Secure Youth Detention Facilities

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

The Department of Health and Human Services (Department) identified a gap in required oversight in uncommon instances in which a minor under the age of ten may need to be detained in order to preserve public safety and the safety of the minor. As a result, the Department is filing this proposed rule change.

#### 4. Summary of the new rule or change:

These amendments would allow the director to detain minors under the age of ten in limited circumstances and in cooperation with the juvenile courts.

This amended rule also updates the number sequencing and makes style and formatting changes in accordance with the Rulewriting Manual for Utah.

#### **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, as the director of the agency is already responsible for the oversight of detained minors, and while this rule change extends that oversight to minors under ten, the responsibility remains the same. As such events have

been uncommon in the past, they are not anticipated to add a significant or estimable fiscal burden or benefit to the state.

#### B) Local governments:

This rule change is not anticipated to have a fiscal impact on local governments' revenues or expenditures, as detention oversight applies only to state entities.

Local law enforcement may detain minors for questioning, but this is not anticipated to introduce a cost or savings to local governments as those processes are already in practice.

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

This rule change is not anticipated to have a fiscal impact on small businesses, as this amendment only affects state entities, with a small potential for local government involvement, and no service is required of small businesses with regard to detention of minors under ten.

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

This rule change is not anticipated to have a fiscal impact on non-small businesses, as this amendment only affects state entities, with a small potential for local government involvement, and no service is required of non-small businesses with regard to detention of minors under ten.

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 rule change is not anticipated to have a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities. This amendment only affects state entities, with a small potential for local government involvement, and no service is required of other persons with regard to detention of minors under ten.

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. The changes add clarification to policy with no fiscal impact on other entities.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table				
Fiscal Cost	FY2024	FY2025	FY2026	
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 Cost	\$0	\$0	\$0	
Fiscal Benefits	FY2024	FY2025	FY2026	
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	

### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

#### Citation Information

6. 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 80-5-202

#### **Public Notice Information**

**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.)

A)	Comments	will	be	accepted	05/31/2024
unti	il:				

### 9. This rule change MAY 06/07/2024 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.

#### **Agency Authorization Information**

Agency head or designee	Tracy S. Gruber, Executive Director	Date:	04/15/2024
and title:			

### R547. Health and Human Services, Juvenile Justice and Youth Services.

### **R547-13.** Guidelines for Admission to Secure Youth Detention Facilities.

#### R547-13-1. Purpose and Authority.

- (1) Section 26B-1-202 authorizes the Department of Health and Human Services to adopt administrative rules. Subsection 80-5-202(1)(a) authorizes the Division of Juvenile Justice and Youth Services to establish standards for the admission of minors to detention
- (2) This rule establishes guidelines for admission to secure detention to meet the requirements of Section 80-5-202.
- (3) This rule shall be applied to minor candidates for placement in any secure detention facilities operated by the division.
- (4) Pursuant to Subsection 80-5-202(3)(b), the division shall prioritize the use of home detention for a minor who might otherwise be held in secure detention.

#### R547-13-2. Definitions.

- (1) Terms used in this rule are defined in Section 80-1-102.
- (2) "Division" means the Division of Juvenile Justice and Youth Services.
- (3) "Minor" means a person age ten or over and under the age of 25.
- (4) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

#### R547-13-3. General Rules.

- (1) A minor under the age of 12 may not be detained in a secure detention facility, unless the minor is arrested for any of the following state or federal equivalent criminal offenses:
- (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
  - (c) Section 76-5-203, murder or attempted murder;
  - (d) Section 76-5-302, aggravated kidnapping;
  - (e) Section 76-5-405, aggravated sexual assault;
  - (f) Section 76-6-103, aggravated arson;
  - (g) Section 76-6-203, aggravated burglary;
  - (h) Section 76-6-302, aggravated robbery; or
  - (i) Section 76-10-508.1, felony discharge of a firearm.
- [ (2) Except as established in Subsection R547-13-3(1), no minor under the age of 10 may be detained in a secure detention facility.]
- (2) No child under the age of ten may be detained in a secure detention facility, except as authorized by the director. The director may authorize a child under the age of ten to be detained for up to 48 hours, excluding weekends and holidays, under extraordinary circumstances.

- (a) Extraordinary circumstances exist when:
- (i) a child under the age of ten is arrested for any of the state or federal equivalent criminal offenses listed in Subsections R547-13-3(1)(a) through R547-13-3(1)(i);
- (ii) releasing the child under the age of ten to a parent, guardian, or custodian presents an unreasonable risk to public safety; and
- (iii) there is no less restrictive alternative placement available.
- (b) If the director makes a finding of extraordinary circumstance, as described in Subsection R547-13-3(2)(a), the finding shall be provided to the court before the probable cause determination required under Utah Rules of Juvenile Procedure, Section 9(b).
- (c) A minor under the age of ten may be held longer than 48 hours if:
- (i) a juvenile court judge finds detention is warranted; and
  (ii) the director determines that the extraordinary circumstances in Subsection R547-13-3(2)(a) continue to exist.
- (3) A minor age 12 or over may be detained in a secure detention facility if:
- (a) a minor is arrested for any of the following state or federal equivalent criminal offenses;
- (i) any offense that would be a felony if committed by an adult;
- (ii) any attempt, conspiracy, or solicitation to commit a felony offense;
- (iii) any class A misdemeanor violation of 76-5 Part 1, offense against the person; assault and related offenses;
- (iv) any class A or B misdemeanor violation of Section 76-10-5, use of a firearm or other dangerous weapon;
- (v) a class A misdemeanor violation of Section 76-5-206, negligent homicide;
- (vi) a class A misdemeanor violation of Subsection 58-37-8(1)(b)(iii), a controlled substance violation;
- (vii) any criminal offense defined as domestic violence by Subsections 77-36-1(4)[ $_{7}$ ] and 78B-7-102(5)(a) and (b);
- (viii) a class A or B misdemeanor violation of Subsection 76-6-104(1)(a) or (b), reckless burning that endangers human life;
- (ix) a class A misdemeanor violation of Section 76-6-105, causing a catastrophe;
- (x) a class A misdemeanor violation of Subsection 76-6-106(2)(b)(i)(a), criminal mischief involving tampering with property that endangers human life;
- (xi) a class A misdemeanor violation of Section 76-6-406, theft by extortion;
- (xii) a class A misdemeanor violation of Section 76-9-702.1, sexual battery;
- (xiii) a class A misdemeanor violation of Subsection 76-5-401.3(2)(c) or (d), unlawful adolescent sexual activity;
- (xiv) a class A misdemeanor violation of Section 76-9-702.5, lewdness involving a child;
- (xv) a class A misdemeanor violation of Subsection 76-9-702.7(1), voyeurism with recording device;
- (xvi) a class A misdemeanor violation of Subsection 41-6A-401.3(2), leaving the scene of an accident involving injury; and
- (xvii) a class A misdemeanor violation of Subsection 41-6A-503(1)(b)(i) or (ii), driving under the influence involving injury, driving under the influence with a passenger under 16 years of age;
- (b) the minor is an escapee or absconder from a Juvenile Justice and Youth Services secure facility or community placement; or

- (c) the minor has been verified as a fugitive, absconder from probation or parole, or a runaway from another state and a formal request has been received, such as a National Crime Information Center verification, a telephone call, [FAX]fax, or email from a law enforcement officer or a verified call, [FAX]fax, or email from the institution, to hold, pending return to the other jurisdiction, whether or not an offense is currently charged.
- (4) A minor not otherwise qualified for admission to a secure detention facility may not be detained for any of the following:
  - (a) ungovernable or runaway behavior;
- (b) neglect, abuse, abandonment, dependency, or other status requiring protection for any other reason;
- (c) status offenses such as curfew, possession or consumption of alcohol, tobacco, minor-in-a-tavern, truancy; or
  - (d) attempted suicide.

### R547-13-[5]4. Juvenile Court Warrants for Custody or Pickup Orders.

A minor shall be admitted to a secure detention facility when a juvenile court judge or commissioner has issued a warrant for custody pursuant to Section 80-2-202.

#### R547-13-[6]5. Juvenile Justice and Youth Services' Cases.

A minor who is on parole or involved in a trial placement from a secure facility, and who is detained solely on a warrant from the division may be held in a secure detention facility up to 48 hours excluding weekends and legal holidays.

#### R547-13-[7]6. DCFS Cases.

A minor in the custody or under the supervision of the Division of Child and Family Services (DCFS) cannot be held in a secure detention facility unless the minor qualifies for detention under [a section of]this rule.

#### R547-13-[8]7. Traffic Cases.

A minor brought to detention for a traffic violation cannot be held in a secure detention facility unless the minor qualifies for detention under [a section of] this rule.

#### R547-13-[9]8. Interstate Cases.

- (1) [O]An out-of-state minor[s] who [are]is an escapee[s], absconder[s], [and]or runaway[s] shall be detained in accordance with [-]Subsection R547-13-3(3)(c).
- (2) [M]A minor[s] who [are]is an out-of-state runaway[s] brought to a secure detention facility with an alleged non-status criminal offense may be admitted to a secure detention facility.
- (3) [O]An out-of-state, non-runaway minor[s], when brought to a secure detention facility with an alleged criminal offense, may be detained or released based on the same criteria that applies to a resident minor.
- (4) An out-of-state minor being returned to either the home or demanding state pursuant to the Interstate Compact for Juveniles (ICJ) but whose return travel plans have been interrupted or changed due to an emergency situation may be temporarily admitted to a secure detention facility pending rearrangement or completion of transport.

#### **R547-13-**[10]9. Immigration Cases.

A minor may be detained at a secure detention facility when a lawful detainer or order is presented to the division by United States Immigration and Customs Enforcement.

#### R547-13-[11]10. AWOL Military Personnel.

An absent without leave (AWOL) military personnel who [are] is a minor[s] shall be admitted to a secure detention facility.

#### R547-13-[12]11. Home Detention.

- (1) In accordance with Section 88-2-202, the division establishes the following guidelines for use of home detention:
- (2) Home detention is a court-ordered program that is an alternative to being placed into secure detention. [-]The minor and parent or guardian shall sign the home detention [rules and]program expectations before being released from secure detention.
- (3) Division staff will monitor the minor's compliance to the home detention [rules and]program expectations and any additional ["]special conditions["] ordered by the Juvenile Court.
- (4) Division will provide juvenile court probation weekly updates on the minor's behavior and compliance on home detention.

#### R547-13-[13]12. Home Detention Violations.

- (1) If a home detention violation is alleged, the home detention counselor may cause the alleged violator to be brought to a secure detention facility by filing an affidavit in support of a request for a warrant for custody or requesting [-]an expedited hearing for the court to review allegations for a probable cause determination.
- (2) If the case involves a violator who is a runaway where a warrant for custody or pickup order has not yet been issued, a law enforcement officer may bring the violator to a secure detention facility. [-]The home detention counselor may then transfer the minor back to the status of home detention, if appropriate, or may authorize the minor to be held in secure detention for another detention hearing. [-]
- (3) A minor placed on home detention who is arrested by a law enforcement officer for an alleged non-status criminal offense shall be admitted to a secure detention facility.

### R547-13-[14]13. Probation Violation - Contempt of Court - Stayed Order for Detention.

A minor may be admitted to a secure detention facility for conditions such as:

- (1) an alleged probation violation[,];
  - (2) contempt of court $[\frac{1}{5}]$ ; or
- (3) a stayed order for detention when it has been ordered by a judge.
- (a) When it is not possible to get a written order, verbal authorization from a judge to detention is sufficient to hold a minor in a secure detention facility pursuant to Utah Rule of Juvenile Procedure 7a.
- (b) A request for warrant, supported by an affidavit from the requesting authority, shall be [-]the next business day.

#### R547-13-[45]14. Other Court Orders for Detention.

A minor brought to a secure detention facility pursuant to either federal or out-of-state court orders shall be admitted unless otherwise directed by a juvenile court judge.

#### R547-13-[16]15. Detention Risk Assessment Tool.

(1)  $[M]\underline{A}\underline{m}$ inor[s] who meets the detention admission guidelines shall receive the ["]Detention Risk Assessment Tool["] (DRAT) to inform placement decisions.  $[M]\underline{A}\underline{m}$ inor[s] that scores below the cutoff on the DRAT will be ["]diverted["] and not admitted to locked detention.

- (2) A minor and parent or guardian will sign an ["]Alternative to Detention Contract["] (ADC) before leaving detention. If the parent or guardian is unavailable, the minor will sign the ADC and be transported to the local Youth Services Center.
- (3) Division staff will create a supervision plan based on the minor's recent behavior in the community, school, and home. [ ]The level of supervision may include the following based on the current needs:
  - (a) parent or guardian restrictions;
  - (b) division staff supervision; and
  - (c) youth services crisis residential.
- (4) A minor and parent or guardian will sign an agreement [-]to appear at meetings with probation and the Juvenile Court, and the minor's behavior and compliance with the agreement [-]will be reported to the Juvenile Court.

#### **R547-13-**[17]16. Authority of the Division.

[To the extent permitted by this rule and by law, t]The [Đ]director has full authority to limit or adjust individual admissions to a secure detention facility in accordance with Section 80-5-201 and this rule.

KEY: juvenile corrections, juvenile detention, admission guidelines, juvenile justice and youth services

Date of Last Change: [February 27, 2024] 2024 Notice of Continuation: March 23, 2022

Authorizing, and Implemented or Interpreted Law: 80-5-201;

80-5-202; 80-5-203; 80-5-204; 80-5-205

NOTICE OF PROPOSED RULE				
TYPE OF FILING: Amendment				
Rule or Section Number:	R590-190-11	Filing ID: 56414		

#### Agency Information

Insurance		
Administration		
Suite 2300		
Taylorsv	ille State Office Building	
4315 S 2	2700 W	
Taylorsville, UT 84129		
PO Box 146901		
Salt Lake City, UT 84114-6901		
Phone:	Email:	
801- 957- 9322	sgooch@utah.gov	
	Administ Suite 23 Taylorsv 4315 S 2 Taylorsv PO Box Salt Lak Phone: 801- 957-	

#### **General Information**

#### 2. Rule or section catchline:

R590-190-11. Standards for Prompt, Fair, and Equitable Settlement for Automobile Insurance

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

The rule is being amended to ensure that an auto insurer fully compensates the owner of a vehicle that is totaled as a result of an accident.

#### 4. Summary of the new rule or change:

The change adds language to Subsection R590-190-11(2)(a) to make it clear that a total loss settlement shall include taxes and fees. This language was included in the previous version of the rule but was mistakenly left out of a recent amendment.

#### **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. This rule directs the activities of an insurer related to their insureds and does not require the state's involvement.

#### B) Local governments:

There is no anticipated cost or savings to local governments. This rule directs the activities of an insurer related to their insureds and does not require any local government's involvement.

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

There is no anticipated cost or savings to small businesses. This rule directs the activities of an insurer related to their insureds and does not require any small business' involvement.

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

There is no anticipated cost or savings to any non-small business. All insurers operating in Utah are non-small businesses. The language in this change -- requiring inclusion of taxes and fees in a total loss settlement -- is industry best practice and insurers have continued operating under this best practice despite the omission in the previous amendment of this rule.

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

There is no anticipated cost or savings to any other person. This rule directs the activities of an insurer related to their insureds and does not require the involvement of any other person.

**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. Insurers affected by this rule change have continued operating under the previous language as an industry best practice.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

#### Regulatory Impact Table

regulatory impact rable			
Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

## H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

#### Citation Information

## 6. 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-26-301
Section 31A-26-303	

#### **Public Notice Information**

- 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.)
- A) Comments will be accepted 05/31/2024 until:

### 9. This rule change MAY 06/07/2024 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.

#### **Agency Authorization Information**

Agency head	Steve Gooch,	Date:	04/09/2024
or designee	Public Information		
and title:	Officer		

R590. Insurance, Administration.

R590-190. Unfair Property, Casualty, and Title Claims Settlement Practices Rule.

R590-190-11. Standards for Prompt, Fair, and Equitable Settlement for Automobile Insurance.

- (1) If an automobile insurance policy provides for an adjustment and settlement of a total loss for a first party claimant based on actual cash value or replacement with another automobile of like kind and quality, one of the methods in this Subsection (1) shall apply.
- $(a) (i) \ \ An insurer may offer a replacement automobile that is comparable to the insured's automobile, with all applicable taxes, license fees, and transfer of ownership fees paid, at no cost, less any deductible provided in the policy; and$
- (ii) an offer and any rejection shall be documented in the claim file.
- (b)(i) An insurer may offer a cash settlement based on the actual cost, less any deductible provided in the policy, to purchase a comparable automobile, including all applicable taxes, license fees, and transfer of ownership fees of a comparable automobile for a cost determined in this Subsection (1)(b)(i).
- (A) The cost of at least two comparable automobiles in the local market area, if an automobile was available within the last 90 days to consumers in the local market area.
- (B) The cost of at least two comparable automobiles in areas proximate to the local market area, including the closest major metropolitan area in or out of the state, that were available within the last 90 days to consumers, if comparable automobiles are not available in the local market area.

- (C) At least two quotes from at least two qualified dealers located within the local market area, if a comparable automobile is not available in the local market area.
- (D) Any source to determine a statistically valid fair market value that meets the following criteria:
- (I) the source gives primary consideration to the value of vehicles in the local market area and may consider data on vehicles outside the area:
- (II) the source produces value for at least 85% of the makes and models for the last 15 model years, taking into account the value of all major options for such vehicles; and
- (III) the source produces fair market value based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of the parameters, such as time and area, to assure statistical validity.
- (ii) An insurer shall reopen its claim file and comply with the following procedures upon notice that a first party claimant cannot purchase a comparable vehicle at market value within 30 days of receiving a cash settlement payment under this Subsection (1)(b); and
- (A) locate a comparable vehicle by the same manufacturer, same year, similar body style, and similar options and price range for an insured for the market value determined by the insurer at the time of settlement available through a licensed dealer or private seller;
  - (B) either:
- (I) pay the difference between market value before applicable deductions and the cost of the comparable vehicle of like kind and quality that the insured has located; or
- (II) negotiate and effectuate the purchase of the vehicle for the insured;
- (C) elect to offer a replacement under Subsection (1)(a); or(D) conclude the loss settlement under the appraisal
- (D) conclude the loss settlement under the appraisa section of the policy in force at the time of the loss.
- (iii) An insurer is not required to take action under Subsection (1)(b)(ii) if its documentation to the first party claimant, at the time of settlement, included written notification of the availability and location of a specified and comparable vehicle of the same manufacturer, same year, similar body style, and similar options in as good or better condition as the total loss vehicle that could be purchased for the market value determined by the insurer before applicable deductions.
- (c) If a first party claimant automobile total loss is settled on a basis that deviates from the methods described in Subsection (1)(a) or (1)(b), the deviation shall be supported by documentation giving particulars of the automobile condition.
- (i) Any deduction from the cost, including a deduction for salvage, shall be measurable, itemized, and specified as to dollar amount and shall be reasonable in amount.
- $\mbox{(ii)}\mbox{ The basis for the settlement shall be fully explained to the first party claimant.}$
- (2)(a) A total loss settlement with a third party claimant shall be based on the market value or actual cost of a comparable automobile at the time of loss including all applicable taxes, license fees, and transfer of ownership fees.
- (b) Except for Subsection (1)(b)(ii), settlement procedures shall comply with Subsection (1)(b).
- (3) Where liability and damages are reasonably clear, an insurer is prohibited from recommending that a third party claimant make a claim under the third party claimant's own policy solely to avoid paying a claim under the insurer's policy.

- (4) An insurer is prohibited from requiring a claimant to travel an unreasonable distance to inspect a replacement automobile, to obtain a repair estimate, or to have an automobile repaired at a specific repair shop.
- (5)(a) An insurer shall include a first party claimant's deductible, if any, in a subrogation demand initiated by an insurer.
- (b) A subrogation recovery may be shared on a proportionate basis with a first party claimant if an agreement is reached for less than the full amount of the loss, unless the deductible amount has been otherwise recovered.
- (c) A subrogation recovery shall be applied first to reimburse a first party claimant for the amount or share of the deductible if the full amount or share of the deductible has been recovered.
- (d)(i) A deduction for expenses may not be made from the deductible recovery unless an outside attorney is retained to collect the recovery.
- $(\dot{ii}) \;\; \text{If taken, a deduction shall be a pro rata share of the allocated loss adjustment expense.}$
- (e) If subrogation is initiated but discontinued, the insured shall be advised.
- (6)(a) If an insurer prepares or approves an estimate for automobile repairs, the estimated cost shall reasonably be expected to repair the damage to the automobile.
- (b) If an insurer prepares an estimate, it shall give a copy of the estimate to the claimant and may provide the claimant the names of one or more conveniently located repair shops.
- (7) If the amount claimed is reduced due to betterment or depreciation, all information for the reduction shall be contained in the claim file.
- (a) The deduction shall be itemized with specificity as to dollar amount and shall be reasonable.
- (b) The insurer shall provide a written explanation of the deductions to the claimant upon request.
- (8) If an insurer elects to repair an automobile and designates a specific repair shop for the repairs, the insurer shall cause the damaged automobile to be restored to its condition before the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period.
- (9)(a) If coverage exists, payment shall be made to a claimant for:
  - (i) reasonably incurred cost of transportation; or
- (ii) reasonably incurred rental cost of a substitute vehicle, including collision damage waiver, unless the claimant has physical damage coverage available.
  - (b) A payment under Subsection (9)(a) shall be made for:
- (i) the period the automobile is necessarily withdrawn from service to obtain parts or effect repair; or
- (ii) if the automobile is a total loss and the claim has been timely made, the period from the date of loss until a reasonable settlement offer has been made by the insurer.
- (c) An insurer may not refuse to pay for loss of use for the period that an insurer is examining the claim or making other determinations as to the validity of the loss, unless the delay reveals that an insurer is not liable to pay the claim.
- (d) A loss of use payment shall be an amount in addition to a payment for the value of an automobile.
- (10) An insurer shall fairly, equitably, and in good faith attempt to compensate a first party claimant for all losses covered by the policy based on the following standards:

- (a) an offer of settlement may not be based solely on the useful life of the damaged part or vehicle;
- (b) an estimate of the amount of compensation for a claimant shall include the actual wear and tear, or lack thereof, of the damaged part or vehicle;
- (c) actual cash value shall consider the cost of replacement of the part or vehicle for which compensation is claimed;
- (d) an actual estimate of the true useful life remaining in the part or vehicle shall be considered in establishing the amount of compensation of a claim; and
- (e) actual cash value shall include taxes and other fees incurred by a claimant in replacing the part or vehicle or in compensating the claimant for the loss incurred.
- (11) An insurer may not demand reimbursement of a personal injury protection payment from a first party claimant from a settlement or judgment against a third party, except as provided by law
- (12)(a) An insurer shall provide reasonable written notice to a claimant before termination of payment for automobile storage charges and claim documentation of the denial.
- (b) An insurer shall provide a reasonable time for the claimant to remove the vehicle from storage before terminating a payment.

KEY: insurance law

Date of Last Change: [January 24,] 2024 Notice of Continuation: April 3, 2019

Authorizing, and Implemented or Interpreted Law: 31A-2-201;

31A-26-301; 31A-26-303; 31A-21-312; 31A-2-308

NOTICE OF PROPOSED RULE			
TYPE OF FILING: Amendment			
Rule or Section Number:	R590-200	Filing ID: 56415	

#### **Agency Information**

1. Department:	Insurance		
Agency:	Administration		
Room number:	Suite 23	00	
Building:	Taylorsv	ille State Office Building	
Street address:	4315 S 2	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 persons:			
Name:	Phone: Email:		
Steve Gooch	801- sgooch@utah.gov 957- 9322		
Please address questions regarding information on			

#### **General Information**

#### 2. Rule or section catchline:

R590-200. Diabetes Treatment and Management

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

This rule is being changed to update the rounding methodology for the insulin prescription cap calculation, which will save programming costs for health insurers and provide savings to individuals who purchase insulin.

This rule is also being changed to fix a numbering issue in this rule.

#### 4. Summary of the new rule or change:

The change alters the rounding methodology for the insulin prescription cap to round down to the nearest five-dollar increment. It also fixes the rule's numbering scheme, which inadvertently left out Section R590-200-4 in a previous amendment.

#### **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 calculations to achieve the insulin prescription cap are all done by the insurer, not the state. The state will not need to take any action as a result of this rule.

#### B) Local governments:

There is no anticipated cost or savings to local governments. The change to this rule governs the relationship between the state and its licensees and does not involve local governments in any way.

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

There is no anticipated cost or savings to small businesses. No small businesses will be affected by this rule.

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

The health insurers operating in Utah -- all of which are non-small businesses -- will save money on programming costs. However, the amount will vary by insurer depending on each insurer's process and the Department of Insurance (Department) cannot estimate the aggregate savings.

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

this notice to the persons listed above.

Other persons will see minimal savings as a result of this change. An insured who purchases insulin will see a savings of \$3.10 to \$3.68 per month on their insulin prescriptions. The Department does not know the number of insulin users in Utah, and so cannot estimate the aggregate savings for these persons.

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

There may be limited compliance costs for affected health insurers. These insurers will need to change their programming methods to accommodate the changes. The Department cannot estimate the impact of these costs because they will depend on each insurer's process. However, the costs are expected to be minimal.

**G)** Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

manatives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

#### **Citation Information**

6. 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-22-626	
-------------------	-----------------------	--

#### **Public Notice Information**

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.)

A)	Comments	will	be	accepted	05/31/2024
unti	l:				

### 9. This rule change MAY 06/07/2024 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.

#### **Agency Authorization Information**

Agency head	Steve Gooch,	Date:	04/09/2024
	Public Information		
and title:	Officer		

## R590. Insurance, Administration. R590-200. Diabetes Treatment and Management.

R590-200-1. Authority.

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-22-626.

#### R590-200-2. Purpose and Scope.

- (1) The purpose of this rule is to establish minimum standards of coverage for diabetes.
- (2) This rule applies to each accident and health insurance policy that provides a health insurance benefit.
- (3) This rule does not prohibit an insurer from requesting additional information to determine eligibility of a claim under the terms of a policy, certificate, or both.

#### R590-200-3. Definitions.

Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

- (1)(a) "Diabetes" means diabetes mellitus, a common chronic, serious systemic disorder of energy metabolism including a heterogeneous group of metabolic disorders characterized by an elevated blood glucose level.
- (b) The terms "diabetes" and "diabetes mellitus" are synonymous and defined to include:
  - (i) a person using insulin;
  - (ii) a person not using insulin;

- (iii) an individual with an elevated blood glucose level induced by pregnancy; and
- (iv) a person with another medical condition or medical therapy that wholly or partially consists of an elevated blood glucose level.
  - (c) Diabetes includes an individual with:
  - (i) complete insulin deficiency, or type 1 diabetes;
- (ii) insulin resistance with partial insulin deficiency, or type 2 diabetes; and
- (iii) an elevated blood glucose level induced by pregnancy, or gestational diabetes.
- (2)(a) "Diabetes self-management training" means a program designed to help an individual learn to manage their diabetes in an outpatient setting.
  - (b) Self-management training topics include:
- (i) making lifestyle changes to effectively manage diabetes;
- (ii) avoiding or delaying the complications, hospitalizations, and emergency room visits associated with diabetes; and
  - (iii) medical nutrition therapy.
- (3) "Medical equipment" means non-disposable or durable equipment used to treat diabetes.
- (4) "Medical nutrition therapy" means the assessment and therapy of a patient's nutritional status including diet modification, planning, and counseling services furnished by a registered licensed dietitian.
- (5) "Medical supplies" means a generally accepted singleuse item used to manage, monitor, and treat diabetes, and to administer diabetic specific medication.

#### R590-200-[5]4. Minimum Standards and General Provisions.

- (1) Coverage for diabetes treatment is subject to the deductibles, copayments, out-of-pocket maximums, and coinsurance of the policy.
- (2)(a) An accident and health insurance policy that provides a health insurance benefit shall cover diabetes self-management training and patient management, including medical nutrition therapy, when medically necessary and prescribed by a physician.
- (b) The diabetes self-management training services must be provided by a diabetes self-management training program:
- (i) recognized by the Centers for Medicare and Medicaid Services;
- (ii) certified by the Utah Department of Health and Human Services; or
- (iii) approved or accredited by a national organization certifying standards of quality in the provision of diabetes self-management education.
- (c) A diabetes self-management training program shall be provided upon:
  - (i) a diagnosis with diabetes;
  - (ii) a significant change in a diabetes-related condition;
  - (iii) a change in diagnostic levels; or
  - (iv) a change in treatment regimen.
- (3) An accident and health insurance policy that provides a health insurance benefit shall cover the following when medically necessary:
  - (a) blood glucose monitors designed for diabetic patients;
- (b) blood glucose monitors for the legally blind designed for use with adaptive devices:

- (c) test strips for glucose monitors, including test strips cleared by the FDA;
  - (d) visual reading strips for glucose and ketones;
  - (e) urine testing strips for glucose and ketones;
- (f) lancet devices and lancets for monitoring glycemic control;
  - (g) insulin, including analog, in either vial or cartridge;
- (h) injection aids, including those adaptable to meet the needs of the legally blind;
- (i) syringes, including insulin syringes, pen-like insulin injection devices, needles for pen-like insulin injection devices, and other disposable parts required for insulin injection aids;
  - (j) insulin pumps, including insulin infusion pumps;
  - (k) medical supplies for use:
- (i) with insulin pumps and insulin infusion pumps, including infusion sets, cartridges, syringes, skin preparation, batteries, and other disposable supplies needed to maintain insulin pump therapy; and
- (ii) with or without insulin pumps and insulin infusion pumps, including durable and disposable devices for the injection of insulin and infusion sets;
- (l) prescription oral agents of each class approved by the FDA for treatment of diabetes, and a variety of drugs, when available, within each class; and
  - (m) glucagon kits.
- (4)(a) No later than June 1 each year, the department shall publish on the department's website at www.insurance.utah.gov:
- (i) the price of insulin available under the discount program described in Section 49-20-421;
- (ii) the insulin prescription caps for the following calendar year; and
- (iii) the average wholesale price of insulin per milliliter, AWP/mL, for each calendar year 2019 and later.
- (b) The insulin prescription caps are calculated using data provided by Public Employees Health Plan (PEHP) based on the annual change in the average AWP/mL.
- (i) The calculation considers the following initial reference values:
- (A) PEHP's average insulin AWP/mL in 2019 of \$40.18, Base AWP/mL;
- (B) the 2021 insulin prescription cap in Subsection 31A-22-626(4)(a) of \$30, Base Low Cap; and
- (C) the 2021 insulin prescription cap in Subsection 31A-22-626(6)(b) of \$100, Base High Cap.
- $(ii)\underline{(A)}$  The insulin prescription cap is rounded to the nearest dollar.
- (B) Effective for plan years on or after January 1, 2025, the insulin prescription cap is rounded down to the nearest multiple of \$5
- (c)(i) The insulin prescription cap formula for years after 2021 for Subsection 31A-22-626(4)(a) is: Year X low cap = (Average AWP/mL for Year X-2 / Base AWP/mL) \* (Base Low Cap) rounded to the nearest dollar.
- (ii) The insulin prescription cap formula for years after 2024 for Subsection 31A-22-626(4)(a) is rounded down to the nearest multiple of \$5.
- (d)(i) The insulin prescription cap formula for years after 2021 for Subsection 31A-22-626(6)(b) is: Year X high cap = (Average AWP/mL for Year X-2 / Base AWP/mL) \* (Base High Cap) rounded to the nearest dollar.

- (ii) The insulin prescription cap formula for years after 2024 for Subsection 31A-22-626(6)(b) is rounded down to the nearest multiple of \$5.
- (e) The adjusted insulin prescription cap posted on June 1 takes effect for a policy issued or renewed on or after January 1 of the following calendar year.

#### R590-200-[6]5. Severability.

If any provision of this rule, Rule R590-200, 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 law

Date of Last Change: <u>2024[May 11, 2022]</u> Notice of Continuation: February 25, 2021

Authorizing, and Implemented or Interpreted Law: 31A-2-201;

31A-22-626

NOTICE OF PROPOSED RULE			
TYPE OF FILING: Amendment			
Rule or Section Number:	R590-230-5	Filing ID: 56417	

#### **Agency Information**

1. Department:	Insurance		
Agency:	Administration		
Room number:	Suite 23	00	
Building:	Taylorsv	ille State Office Building	
Street address:	4315 S 2	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 persons:	Contact persons:		
Name:	Phone: Email:		
Steve Gooch	801- 957- 9322	sgooch@utah.gov	

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule or section catchline:

R590-230-5. Producer Training

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

This section is being changed to update a date by which a producer must meet an annuity suitability training requirement.

#### 4. Summary of the new rule or change:

The changes allow for a producer who completed an annuity suitability training course before July 1, 2024, to be considered as having met the training requirements in certain circumstances.

#### **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 saving to the state budget. The change merely gives agents a larger window to complete required training. It does not involve any additional work or cost on the part of the state.

#### B) Local governments:

There is no anticipated cost or savings to local governments. This rule governs the relationship between the Department of Insurance (Department) and its licensees, and does not involve local governments in any way.

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

There is no anticipated cost or saving to small businesses.

The actual requirement to complete the training is in the existing version of the rule and requires agents to take the training within the year after July 1, 2024. This change simply allows agents to take the training "early" from January 1, 2024, to July 1, 2024.

Or in other words, agents now have a larger window to complete the required training. It does not involve any additional work or cost on the part of any small business.

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

There is no anticipated cost or saving to non-small businesses. The actual requirement to complete the training is in the existing version of the rule and requires agents to take the training within the year after July 1, 2024. This change simply allows agents to take the training "early" from January 1, 2024, to July 1, 2024.

Or in other words, agents now have a larger window to complete the required training. It does not involve any additional work or cost on the part of any non-small business.

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

There is no anticipated cost or saving to any other persons. The actual requirement to complete the training is in the existing version of the rule and requires agents to take the training within the year after July 1, 2024. This change simply allows agents to take the training "early" from January 1, 2024, to July 1, 2024.

Or in other words, agents now have a larger window to complete the required training. It does not involve any additional work or cost on the part of any person.

**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 change merely gives agents a larger window to complete required training.

**G)** Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

#### Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

## H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

#### **Citation Information**

6. 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-22-425	

#### **Public Notice Information**

- **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.)
- A) Comments will be accepted 05/31/2024 until:

### 9. This rule change MAY 06/07/2024 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.

#### **Agency Authorization Information**

Agency head	Steve Gooch,	Date:	04/09/2024
or designee	Public Information		
and title:	Officer		

#### R590. Insurance, Administration. R590-230. Suitability in Annuity Transactions.

#### R590-230-5. Producer Training.

- (1) A producer may not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer's standards for product training.
- (2)(a)(i) A producer who engages in the sale of annuity products on or after July 1, 2024, shall complete a one-time approved four credit training course.
- (ii) A producer who holds a life insurance line of authority before July 1, 2024, and who desires to sell an annuity shall complete the requirements of this subsection [within 12 months after July 1, 2024]by July 1, 2025.
- (iii) A producer that obtains a life insurance line of authority on or after July 1, 2024, may not engage in the sale of an annuity until the required annuity training is completed.
- (iv) A producer who completed an approved training course under Subsections (2)(b), (2)(c), and (2)(d) between January 1, 2024 and July 1, 2024, is considered to have met the training requirements under this Subsection (2)(a).

- (b) The minimum length of the training under this Subsection (2) shall be sufficient to qualify for at least four continuing education credits but may be longer.
- (c) The training shall include information on the following topics:
- (i) the types of annuities and various classifications of annuities;
  - (ii) identification of the parties to an annuity;
- (iii) how product specific annuity contract features affect consumers;
- (iv) the application of income taxation of qualified and non-qualified annuities;
  - (v) the primary uses of annuities; and
- (vi) appropriate standards of conduct, sales practices, replacement, and disclosure requirements.
- (d)(i) A provider of a course complying with this section shall cover all topics listed in the prescribed outline and [shall]may not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products.
- (ii) Additional topics may be offered in conjunction with and in addition to the required outline.
- (e) A provider of an annuity course complying with this section shall register as a continuing education provider and comply with Section 31A-23a-202 and Rule R590-142.
- (f) A producer who, before July 1, 2024, completed an annuity training course [under the provisions of this rule before July 1, 2024, shall, by no later than ]that does not meet the standards under Subsections (2)(b), (2)(c), and (2)(d) shall, by July 1, 2025, complete either:
- (i) a new four credit approved annuity training course on appropriate sales practices, replacement, and disclosure requirements under the amended provisions of this rule; or
- (ii) an additional one-time single credit approved annuity training course on appropriate sales practices, replacement, and disclosure requirements under the amended provisions of this rule.
- (g) An annuity training course may be conducted and completed by classroom or self-study methods.
- (h) Satisfying the training requirements of another state that are substantially similar to the requirements of this subsection shall satisfy the training requirements.
- (i) Satisfying the components of the training requirements of any course or courses with components substantially similar to the requirements of this subsection shall satisfy the training requirements.
- (j)(i) An insurer shall verify that a producer has completed the required annuity training course before allowing the producer to sell an annuity product for that insurer.
- (ii) An insurer may satisfy its responsibility under this Subsection (2)(j) by obtaining certificates of completion of the training course or obtaining reports provided by database systems or vendors, or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

KEY: insurance, annuity suitability

Date of Last Change: 2024[December 8, 2023]

Notice of Continuation: May 23, 2019

Authorizing, and Implemented or Interpreted Law: 31A-2-201;

31A-22-425

NOTICE OF PROPOSED RULE			
TYPE OF FILING: Amendment			
Rule or Section Number:	R592-6	Filing ID: 56416	

#### **Agency Information**

.goo,o			
1. Department:	Insurance		
Agency:	Title and Escrow Commission		
Room number:	Suite 23	00	
Building:	Taylorsv	ille State Office Building	
Street address:	4315 S 2	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 persons:	Contact persons:		
Name:	Phone: Email:		
Steve Gooch	801- sgooch@utah.gov 957- 9322		

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule or section catchline:

R592-6. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business

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

The Title and Escrow Commission determined that changes to this rule were necessary to make this rule match current market conditions and practices. It worked with the industry and public to amend the rule to that end.

#### 4. Summary of the new rule or change:

This rule makes several changes that bring this rule more into line with current business practices and permit certain activities that were previously prohibited. It also clarifies the definition of "client", removes the "Permitted Methods of Competition" section because two methods were removed, and the other was inserted as an exception to the prohibitions section.

#### **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 Department of Insurance (Department) will continue regulating the industry as usual.

#### B) Local governments:

There is no anticipated cost or savings to local governments. This rule governs the relationship between the Department and its title insurance licensees and does not involve local government in any way.

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

The rule amendments include increases in the limits on which the Department's licensees may spend money in marketing and promoting themselves. The limits were raised for gifts, business meals, refreshments at meetings, and self-promotional items.

For this reason, the Department believes that licensees -- including small businesses -- may spend more with the amendments in place.

However, the Department is not able to estimate the extent to which the licensees will increase their spending under the new limits.

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

The rule amendments include increases in the limits on which the Department's licensees may spend money in marketing and promoting themselves. The limits were raised for gifts, business meals, refreshments at meetings, and self-promotional items. For this reason, the Department believes that licensees -- including non-small businesses -- may spend more with the amendments in place.

However, the Department is not able to estimate the extent to which the licensees will increase their spending under the new limits.

# 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 rule amendments include increases in the limits on which the Department's licensees may spend money in marketing and promoting themselves. The limits were raised for gifts, business meals, refreshments at meetings, and self-promotional items. For this reason, the Department believes that licensees -- including individual title insurance licensees -- may spend more with the amendments in place.

However, the Department is not able to estimate the extent to which the licensees will increase their spending under the new limits.

## 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. This rule is being changed to permit certain marketing activities that were previously prohibited, but there is no requirement that any title insurance licensee perform those activities. The spending thresholds are being increased, but each licensee is able to make a business decision according to their needs and abilities. A licensee may spend up to the limits outlined but is by no means required to.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

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Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

#### Citation Information

6. 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 31A-2-404(2)		
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#### **Public Notice Information**

- **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.)
- A) Comments will be accepted 05/31/2024 until:

### 9. This rule change MAY 06/07/2024 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.

#### **Agency Authorization Information**

Agency head	Steve Gooch,	Date:	04/09/2024
or designee	Public Information		
and title:	Officer		

#### R592. Insurance, Title and Escrow Commission.

R592-6. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business.

#### R592-6-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Subsection 31A-2-404(2).

#### R592-6-2. Purpose and Scope.

- (1) The purpose of this rule is to identify practices that constitute unfair methods of competition because the practices create unfair inducements for the placement of title insurance business.
- (2) This rule applies to any person identified in Subsection 31A-23a-402(2)(a).

#### R592-6-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-2-402. Additional terms are defined as follows:

- (1) "Bona fide real estate transaction" means:
- (a) a preliminary title report is issued to a seller or listing agent in conjunction with the listing of a property; or
- (b) a commitment for title insurance is ordered, issued, or distributed in a purchase and sale transaction showing the name of the proposed buyer and the sales price, or in a loan transaction showing the proposed lender and loan amount.]
- [(2)](1)(a) "Business activities" include sporting events, sporting activities, musical events, [and \_]art events, and similar activities.
  - (b) "Business activities" do not include:
- (i) awards banquets, recognition events, or similar activities that are sponsored or hosted by or for clients[5]; or
  - (ii) commercial travel.

- [(3)](2)(a) "Business meals" include breakfast, brunch, lunch, dinner, cocktails, and tips.
- (b) "Business meals" do not include awards banquets, recognition events, or similar activities sponsored by or for clients.
- [(4)](3)(a) "Client" means any person[, or group,] who influences, or who may influence, the placement of title insurance business or who is engaged in a business, profession, or occupation of:
  - (i) buying or selling interests in real property; or
  - (ii) making loans secured by interests in real property.
- (b) "Client" [includes ] may include real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, developers, subdividers, attorneys, consumers, escrow companies, and [the ]their employees, agents, representatives, and solicitors [, and groups or associations of any of the foregoing].
- (c) "Client" does not include a trade association, for the purposes of this rule.
- [ (5) "Discount" means the furnishing or offering to furnish title insurance, services constituting the business of title insurance, or escrow services for a total charge less than the amounts set forth in the applicable rate schedules filed pursuant to Sections 31A-19a-203 or 31A-19a-209.]
  - [(6)](4) "Official trade association publication" means:
- (a) a membership directory, provided its exclusive purpose is that of providing the distribution of an annual roster of the association's members to the membership and other interested parties; or
- (b) an annual, semiannual, quarterly, or monthly publication containing information and topical material for the benefit of the members of the association.
- [<del>(7)</del>](5) "Title insurance business" means the business of title insurance and the conducting of escrow.
- [(8)](6) "Title producer" means a title insurer, agency title insurance producer, or individual title insurance producer.
- (9)(7) "Trade association" means a recognized association of persons, a majority of whom are clients or persons whose primary activity involves real property.

#### R592-6-4. Prohibited Unfair Methods of Competition.

A person identified in Section R592-6-2 who provides or offers to provide, directly or indirectly, any of the following benefits to any client has violated Section 31A-23a-402 and has engaged in an unfair method of competition.

- [ (1) Furnishing a title insurance commitment when the title producer is aware that no policy is intended to be issued without one of the following:
- (a) sufficient evidence in the file of the title producer that a bona fide real estate transaction or listing agreement exists; or
- (b) a request from a proposed insured to issue a title insurance commitment together with a payment of a minimum cancellation fee of \$200.
- (2) Paying any charges for the cancellation of an existing title insurance commitment issued by a competing organization, unless that commitment discloses a defect that gives rise to a claim on an existing policy.
- (3) Furnishing escrow services pursuant to Section 31A-23a-406:
- (a) for a charge less than the charge filed pursuant to Subsection 31A-19a-209(5); or
- (b) for a charge less than the actual cost of providing the services.

- (4) Waiving all or any part of established fees or charges for services that are not the subject of rates or escrow charges filed with the commissioner.
- [(5) Deferring or waiving any payment-](1) Waiving any charge, premium, or rate for insurance or services otherwise due and payable[, including a series of real estate transactions for the same parcel of property].
- [(6)](2) Furnishing services not [reasonably] related to a bona fide title insurance, escrow, settlement, or closing transaction[, including non-related delivery services, accounting assistance, or legal counseling] without receiving fair market payment for the services provided.
- [<del>(7)</del>](3) Paying for, furnishing, or waiving all or any part of the rental or lease charge for space that is occupied by [any ]a client.
- [<del>(8)</del>](4) Renting or leasing space from [any\_]a\_client[5, regardless of the purpose,] at a rate that is excessive or inadequate when compared with rental or lease charges for comparable space in the same geographic area, or paying rental or lease charges based in whole or in part on the volume of business generated by [any\_]the client.
- [(9)](5) Furnishing any part of a title producer's facilities, including conference rooms or meeting rooms, to a client or its trade association, for anything other than providing escrow or title services, or related meetings, without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.
- [ (10) Co-habitating or sharing office space with a client of a title producer.]
- [(11)](6) Furnishing all or any part of the time or productive effort of any employee of the title producer, including a secretary, clerk, messenger, or escrow officer, to any client when such time or productive effort is not reasonably related to a bona fide title insurance, escrow, settlement, or closing transaction.
- [(12)](7) Paying [for all or any part of the salary of ]a client or an employee of [any-]a client for a referral of business.
- [ (13) Paying, or offering to pay, either directly or indirectly, salary, commissions, or any other consideration to any employee who is at the same time licensed as a real estate agent or real estate broker, or as a mortgage lender or mortgage company subject to Section 31A-2-405 and Rule R592-5.]
  - [(14)](8)(a) Payment or pre-payment of the following:
- (i) fees or charges of a professional, including an appraiser, surveyor, engineer, or attorney, whose services are required by any party or client to structure or complete a particular transaction; or
- (ii) fees or charges of a client or party to the transaction, for example, subordination, loan, or HOA payoff request fees, that are required by any party or client to structure or complete a particular transaction.
- (b) Subsection [(14)](8)(a) does not prohibit pre-payment of overnight mail and delivery fees[-that will be recovered through elosing a transaction].
- [ (15) Sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food, or otherwise providing anything of value for an activity of a client, except as allowed under Section R592-6-5. Activities include open houses at homes or property for sale, meetings, breakfasts, luncheons, dinners, conventions, installation ceremonies, celebrations, outings, cocktail parties, hospitality room functions, open house celebrations, dances, fishing trips, gambling trips, sporting events of any kind, hunting trips or outings, golf or ski tournaments, artistic performances, and outings in recreation areas or entertainment areas.]

- (9)(a) Except as provided in Subsection (9)(b), sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food, or otherwise providing anything of value for an activity of a client including:
  - (i) an open house at a home or property for sale;
  - (ii) a meeting;
  - (iii) a breakfast, luncheon, or dinner;
    - (iv) a convention;
  - (v) an installation ceremony;
    - (vi) a celebration;
    - (vii) an outing;
      - (viii) a cocktail party;
  - (ix) a hospitality room function;
    - (x) an open house celebration;
    - (xi) a dance;
- (xii) a sporting event of any kind, including a fishing trip, gambling trip, hunting trip or outing, or golf or ski tournament;
  - (xiii) an artistic performance; or
  - (xiv) an outing in a recreation or entertainment area.
    - (b) A title producer may attend an activity of a client if:
- (i) there is no additional cost to the title producer, other than the title producer's own entry fee, registration fee, and meals; and
- (ii) the fees in Subsection (9)(b)(i) are not greater than those charged to a client or other person attending the function.
- [ (16) Sponsoring, cosponsoring, subsidizing, supplying prizes or labor, except as allowed under Section R592 6-5, or otherwise providing things of value for promotional activities of a client. Title producers may attend activities of a client if there is no additional cost to the title producer, other than their own entry fees, registration fees, and meals; the fees may not be greater than those charged to clients or others attending the function.
- (17) Providing gifts or anything of value to a client in connection with social events such as birthdays or job promotions. A letter or card in these instances will not be interpreted as a thing of value.]
- (10) Sponsoring a trade association event at a cost that is greater than the sponsorships offered to members of the association, affiliates, vendors, or other participants of the event.
- [(18)](11) Furnishing or providing [access to—]the following, even for a cost:
  - (a) building plans;
  - (b) construction critical path timelines;
  - (c) "For Sale by Owner" lists;
  - (d) surveys;
  - (e) appraisals;
  - (f) credit reports;
  - (g) mortgage leads for loans;
  - (h) rental or apartment lists; or
  - (i) printed labels.
- [ (19) Issuing a newsletter that is property specific or that highlights specific customers.
- (20) Providing access to real property information that the title producer pays to produce, develop, or maintain, except:
- (a) providing to a client, through any means including copies, a property profile that includes only the following:
  - (i) the last vesting deed of public record;
  - (ii) a plat map reproduction, locator map, or both;
- (iii) tax and property characteristics information from the Treasurer's and Assessor's offices; and
  - (iv) covenants, conditions, and restrictions; and

- (b) Providing a client access to closing software that is related to a specific transaction identified in the title commitment.
- (21)(a) Providing title or escrow services on real property where an existing or anticipated investment loan or financing has been or will be provided by the title producer or its owners or employees.
- (b) Subsection (21)(a) does not apply to transactions involving seller financing.
- [(22)](12)(a) Engaging in the following advertising activity:
  - (i) paying for any advertising on behalf of a client;
- (ii) advertising jointly with a client[—on signs for subdivision or condominium projects or for the sale of a lot or lots in a subdivision or units in a condominium project];
- (iii) placing an advertisement in a publication, including an internet web page and its links, that is hosted, published, produced for, or distributed by or on behalf of a client;
- (iv) placing an advertisement that fails to comply with Section 31A-23a-402 and Rule R590-130;
  - (v) placing an advertisement that[:
  - (A) is not purely self-promotional; or
- (B)] is in an official trade association publication that does not offer [any-]each title producer an equal opportunity to advertise in the publication and at the standard rates other advertisers in the publication are charged;
- (vi) advertising with free or paid social media services that are not open and available to the general public; or
- (vii) paying a fee to share, like, respond to, comment on, or increase the visibility, ranking, or distribution of any social media involving a client or a client's social media page.
- (b) Nothing in Subsection  $[\frac{(22)}{(12)}]$ (a) prohibits the following:
- (i) advertising independently that the title producer has provided title insurance for a particular subdivision or condominium project, but the title producer may not indicate that all future title insurance will be written by that title producer; or
- (ii)(A) writing or posting on social media services about an event that directly involves the title producer and a client; and
- (B) referencing or linking to the event on the client's social media page or the client company's social media page.
- [ (23) Using interests in other business entities, including I.R.C. Section 1031 qualified intermediaries and escrow companies to enter into any agreement, arrangement, or understanding, or to pursue any course of conduct designed to avoid the provisions of this rule.]
- (13) Using an interest in another business entity to avoid the provisions of Title 31A, Insurance Code, or any applicable rule.
  - [(24) For self-promotional open houses:
- (a) holding ](14)(a) Holding more than two self-promotional open houses per calendar year for each owned or occupied facility, including branch offices[†].
- (b) Holding a self-promotional open house at a location other than a registered office of the title producer.
- [ (b) spending more than \$15 per guest per self-promotional open house;
- (c) making guest expenditures on items in the form of a gift, gift certificate, or coupon; or
- (d) holding a self-promotional open house on a client's premises.]
- [(25)](15) Making a donation to a charitable organization [ereated, controlled, ]controlled or managed by a client.
  - (26) Making a charitable donation that:

- (a) is paid in eash;
- (b) is paid by negotiable instrument to a payee other than the charitable organization;
- (c) is distributed to anyone other than the charitable organization; or
  - (d) provides a benefit to a client.
- (27) Distributing outside the regular course of business to elients, consumers, and members of the general public, self-promotional items that:
- (a) have a value of more than \$10, including taxes, setup fees, and shipping;
  - (b) are edible;
- (c) are personalized in the donee's name; or
- (d) are given to clients or trade associations for redistribution.]
- (16) Distributing to a client, consumer, or member of the general public a self-promotional item that:
  - (a) has a cost of more than \$25;
  - (b) is edible;
- (c) does not contain a permanent marking identifying the title producer; or
  - (d) is personalized in the donee's name.
- [ (28) Making expenditures for business meals or business activities on behalf of any person, whether a client or not, as a method of advertising if:]
- (17) Making an expenditure for a business meal or business activity on behalf of any person, whether a client or not, as a method of advertising if:
- (a) the person representing the title producer is not present during the business meal or business activity;
- (b) a substantial title insurance business discussion does not occur directly before, during, or after the business meal or business activity;
- (c) the total cost of the business meal, the business activity, or both exceeds [\$50-]\$100 per person, per day;
- (d) more than three individuals from an office of a client are provided a business meal or business activity in a single day by an individual title producer; or
- (e) the entire business meal or business activity takes place on a client's premises.
  - (29) Conducting a continuing education program that:
    - (a) is not approved by the appropriate regulatory agency;
- (b) addresses matters other than title insurance, escrow, or related subjects;
  - (c) is less than one hour in duration;
- (d) involves expenditure of more than \$15 per person including the cost of meals and refreshments; or
- (e) is conducted at more than one individual, physical office location of a client per calendar quarter.]
  - (18) Conducting education that:
- (a) does not address title insurance, escrow, or a related subject;
- (b) involves expenditure of more than \$20 per anticipated person including the cost of meals and refreshments;
- (c) involves expenditure of more than \$500 for a facility and instructor; or
- (d) is conducted at an individual, physical office location of a client more than once per calendar quarter.
- [(30)](19)(a) Acknowledging a wedding, a\_birth[5] or adoption of a child, or a funeral of a client or a member of the client's immediate family with flowers or gifts exceeding [\$75]\$150.

- (b) Acknowledging any other life event of a client or a member of the client's immediate family with a gift or anything of value.
  - (c) A letter or card in these instances is not a thing of value.

#### [R592-6-5. Permitted Methods of Competition.

- The following are permitted methods of competition. In the event of a conflict between Sections R592 6 4 and R592 6 5, Section R592 6 5 is controlling.
- (1) A title producer may donate time to serve on a trade association committee and may also serve as an officer for the trade association.
- (2) A title producer may provide clients access to water, beverages, and edible treats at the title producer's premises.
- (3) A title producer may provide to a client the documents used to produce a title commitment and may provide access to them through any means.

#### R592-6-[6]5. Severability.

If any provision of this rule, Rule R592-6, 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:** title insurance

Date of Last Change: <u>2024</u>[August 23, 2021] Notice of Continuation: June 10, 2019

Authorizing, and Implemented or Interpreted Law: 31A-2-404

NOTICE OF PROPOSED RULE				
TYPE OF FILING: Amendment				
Rule or Section Number:	R746-8-301	Filing ID: 56434		

#### Agency Information

agency information				
1. Department:	Public S	Public Service Commission		
Agency:	Administration			
Building:	Heber M	1. Wells Building		
Street address:	160 E 30	00 S, 4th Floor		
City, state and zip:	Salt Lake City, UT 84111			
Mailing address:	PO Box 4558			
City, state and zip:	Salt Lake City, UT 84114-4558			
Contact persons:				
Name:	Phone:	Email:		
John Delaney	801- jdelaney@utah.gov 530- 6724			
Please address	question	ns regarding information on		

#### **General Information**

#### 2. Rule or section catchline:

R746-8-301. Calculation and Application of UUSF Surcharge

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

The purpose of this rule amendment is to ensure the Utah Universal Public Telecommunications Service Support Fund (UUSF) meets the fund's statutory obligations and does not incur deficits beyond those obligations.

As provided in Subsection 54-8b-15(2), the UUSF provides a funding mechanism for qualifying telecommunications carriers "to obtain specific, predictable, and sufficient funds to deploy and manage" networks for end-users of certain telecommunications services.

UUSF funding is provided by "an explicit charge assessed" – or surcharge – on each telecommunications access line or connection, pursuant to Subsection 54-8b-15(8). That surcharge is then remitted to the UUSF by telecommunications carriers who have collected the surcharge from their customers on a "per access line" basis, pursuant to Subsection 54-8b-15(9).

The "per access line" basis allows the Public Service Commission (PSC), with the assistance of the Division of Public Utilities (DPU), to estimate UUSF revenue based on the number of customers of any given telecommunications carrier. In other words, the UUSF balance is a function of the revenue collected and remitted from the surcharge based on the projected number of access lines (Subsections 54-8b-15(8) and (9)), which is then offset by the projected costs attributable to deployment and management of the applicable telecommunications networks (Subsection 54-8b-15(2)).

Accordingly, the projected "per access line" surcharge must be occasionally adjusted to meet the statutory obligations relating to the projected UUSF costs. Thus, this rule amendment increases the monthly UUSF surcharge remittal amount from \$0.71 to \$0.98 per access line.

DPU recently provided a recommendation to increase the current UUSF surcharge rate to meet the calendar year 2024 (CY2024) UUSF distributions previously ordered by the PSC and the estimated UUSF distributions for fiscal year 2025 (July 1, 2024, to June 30, 2025) (FY2025) so that, as required by Utah law, regulated Utah telecommunications carriers will "obtain specific, predictable, and sufficient funds to deploy and manage" networks for end-users of certain telecommunications services.

this notice to the persons listed above.

The reason for DPU's recommended increase in the surcharge is, in part, to address a recently discovered error by New Cingular Wireless PCS, LLC ("AT&T") in its reporting of the number of access lines subject to the surcharge. According to DPU, AT&T overreported those numbers for approximately 23 months (August 2021 through July 2023), which in turn provided an inaccurate basis upon which DPU provided its baseline calculations for the UUSF surcharge which was implemented on December 29, 2023.

Specifically, the UUSF surcharge of \$0.71 implemented on December 29, 2023, is inadequate to fund the CY2024 and estimated FY2025 statutory UUSF distribution requirements because, in part, after correcting AT&T's reporting error, the actual number of access lines subject to the surcharge have now been reduced by approximately 260,000 per month and thus results in less revenue to meet the costs associated with the UUSF statutory obligations.

In addition, the estimated UUSF distributions for CY2024 were significantly underestimated. The PSC anticipates making this rule amendment effective on July 1, 2024, so that it will apply to all Utah access lines and connections for the remainder of CY2024 and all FY2025.

The PSC expresses appreciation to the DPU in the Department of Commerce for providing the analysis necessary to consider and implement this rule amendment.

#### 4. Summary of the new rule or change:

This amendment increases the monthly UUSF surcharge from \$0.71 to \$0.98 per access line.

The amendment makes three textual edits, revising the rule's three references to the \$0.71 surcharge to reflect the new \$0.98 surcharge. As explained in response to Box 3 above, the increase in the surcharge is necessary to ensure the UUSF can meet statutory obligations while remaining within policy norms.

Unless public comment convinces the PSC to alter its plans, the PSC anticipates making this rule amendment effective on July 1, 2024.

#### Fiscal Information

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

#### A) State budget:

This surcharge change will increase the balance accruing in the UUSF, satisfying the performance objective set by the Utah Legislature to maintain at least three months' worth of fund distributions without incurring a deficit.

The only other impact on the state budget is the impact on state offices that are telecommunications customers. Because the surcharge is passed on by providers to customers, every telecommunications customer will experience an increase of \$0.27 in their monthly bill.

#### B) Local governments:

The only impact on local governments will be in their capacity as telecommunications customers. Because the surcharge is passed on by providers to customers, every telecommunications customer will experience an increase of \$0.27 in their monthly bill.

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

The only impact on small businesses will be in their capacity as telecommunications customers. Because the surcharge is passed on by providers to customers, every telecommunications customer will experience an increase of \$0.27 in their monthly bill.

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

The only impact on non-small businesses will be in their capacity as telecommunications customers. Because the surcharge is passed on by providers to customers, every telecommunications customer will experience an increase of \$0.27 in their monthly bill.

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):

Affected – All customers who are billed for an access line presently pay \$0.71 per month per access line for the UUSF surcharge. That rate was implemented on December 29, 2023, and represented an increase of \$0.35 per access line per month. Under the new \$0.98 rate, all such customers will pay \$0.27 more per month per access line.

On April 4, 2024, the DPU recommended to the PSC various scenarios for increasing the surcharge rate to meet the statutory requirements for the UUSF fund for CY2024 and estimated for FY2025. The recommendations were based on different scenarios including estimated access lines numbers, distribution amounts, and costs.

Based on estimates for FY2025, an average of 3,743,761 access lines will be assessed the surcharge every month. At the current rate of \$0.71, on average, approximately \$2,623,249 would be collected to fund the UUSF on a monthly basis, or approximately \$31,478,991 per year.

At the new rate of \$0.98, approximately \$3,620,823, on average, would be collected per month, or approximately \$43,449,875 per year to fund the UUSF. The proposed rate increase will result in an approximate average increase of \$997,574 per month, or \$11,970,884 per year

to fund the UUSF, as compared to the current rate. The dollar amounts include a 1.31% administrative fee that telecommunications providers are allowed to withhold.

This will have a fiscal impact on Utah's regulated telecommunications providers that receive distributions from the UUSF. This rule amendment will enable the UUSF to make the distributions previously ordered by the PSC for CY2024 and as estimated for FY2025.

The PSC presently does not have access to the commercially sensitive information that would be necessary to determine what portion of the access lines paying the surcharge are small businesses, larger businesses, or individuals. However, this increase should affect all customers and customer classes equally on a per access line basis.

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

All telecommunications customers currently paying this surcharge will experience an increase of \$0.27 in their monthly bill.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

#### Regulatory Impact Table

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Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$11,970,884. 00	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

PSC Commissioners, David R. Clark and John S. Harvey, Ph.D., have reviewed and approve this regulatory impact analysis.

All telecommunications customers in Utah will experience an increase of \$0.27 on their monthly telecommunications bill. This will enable the UUSF to satisfy the Legislative performance goal of maintaining a sufficient balance in the fund to pay three months' worth of disbursements, without incurring a deficit.

This will also enable the UUSF to meet its statutory mandate to provide a funding mechanism for Utah's qualifying regulated telecommunications carriers to "obtain specific, predictable, and sufficient funds to deploy and manage" telecommunications networks.

The PSC appreciates the detailed analysis done by the Division of Public Utilities in the Department of Commerce that provided the PSC the necessary information.

#### **Citation Information**

6. 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 54-3-1	Section 54-4-1	Section 54-8b-10
Section 54-8b-15		

#### **Public Notice Information**

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.)

A) Comments will be accepted 06/03/2024 until:

## 9. This rule change MAY 07/01/2024 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.

#### **Agency Authorization Information**

Agency head	David R. Clark	Date:	04/15/2024
or designee	and John S.		
and title:	Harvey, PhD,		
	PSC		
	Commissioners		

R746. Public Service Commission, Administration.

R746-8. Utah Universal Public Telecommunications Service Support Fund (UUSF).

#### R746-8-301. Calculation and Application of UUSF Surcharge.

- (1) The Utah Universal Public Telecommunications Service Support Fund (UUSF) shall be funded as follows:
- (a) Unless Subsection R746-8-301(3) applies, providers shall remit to the Commission [\$0.74]\$0.98 per month per access line that, as of the last calendar day of each month, has a place of primary use in Utah in accordance with the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.
- (b)(i) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs.
- (ii) A provider of mobile telecommunications service shall consider the customer's place of primary use to be the customer's residential street address or primary business street address.
- (iii) A provider of non-mobile telecommunications service shall consider the customer's place of primary use to be:
- (A) the customer's residential street address or primary business street address; or
  - (B) the customer's registered location for 911 purposes.
  - (c) A provider may collect the surcharge:
  - (i) as an explicit charge to each end-user; or
- (ii) through inclusion of the surcharge within the end-user's rate plan.
- (d) A provider that offers a multi-line service shall apply the surcharge to each concurrent real-time voice communication call session that an end-user can place to or receive from the public switched telephone network.
- (e)(i) Except as provided in Subsection R746-8-301(1)(e)(ii):
- (A) A provider that offers prepaid access lines or connections that permit access to the public telephone network shall remit to the Commission [\$0.71]\$0.98 per month per access line for such service, such as new access lines or connections, or recharges for existing lines or connections, purchased on or after January 1, 2018.
- (B) Subsection R746-8-301(1)(e)(i) operates in lieu of Subsection R746-8-301(1)(a) in that a provider who is required to make a remittance for an access line under Subsection R746-8-301(1)(e)(i) is not required to make an additional remittance for the same access line under Subsection R746-8-301(1)(a).
- (C) Multiple recharges of a single prepaid access line during a single month do not trigger multiple remittance requirements.

- (ii) The charge described in Subsection R746-8-301(1)(a) does not apply to a prepaid wireless telecommunications service, as defined in Section 69-2-405, that is subject to the service charge described in Subsection 69-2-405(2)(b).
- (iii) [\$0.71]\$0.98 per month is both the maximum and minimum amount of remittance necessary for any single access line.
- (2)(a) A provider shall remit to the Commission no less than 98.69% of its total monthly surcharge collections.
- (b) A provider may retain a maximum of 1.31% of its total monthly surcharge collections to offset the costs of administering this rule
- (3)(a) Subject to Subsection R746-8-301(3)(b), a provider may omit the UUSF surcharge with respect to an access line that is described in Subsection R746-8-301(1), and:
- (i) generates revenue that is subject to a universal service fund surcharge in a state other than Utah for the relevant month for which the provider omits the UUSF surcharge;
- (ii) for the relevant month for which the provider omits the UUSF surcharge, was not used to access Utah intrastate telecommunications services; or
- (iii) subject to Subsection R746-8-403(5), receives subsidization through a federal Lifeline program approved by the FCC.
- (b) A provider that omits any UUSF surcharge pursuant to Subsection R746-8-301(3)(a) shall:
- (i) maintain documentation for at least 36 months that the omission complied with Subsection R746-8-301(3)(a); and
  - (ii) consent to any audit of the documentation requested by
  - (A) Commission; or
  - (B) Division of Public Utilities.
- (c) A provider who omits any UUSF surcharge pursuant to Subsection R746-8-301(3)(a) shall report monthly to the Division of Public Utilities, using a method approved by the Division, the number of omissions claimed pursuant to Subsections R746-8-301(3)(a)(i) and R746-8-301(3)(a)(ii).

KEY: Utah universal service fund, surcharges and disbursements, speech/hearing challenges, assistive devices and technology

Date of Last Change: [December 29, 2023] 2024 Notice of Continuation: February 16, 2023

Authorizing, and Implemented or Interpreted Law: 54-3-1; 54-

4-1; 54-8b-15; 54-8b-10

**End of the Notices of Proposed Rules Section** 

the:

## NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **Proposed Rule** in the *Utah State Bulletin*, it may receive comment that requires the **Proposed Rule** to be altered before it goes into effect. A **Change in Proposed Rule** allows an agency to respond to comments it receives.

As with a **Proposed Rule**, a **Change in Proposed Rule** is preceded by a **Rule Analysis**. This analysis provides summary information about the **Change in Proposed Rule** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **Change in Proposed Rule**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **Changes in Proposed Rules** published in this issue of the *Utah State Bulletin* ends May 31, 2024.

Following the Rule Analysis, the text of the Change in Proposed Rule is usually printed. The text shows only those changes made since the Proposed Rule was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them ([example]). A row of dots in the text between paragraphs (.....) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a Change in Proposed Rule is too long to print, the Office of Administrative Rules may include only the Rule Analysis. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through <u>August 29, 2024</u>, an agency may notify the Office of Administrative Rules that it wants to make the **Change in Proposed Rule** effective. When an agency submits a **Notice of Effective Date** for a **Change in Proposed Rule**, the **Proposed Rule** as amended by the **Change in Proposed Rule** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **Change in Proposed Rule**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **Change in Proposed Rule** in response to additional comments received. If the Office of Administrative Rules does not receive a **Notice of Effective Date** or another **Change in Proposed Rule** by the end of the 120-day period after publication, the **Change in Proposed Rule** filing, along with its associated **Proposed Rule**, lapses.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

NOTICE OF CHANGE IN PROPOSED RULE			
Rule or Section R414-526 Filing ID: 56067 Number:			
Date of Previous Publication:	11/15/2023		

#### **Agency Information**

Agonoy imormatio	••
1. Department:	Health and Human Services
Agency:	Integrated Healthcare
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 84114-3102

#### **Contact persons:**

Name:	Phone:	Email:
Craig Devashrayee	801- 538- 6641	cdevashrayee@utah.gov
Mariah Noble	801- 538- 6111	mariahnoble@utah.gov

Please address questions regarding information on this notice to the persons listed above.

#### General Information

#### 2. Rule or section catchline:

R414-526. Quality Standards for Inpatient and Outpatient Hospitals

#### 3. Reason for this change:

Based on public comment and internal review, the purpose of this change in proposed rule (CPR) is to clarify provisions for accountable care organizations (ACOs) and quality measures for hospitals in accordance with Title 26B, Chapter 3, Part 7, Hospital Provider Assessment.

#### 4. Summary of this change:

This CPR clarifies provisions for metrics, data submission, penalties, and final determinations as they relate to the payment rate structure for ACOs and quality measures for hospitals.

It also makes other grammatical and restructuring changes.

(EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the November 15, 2023, issue of the Utah

State Bulletin, on page 152. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

#### **Fiscal Information**

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

#### A) State budget:

There is no anticipated fiscal impact to the state budget, as this CPR clarifies provisions within the text and makes other grammatical and restructuring changes.

The original filing of this rule has already accounted for any fiscal impact to the state budget.

#### B) Local government:

There is no anticipated impact on local governments, as they neither fund nor provide hospital services under the Medicaid program.

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

There is no anticipated impact on small businesses as this CPR clarifies provisions within the text and makes other grammatical and restructuring changes.

The original filing of this rule has already accounted for the fiscal impact on small businesses.

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

There is no anticipated impact on non-small businesses, as this CPR clarifies provisions within the text and makes other grammatical and restructuring changes.

The original filing of this rule has already accounted for the fiscal impact on non-small businesses.

E) Persons other than small businesses, non-small businesses, or 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 impact on other persons, as this CPR clarifies provisions within the text and makes other grammatical and restructuring changes.

The original filing of this rule has already accounted for the fiscal impact on other persons or entities.

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

As there is no anticipated impact on other persons, there are no compliance costs, as this change clarifies provisions within the text and makes other grammatical and restructuring changes.

The original filing of this rule has already accounted for the fiscal impact on a single person or entity.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

#### Regulatory Impact Table

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Fiscal Cost	FY2024	FY2025	FY2026
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 Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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

### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

#### **Citation Information**

6. 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 26B-1-213	Section 26B-3-108	Title 26B,
		Chapter 3, Part 7

#### **Public Notice Information**

- **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.)
- A) Comments will be accepted 05/31//2024 until:

## 9. This rule change MAY become 06/07/2024 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.

#### **Agency Authorization Information**

Agency head	Tracy S. Gruber,	Date:	04/25/2024
or designee	Executive Director		
and title:			

#### R414. Health and Human Services, Integrated Healthcare. R414-526. Quality Standards for Inpatient and Outpatient Hospitals.

#### R414-526-1. Introduction and Authority.

The purpose of this rule is to incorporate certain factors into the payment rate structure for accountable care organizations (ACOs), [and] to establish quality measures [and penalties] for hospital[s that perform] inpatient and outpatient services, and to establish corresponding performance penalties for hospitals as directed in Title 26B, Chapter 3, Part 7, Hospital Provider Assessment.

#### R414-526-2. Definitions.

For purposes of this rule, the following definitions apply.

- (1) "Directed payment" means a payment arrangement authorized by CMS that permits the department to direct specific payments made by a managed care plan to providers.
- $(\underline{2}[4])$  "Improvement margin" means a percentage determined by the department after consulting with hospitals and in accordance with evidence-based guidelines and national benchmarks.
- (3[2]) "Rural hospital" means a general acute hospital in a rural setting, [with the ]except[ion of] for a specialty hospital.
- (4[3]) "Specialty hospital" means a specialty hospital in an urban or rural setting as defined [by]in Section 26B-3-701.
- (5[4]) "Urban hospital" means a diagnosis-related group (DRG)-reimbursed hospital in an urban setting, [with the ]except[ion of] for a specialty hospital.

#### R414-526-3. Quality Metrics and Standards.

- (1) The department shall determine hospital quality measures that correspond to hospital performance for directed payments. The department adopts different quality standards for rural and specialty hospitals to address unique needs. The department uses the following categories for hospital quality measures and standards:
- (a) urban hospitals;
  - (b) rural hospitals; and
- (c) specialty hospitals.]
- (2) The department may select different hospital quality measures for urban, rural, and specialty hospitals. [For each measure, a hospital is required:
- (a) to score at or above the national average as identified by the Centers for Medicare and Medicaid Services; or
- (b) improve on quality measure performance from the preceding state fiscal year (SFY).
- (3) The department shall select hospital quality measures appropriate to a hospital type and specialty. [Urban hospitals shall submit quality measures for the Medicaid population that include:
- (a) a hospital wide all cause unplanned readmission rate within 30 days of discharge, which measures the provision of appropriate transitional care and discharge procedures to reduce the risk of unplanned hospital readmissions;
- (b) the proportion of patients who sign in to be evaluated for emergency services, but left without being evaluated by a credentialed provider; and
- (c) the ability to provide patients electronic access to timely, accurate, and comprehensive health information through an electronic portal.
  - (4) For each measure, a hospital shall:
  - (a) perform at or above a national or state benchmark or;
- (b) improve over its preceding state fiscal year (SFY) scores by an improvement margin defined by the department. Rural hospitals shall submit quality measures for the Medicaid population that include:
- (a) a hospital wide all-cause unplanned readmission rate within 30 days of discharge, which measures the provision of appropriate transitional care and discharge procedures to reduce the risk of unplanned hospital readmissions;
- (b) a median time for emergency department (ED) arrival to ED departure for discharged ED patients, which measures the average time patients spend in the ED before being sent home; and
- (c) the ability to provide patients electronic access to timely, accurate, and comprehensive health information through an electronic portal.
- (5) The department requires only Medicaid-certified hospitals that receive directed payments to comply with this rule.[The department shall work with specialty hospitals to identify their quality measures before July 1, 2024.]
- (6) Hospitals must meet targeted standards and improvement goals to receive full directed payments.
- [(6)(a) The department requires Medicaid-certified hospitals that receive directed payments to submit calculated measures.
- (b) These hospitals shall meet targeted standards and improvement goals to receive full direct payments.]

- (7) The department shall continue directed payments during the period targeted standards and improvement goals are under development.
- (8) The department shall develop a technical guide that includes details on the hospital quality measures, performance criteria, and penalties, and furnish the technical guide before the period for which performance is measured.
- (9) Quality standards are not applicable to directed payments associated with Subsection 26B-3-707(1)(a) or other private and government hospital inpatient and outpatient directed payment levels in place at the end of SFY 2023.
- (10) The department shall remove hospital quality standard requirements if directed payments, to which hospital quality performance are tied, are discontinued.

#### R414-526-4. Data Submission.

- (1) In SFY 2024, each hospital shall engage in necessary activities to prepare for reporting on the quality measures to the department. [During SFY 2024, each hospital shall engage in necessary activities to prepare for reporting on the quality measures to the department. In addition, each hospital shall submit a quarterly report to the department describing the activities and progress toward reporting capability on the quality measures within ten business days of the end of each quarter for the preceding quarter.]
- (a) In SFY 2024, each hospital shall submit a report to the department describing the activities and progress toward reporting capability on the quality measures within ten business days of the end of the SFY.
- (2) In SFY 2025, the quality measure performance period will begin at the start of SFY 2025 and continue through the end of the third quarter of SFY 2025.
- [(2) Each hospital shall submit their calculated quality measure data to the department within ten business days of the end of each subsequent SFY-](3) In SFY 2026, the quality measure performance period will begin at the start of the fourth quarter of SFY 2025 and continue through the end of the third quarter of SFY 2026.
- (4) In subsequent state fiscal years, the quality measure performance period will begin at the start of the fourth quarter of the SFY and continue through the end of the third quarter of the following SFY.
- (5) Each hospital shall submit quality measure data and other required reporting to the department within 30 business days following the end of the performance period unless otherwise specified.
- (6) Specialty hospitals are exempt from these reporting timeframes until the department identifies quality measures for specialty hospitals and a timeframe for reporting by specialty hospitals is established.

#### R414-526-5. Penalties.

- (1) The department shall determine penalties tied to hospital quality measure performance. [For each quality measure, the hospital shall meet a performance standard or be subject to penalties.]
- (2) A hospital must meet a performance standard for each quality measure or be subject to penalty. [Penalty levels for urban and rural hospitals are as follows:

- (a) an urban or rural hospital that performs at or above a national benchmark for quality measures, or improves over its preceding SFY quality measure scores by an improvement margin defined for each measure, receives no penalty;
- (b) an urban or rural hospital that does not perform at or above a national benchmark or does not improve over its preceding SFY quality measure score by an improvement margin defined for the measure, on only one of three measures, is subject to a Level 1 penalty;
- (c) an urban or rural hospital that does not perform at or above a national benchmark or does not improve over its preceding SFY quality measure score by an improvement margin defined for each measure, on two of three measures, is subject to a Level 2 penalty; or
- (d) an urban or rural hospital that does not perform at or above a national benchmark or does not improve over its preceding SFY quality measure score by an improvement margin defined for each measure, on all three measures, is subject to a Level 3 penalty.]
- (3) The following penalty levels apply for each hospital: For SFY 2024 payments, the department does not apply penalties to urban and rural hospitals.
- (a) a hospital that performs at or above a national or state benchmark for quality measures or improves over its preceding SFY quality measure scores by an improvement margin defined for each measure receives no penalty;
- (b) a hospital that has some combination of performance for quality measures that is at or above a national or state benchmark, improves over its preceding SFY quality measure score by an improvement margin defined for each measure, or makes incremental improvement toward the improvement margin defined for each measure is subject to a Level 1 penalty;
- (c) a hospital that does not perform at or above a national or state benchmark, does not improve over its preceding SFY quality measure score by an improvement margin defined for each measure, and makes no incremental improvement toward the improvement margin defined for each measure is subject to a Level 2 penalty; and
- (d) a hospital that does not submit its data timely to the department may receive a Level 2 penalty.
- (4) The department will not apply penalties to a hospital in SFY 2024. For SFY 2025 payments and beyond, the department assesses penalties to urban and rural hospitals by percentage as follows:
- (a) Level 1 penalty equals 1% of the SFY directed payment amounts;
- (b) Level 2 penalty equals 2% of the SFY directed payment amounts; and
- (c) Level 3 penalty equals 4% of the SFY directed payment amounts.
- (5) In SFY 2025 and after, the department shall assess penalties through the following penalty percentages:
- (a) penalties may not exceed 3% of a hospital's total SFY directed payment amount;

- (b) a Level 1 penalty is assessed on a portion of the 3% of the SFY directed payment penalty as detailed in the department's technical guide;
- (c) a Level 2 penalty equals 3% of the SFY directed payment amount; and
- [ (5) A hospital that does not timely submit its data to the department within ten business days of the end of the SFY shall receive a Level 3 penalty.]
- (6) After calculating the interim-final directed payment for the SFY, the appropriate penalty will reduce the interim-final directed payment and will constitute the final directed payment for the SFY.
- (a) If the resulting final directed payment is a negative value, that amount shall be payable by the hospital to the applicable ACO within 30 calendar days of notification from the department.
- (b) If the hospital fails to pay the ACO within 30 days, the department may suspend future directed payments to the hospital until the hospital pays the full amount.
- [ (6)(a) After calculating the interim-final directed payment for the SFY, the appropriate penalty reduces the interim-final directed payment and constitutes the final directed payment for the SFY.
- (i) If the resulting final directed payment is a positive value, the accountable care organization (ACO) shall pay the hospital within 30 calendar days of notification from the department.
- (ii) If the resulting final directed payment is a negative value, that amount is payable by the hospital to the applicable ACO within 30 calendar days of notification from the department.
- (c) If the hospital fails to pay the ACO within 30 days, the department may suspend future directed payments to the hospital until the ACO receives the full payment amount.]
- (7) In SFY 2025, specialty hospitals shall be exempt from penalty. [In accordance with Subsection (6), the ACO shall pay the department the penalty amount it receives from the hospital within 30 calendar days of receipt.
- (8) If the ACO fails to pay the department within 30 days, the department may suspend payments to the ACO until the department receives the full payment amount.
- (9) For SFY 2024 and SFY 2025, specialty hospitals are penalty exempt.]

#### R414-526-6. Final Determinations.

- (1) A hospital may request the department to reconsider the assessment of a penalty.
- (2) The department shall work with the hospital to address any disputes regarding performance and related penalties.
- (3) The department shall make final determinations on hospital performance and penalty assessments.

**KEY: Medicaid** 

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 26B-1-213;

26B-3-108

End of the Notices of Changes in Proposed Rules Section

## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **Proposed Rule**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at 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.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R70-310	Filing ID: 54646
Effective Date:	04/12/2024	

#### **Agency Information**

1. Department:	Agriculture and Food		
Agency:	Regulatory Services		
Building:	TSOB S	outh Bldg. Floor 2	
Street address:	4315 S 2	2700 W	
City, state and zip:	Taylorsville, UT 84129-2128		
Mailing address:	PO Box	146500	
City, state and zip:	Salt Lake City, UT 84114-6500		
Contact persons:			
Name:	Phone:	Email:	
Travis Waller	801- 982- 2250	twaller@utah.gov	
Kelly Pehrson	801- kwpehrson@utah.gov 982- 2200		
	982-	kwperiison@utan.gov	

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

2. Rule catchline:
R70-310. Grade A Pasteurized Milk

## 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 United States Public Health Service and the Food and Drug Administration, provide ordinances, procedures, and methods regarding Grade A Pasteurized Milk for the state which this rule adopts and incorporates by reference.

This rule defines the regulatory agency that has authority in enforcing the ordinances, and procedures as the Commissioner of the Utah Department of Agriculture and Food or the Commissioner's designee.

#### 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 Agriculture and Food (Department) has not received any public comments regarding this rule during the last five years.

The Department has not received any comments from dairy farms, retailers, or consumers regarding the rule or any requested changes.

## 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 has adopted these ordinances to regulate Grade A Pasteurized Milk in the state and plans to continue to regulate the products. Therefore, this rule should be continued.

Since the Department has not received public comments regarding this rule, there is no response to the comments.

#### **Agency Authorization Information**

	Craig W. Buttars, Commissioner	Date:	04/12/2024
and title:			

#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R277-462	Filing ID: 53111
Effective Date:	04/15/2024	

#### **Agency Information**

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

#### Contact persons:

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

Please address questions regarding information on this notice to the persons listed above.

#### General Information

#### 2. Rule catchline:

R277-462. School Counseling 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:

This rule is authorized pursuant to the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board.

Subsection 53E-3-401(4), which allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law.

Subsection 53E-2-304(2)(b) which directs local boards to develop policies for the implementation of student Plan for College and Career Readiness.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There were no public comments received.

#### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it establishes standards and procedures for a Local Education Agency (LEA) applying for funds appropriated for the School Counseling Program. This rule also establishes the minimum counselor to student ratios within an LEA and provisions for an LEA not meeting the minimum counselor to student ratios. Therefore, this rule should be continued.

#### **Agency Authorization Information**

Agency head	Angie Stallings,	Date:	04/15/2024
or designee	Deputy		
and title:	Superintendent of		
	Policy		

#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION Rule Number: R277-464 Filing ID: 53144 **Effective Date:** 04/15/2024

#### Agency Information

Agency informatio		
1. Department:	Education	
Agency:	Administration	
Building:	Board of	Education
Street address:	250 E 50	00 S
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	Phone:	Email:
Angie Stallings	801- angie.stallings@schools.uta 538- h.gov 7830	

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule catchline:

R277-464. School Counselor Direct and Indirect 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:

This rule is authorized pursuant to the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board.

Subsection 53E-3-401(4), which allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law.

Subsection 53E-3-518, which directs the Board to make rules specifying:

- (i) the recommended direct and indirect services a school counselor may provide;
- (ii) the recommended amount of time a school counselor may spend on direct and indirect services; and
- (iii) activities for a school counselor.
- 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There were no public comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it establishes the standards and time limits for direct and indirect services provided by a counselor within a Local Education Agency. Therefore, this rule should be continued.

#### **Agency Authorization Information**

Agency head	Angie Stallings,	Date:	04/15/2024
or designee and title:	Deputy Superintendent of		
	Policy		

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R430-8	Filing ID: 55617
Effective Date:	04/15/2024	

#### **Agency Information**

1. Department:	Health and Human Services
Agency:	Residential Child Care Licensing
Building:	MASOB
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
_	

#### Contact persons:

Name:	Phone:	Email:
Janice Weinman	385- 321- 5586	jweinman@utah.gov
Mariah Noble	385- 214- 1150	mariahnoble@utah.gov

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule catchline:

R430-8. Exemptions from Child Care Licensing

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 26B-2-402 authorizes the Office of Residential Child Care Licensing (Office) to write and enforce rules to govern licensure of child care facilities in Utah.

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:

An updated version of this rule was recently approved by the child care licensing committee and will be filed in the coming months.

This five-year review and filing is intended to ensure this rule remains in continual effect for statutory compliance until the proposed rule change can be completed and filed.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Aside from recodification, nonsubstantive changes for Rulewriting Manual for Utah compliance, and committee-approved amendments, there have been no comments or recommendations for changes to this rule over the past five years.

Statute requires the Office to write and enforce rules pertaining to Residential Child Care Licensing. Rule R430-8 lists who may be exempt from certain requirements of licensing and under which conditions.

This rule ensures there is no lapse in oversight of the license exempt child care providers. Therefore, this rule should be continued.

#### **Agency Authorization Information**

	Tracy S. Gruber,	Date:	04/15/2024
or designee and title:	Executive Director		
and title.	Director		

## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R432-45	Filing ID: 53818
Effective Date:	04/04/2024	

#### **Agency Information**

1. Department:	Health and Human Services	
Agency:	Health Care Facility Licensing	
Building:	MASOB	

Street address:	195 N 1950 W		
City, state and zip:	Salt Lake City, UT 84116		
Contact persons:			
Name:	Phone:	Email:	
Janice Weinman	385- 321- 5586	jweinman@utah.gov	
Mariah Noble	385- 214- 1150	mariahnoble@utah.gov	

Please address questions regarding information on this notice to the persons listed above.

#### General Information

#### 2. Rule catchline:

R432-45. Nurse Aide Training and Competency Evaluation 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:

This rule is necessary for the state to carry out the requirements of 42 USC 1396r Subsection (5), which mandates nursing facilities to ensure training for nurse aides is federally compliant.

In addition, the Utah Medicaid State Plan Subsection 4.38 requires that the Department of Health and Human Services (DHHS) administer the NATCEP and UNAR to certify and regulate Certified Nursing Aides (CNA) and approval of the required CNA training institutions.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no comments received since the last five-year review and no recommended substantive changes from the Health Care Facility Rule Committee.

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 there were no comments submitted regarding this rule, the Office of Health Care Facility Licensing (Office) has not responded to any comments.

However, the Office has determined there is need to update the content through a substantive amendment to streamline and clarify content. This amendment will not be in place before the expiration of this rule, and therefore, it is still necessary to continue this rule as is through this five-vear review.

Federal law and a DHHS contract identify the Office as the entity responsible for overseeing the compliance requirements of the federal nurse aid training and competency program. This rule is necessary and ensures there is no lapse in oversight of the nurse aid training and competency program until the new rule content can be filed as an amendment. Therefore, this rule should be continued.

#### **Agency Authorization Information**

Agency head	Tracy S. Gruber,	Date:	04/04/2024
or designee	Executive		
and title:	Director		

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R448-20	Filing ID: 56052
Effective Date:	04/04/2024	

#### **Agency Information**

5,				
1. Department:	Health a	Health and Human Services		
Agency:	Disease Control and Prevention, Medical Examiner			
Building:	Office of	the Medical Examiner		
Street address:	4451 S 2	2700 W		
City, state and zip:	Taylorsville, UT 84129			
Contact persons:				
Name:	Phone:	Email:		
Krisann Bacon	801- 816- 3850	krisannbacon@utah.gov		
Michael Staley	801- 816- 3850	mstaley@utah.gov		
Please address of	uestions	regarding information on		

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule catchline:

R448-20. Access to Medical Examiner Reports

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 26B-1-202 and Subsection 26B-8-217(7) authorize this rule.

The first is the general public health authority of the Department of Health and Human Services (DHHS).

The second is specific language authorizing the DHHS to make rules relating to the implementation of this section of statute on who can have access to medical examiner records.

## 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received since the last five-year review of this rule.

## 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 to ensure public safety in light of emerging public health threats due to suicide, drug overdose, and other forms of death that fall under the Office of Medical Examiner (OME) jurisdiction.

This rule allows partners in other government agencies to respond to possible threats, provide critical responses, and prevent additional premature deaths.

This rule allows the OME to be proactive in responding to possible public health threats, rather than rely on other actors to inquire of such deaths. Therefore, this rule should be continued.

As there were no comments submitted to DHHS in opposition of this rule, DHHS did not respond to comments.

#### **Agency Authorization Information**

Agency head	Tracy S. Gruber,	Date:	04/04/2024
or designee	Executive		
and title:	Director		

## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R527-394	Filing ID: 55573
Effective Date:	04/15/2024	

#### **Agency Information**

1. Department:	Health and Human Services	
Agency:	Recovery Services	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	d Taylorsville, UT 84129	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84114-5033	

Contact persons:			
Name:	Phone:	Email:	
Jodi Witte	801- 471- 7417	jwitte@utah.gov	
Casey Cole	801- 741- 7523	cacole@utah.gov	
Mariah Noble	385- 214- 1150	mariahnoble@utah.gov	

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule catchline:

R527-394. Posting Bond or Security

## 3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Sections 26B-1-202 and 26B-9-108 give the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law.

Section 26B-9-223 requires ORS to establish rules for determining when it is appropriate to seek a court order requiring a noncustodial parent to post a bond or provide other security for the payment of a support debt.

45 CFR 303.105(c) requires each state to develop guidelines available to the public for determining when it is not appropriate to require a noncustodial parent to post security, bond, or some other guarantee of payment of overdue support.

The criteria listed in this rule meets those 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:

There have been no comments received since the last five-year review of 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 is necessary pursuant to state law and federal regulation. Also, it helps ensure that ORS only takes legal action against a noncustodial parent to post a bond or other security when the appropriate circumstances warrant it.

Therefore, this rule should be continued.

#### **Agency Authorization Information**

Agency head	Tracy S. Gruber,	Date:	04/15/2024
or designee	Executive		
and title:	Director		

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-93	Filing ID: 54942
Effective Date:	04/03/2024	

#### **Agency Information**

1. Department:	Insurance
Agency:	Administration
Room number:	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 persons:

Name:	Phone:	Email:
Steve Gooch	801-	sgooch@utah.gov
	957-	
	9322	

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule catchline:

R590-93. Replacement of Life Insurance and Annuities

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.

Section 31A-22-429 authorizes the insurance commissioner to require statements regarding existing insurance to adopt the notice regarding replacement.

Section 31A-23a-402 authorizes the insurer to define methods of competition, acts, and practices as unfair or deceptive.

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:

This rule provides consumer protection and sets minimum standards to be followed by producers and insurers during the replacement of life insurance policies and annuity contracts.

This rule informs the consumer, who is contemplating replacing existing coverage, to think about the benefits that the old policy may provide over those in a new policy. Therefore, this rule should be continued.

#### **Agency Authorization Information**

Agency head	Steve Gooch,	Date:	04/03/2024
or designee	Public Information		
and title:	Officer		

## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-98	Filing ID: 53928
Effective Date:	04/03/2024	

#### **Agency Information**

agonoy information		
1. Department:	Insurance	
Agency:	Administration	
Room number:	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 persons:

Name:	Phone:	Email:
Steve Gooch	801- 957- 9322	sgooch@utah.gov

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule catchline:

R590-98. Unfair Practice in Payment of Life Insurance and Annuity Policy Values

## 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.

Section 31A-23a-402 authorizes the Insurance Commissioner to define methods of competition, acts, and practices as unfair or deceptive.

## 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:

This rule is necessary to protect policyholders who request payment of life and annuity policy values.

This rule requires a prompt response by a life insurance and annuity company to a policyholder's request for policy values.

This rule limits the exercise of the statutory deferral option to situations in which the financial stability of the insurer is at risk.

Some insurers think they can delay payment up to six months; however, such a delay must first be approved by the Insurance Commissioner. Therefore, this rule should be continued.

#### **Agency Authorization Information**

Agency head	Steve Gooch,	Date:	04/03/2024
or designee	Public Information		
and title:	Officer		

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-166	Filing ID: 54186
Effective Date:	04/03/2024	

#### **Agency Information**

1. Department:	Insurance	
Agency:	Administration	
Room number:	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		146901
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801- 957- 9322	sgooch@utah.gov

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule catchline:

R590-166. Home Protection Service Contracts

## 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.

#### 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:

This rule solves a problem facing home warranty companies that cannot find reimbursement insurance. This rule provides "alternative security" for the warranties they issue in lieu of reimbursement insurance, making it necessary to keep this rule in effect. Therefore, this rule should be continued.

#### **Agency Authorization Information**

Agency head	Steve Gooch,	Date:	04/03/2024
or designee	Public Information		
and title:	Officer		

## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-190	Filing ID: 55510
Effective Date:	04/03/2024	

#### **Agency Information**

1. Department:	Insurance
Agency:	Administration
Room number:	Suite 2300

Building:	Taylorsville State Office Building		
Street address:	4315 S 2	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 persons:			
Name:	Phone:	Email:	
Steve Gooch	801- 957-	sgooch@utah.gov	

Please address questions regarding information on this notice to the persons listed above.

#### General Information

#### 2. Rule catchline:

R590-190. Unfair Property, Casualty, and Title Claims Settlement Practices 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.

Section 31A-21-312 authorizes the insurance commissioner to write rules dealing with proof of loss and notice of loss time limitations under an insurance policy.

Section 31A-26-301 authorizes the insurance commissioner to write rules to provide for the timely payment of claims.

Section 31A-26-303 authorizes the insurance commissioner to write rules to define unfair claims settlement practices or acts.

## 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:

During the 2023 amendment of this rule, a constituent submitted concerns about a change in Subsection R590-190-11(9). The Department of Insurance agreed with the change and worked with the constituent to make this rule more fair and accurate.

## 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 a critical guide for the insurance industry and their insureds to use in the claim settlement and complaint process for automobile, homeowners, and title policies.

This rule is necessary to ensure such guidance is available to both consumers and the industry. Therefore, this rule should be continued.

#### **Agency Authorization Information**

Agency head	Steve Gooch,	Date:	04/03/2024
or designee	Public Information		
and title:	Officer		

## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

 Rule Number:
 R590-191
 Filing ID: 55511

 Effective Date:
 04/03/2024

#### **Agency Information**

igency information			
Insurance			
Administration			
Suite 23	00		
Taylorsvi	lle State Office Building		
4315 S 2	2700 W		
Taylorsville, UT 84129			
PO Box 146901			
Salt Lake City, UT 84114-6901			
Contact persons:			
Phone: Email:			
801- 957- 9322	sgooch@utah.gov		
	Administ Suite 230 Taylorsvi 4315 S 2 Taylorsvi PO Box Salt Lake Phone: 801- 957-		

Please address questions regarding information on this notice to the persons listed above.

#### General Information

#### 2. Rule catchline:

R590-191. Unfair Life Insurance Claims Settlement Practices 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.

Section 31A-21-312 authorizes the insurance commissioner to write rules dealing with proof of loss and notice of loss time limitations under an insurance policy.

Section 31A-26-301 authorizes the insurance commissioner to write rules to provide for the timely payment of claims.

Section 31A-26-303 authorizes the insurance commissioner to write rules to define unfair claims settlement practices or acts.

#### 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:

This rule is a critical guide for the insurance industry and their insureds to use in the claim settlement and complaint process for life insurance policies. This rule is necessary to ensure such guidance is available to both consumers and the industry. Therefore, this rule should be continued.

#### **Agency Authorization Information**

Agency head	Steve Gooch,	Date:	04/03/2024
or designee	Public Information		
and title:	Officer		

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R765-604	Filing ID: 53423
Effective Date:	04/10/2024	

#### **Agency Information**

1. Department:	Higher Education (Utah Board of)			
Agency:	Administ	Administration		
Building:	Utah Board of Higher Education Building, The Gateway			
Street address:	60 S 400 W			
City, state and zip:	Salt Lake City, UT 84101			
Contact persons:				
Name:	Phone:	Email:		
Kevin V. Olsen	801- 556- 3461	kvolsen@agutah.gov		

Alison A. Adams	801- 643- 5535	alison.adams@ushe.edu
Geoffrey T. Landward	801- 321- 7136	glandward@ushe.edu

Please address questions regarding information on this notice to the persons listed above.

#### **General Information**

#### 2. Rule catchline:

R765-604. New Century Scholarship

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 53B-8-105(10) requires the Utah Board of Higher Board to adopt policies establishing an application process and an appeal process for a New Century scholarship.

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 to summarize.

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 justified because the Utah Board of Higher Education continues to administer the New Century Scholarship. Therefore, this rule should be continued.

#### **Agency Authorization Information**

Agency head	Kevin V. Olsen,	Date:	04/10/2024
or designee	Assistant Attorney		
and title:	General and		
	Designee		

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).

NOTICE OF EXPIRED RULE		
Rule Number:	R628-19	Filing ID: 51525
Effective Date:	04/16/2024	

#### **Agency Information**

1. Department:	Money Management Council		
Agency:	Administration		
Street address:	350 N State St, Suite 180		
City, state, and zip:	Salt Lake City. UT 84114-2315		
Contact person(s)	Contact person(s):		
Name:	Phone:	Email:	
Nancy L. Lancaster	801- 957- 7102	rulesonline@utah.gov	

#### **General Information**

2. Title of rule (catchline):		
R628-19. Requirements for the Use of Investment Advisers by Public Treasurers		

#### 3. Summary:

The five-year review and notice of continuation was not filed for this rule by the deadline because of an emergency for a staff member. This rule has expired and will be removed from the Utah Administrative Code.

(EDITOR'S NOTE: Since this occurred unexpectedly because of a staff member being out of the office, the agency will file a proposed new rule as soon as possible to put this rule back into place.)

NOTICE OF EXPIRED RULE		
Rule Number:	R628-20	Filing ID: 51524
Effective Date:	04/16/2024	

#### **Agency Information**

1. Department:	Money Management Council
Agency:	Administration
Street address:	350 N State St, Suite 180
City, state, and zip:	Salt Lake City. UT 84114-2315

Contact person(s):			
Name:	Phone:	Email:	
Nancy L. Lancaster	801- 957- 7102	rulesonline@utah.gov	

#### **General Information**

#### 2. Title of rule (catchline):

R628-20. Foreign Deposits for Higher Education Institutions

#### 3. Summary:

The five-year review and notice of continuation was not filed for this rule by the deadline because of an emergency for a staff member. This rule has expired and will be removed from the Utah Administrative Code.

(EDITOR'S NOTE: Since this occurred unexpectedly because of a staff member being out of the office, the agency will file a proposed new rule as soon as possible to put this rule back into place.)

Rule Number:	R628-21	Filing ID: 51530
Effective Date:	04/16/2024	

#### **Agency Information**

1. Department:	Money Management Council			
Agency:	Administration			
Street address:	350 N State St, Suite 180			
City, state, and zip:	Salt Lake City. UT 84114-2315			
Contact person(s):				
Name:	Phone:	Email:		
Nancy L. Lancaster	801- 957- 7102	rulesonline@utah.gov		

#### **General Information**

#### 2. Title of rule (catchline):

R628-21. Conditions and Procedures for the Use of Reciprocal Deposits

#### 3. Summary:

The five-year review and notice of continuation was not filed for this rule by the deadline because of an emergency for a staff member. This rule has expired and will be removed from the Utah Administrative Code.

(EDITOR'S NOTE: Since this occurred unexpectedly because of a staff member being out of the office, the agency will file a proposed new rule as soon as possible to put this rule back into place.)

End of the Notices of Notices of Five-Year Expirations Section

## NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **Proposed Rules** or **Changes in Proposed Rules** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **Changes in Proposed Rules** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **Notice of Effective Date** within 120 days from the publication of a **Proposed Rule** or a related **Change in Proposed Rule** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**Notices of Effective Date** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

**Animal Industry** 

No. 56256 (Amendment) R58-11: Slaughter of Livestock

and Poultry

Published: 01/01/2024 Effective: 04/22/2024

No. 56256 (Change in Proposed Rule) R58-11: Slaughter

of Livestock and Poultry Published: 03/15/2024 Effective: 04/22/2024

Commerce

**Professional Licensing** 

No. 56322 (Amendment) R156-1: General Rule of the Division of Occupational and Professional Licensing

Published: 03/15/2024 Effective: 04/23/2024

Real Estate

No. 56336 (Amendment) R162-2e: Appraisal Management

Company Administrative Rules

Published: 03/15/2024 Effective: 04/24/2024

**Education** 

Administration

No. 56324 (Amendment) R277-308: New Educator

Induction and Mentoring Published: 03/01/2024 Effective: 04/09/2024

No. 56325 (Amendment) R277-328: Educational Equity in

Schools

Published: 03/01/2024 Effective: 04/09/2024 No. 56326 (Amendment) R277-471: School Construction

Oversight, Inspections, Training and Reporting

Published: 03/01/2024 Effective: 04/09/2024

No. 56327 (Amendment) R277-910: Underage Drinking

and Substance Abuse Prevention Program

Published: 03/01/2024 Effective: 04/09/2024

No. 56328 (Amendment) R277-912: Law Enforcement

Related Incident Reporting Published: 03/01/2024 Effective: 04/09/2024

**Environmental Quality** 

Waste Management and Radiation Control, Waste

Management

No. 56319 (Amendment) R315-320: Waste Tire

Transporter and Recycler Requirements

Published: 03/01/2024 Effective: 04/15/2024

Financial Institutions

Credit Unions

No. 56311 (Amendment) R337-5: Allowance for Loan and

Lease Losses - Credit Unions

Published: 03/01/2024 Effective: 04/09/2024

Health and Human Services

Population Health, Emergency Medical Services

No. 56323 (Amendment) R426-7: Emergency Medical

Services Prehospital Data System Rules

Published: 03/01/2024 Effective: 04/22/2024

#### NOTICES OF RULE EFFECTIVE DATES

Patient Safety Program

No. 56263 (Repeal) R429-3: Adverse Events from the Administration of Sedation or Anesthesia; Recording and

Reporting

Published: 01/01/2024 Effective: 04/15/2024

Health Care Facility Licensing

No. 56270 (Amendment) R432-40: Long-Term Care Facility

**Immunizations** 

Published: 01/15/2024 Effective: 04/15/2024

Data, Systems and Evaluation, Vital Records and Statistics No. 55961 (Amendment) R436-7: Death Registration

Published: 11/15/2023 Effective: 04/15/2024

No. 55961 (Change in Proposed Rule) R436-7: Death

Registration

Published: 02/15/2024 Effective: 04/15/2024

Administration (Human Services)

No. 56261 (Repeal) R495-890: Department of Human

Services Conflict Investigation Procedure

Published: 01/01/2024 Effective: 04/15/2024

**Human Services Program Licensing** 

No. 56269 (Amendment) R501-15: Therapeutic Schools

Published: 01/15/2024 Effective: 04/15/2024

Substance Use and Mental Health

No. 56215 (Amendment) R523-14: Suicide Prevention

Published: 01/01/2024 Effective: 04/15/2024

Lieutenant Governor

Elections

No. 56238 (New Rule) R623-11: Signature Verification

Standards

Published: 01/01/2024 Effective: 04/04/2024

Natural Resources

State Parks

No. 56329 (Repeal) R651-301: State Recreation Fiscal

Assistance Program Published: 03/01/2024 Effective: 04/08/2024

Water Resources

No. 56335 (New Rule) R653-13: Acquisition and Disposal

of Real Property Interests Published: 03/15/2024 Effective: 04/29/2024 Navajo Trust Fund

Trustees

No. 56272 (Amendment) R661-13: Veteran's Housing

**Program Policy** 

Published: 01/15/2024 Effective: 04/23/2024

Pardons (Board of)

Administration

No. 56298 (Amendment) R671-201: Original Hearing

Schedule and Notice Published: 02/15/2024 Effective: 04/01/2024

No. 56299 (Amendment) R671-312a: Commutation

Procedures Applicable to Persons Sentence to Death Before

April 26, 1992

Published: 02/15/2024 Effective: 04/01/2024

No. 56300 (Amendment) R671-312b: Commutation Procedures Applicable to Persons Sentenced to Death After

April 26, 1992

Published: 02/15/2024 Effective: 04/01/2024

No. 56301 (Amendment) R671-313: Commutation

Hearings (Non-Death Penalty Cases)

Published: 02/15/2024 Effective: 04/01/2024

No. 56302 (Amendment) R671-314: Compassionate

Release

Published: 02/15/2024 Effective: 04/01/2024

No. 56303 (Amendment) R671-509: Progress / Violation

Reports

Published: 02/15/2024 Effective: 04/01/2024

No. 56304 (Amendment) R671-510: Evidence for Issuance

of Warrants

Published: 02/15/2024 Effective: 04/01/2024

No. 56305 (Amendment) R671-514: Waiver and Pleas of

Guilt

Published: 02/15/2024 Effective: 04/01/2024

Public Service Commission

Administration

No. 56315 (Amendment) R746-312: Electrical

Interconnection

Published: 03/01/2024 Effective: 04/09/2024 No. 56316 (Amendment) R746-313: Electrical Service

Reliability

Published: 03/01/2024 Effective: 04/09/2024

Tax Commission

Auditing

No. 56307 (Amendment) R865-19S-33: Admissions and User Fees Pursuant to Utah Code Ann. Sections 59-12-102

and 59-12-103

Published: 02/15/2024 Effective: 03/28/2024 <u>Transportation</u>

Program Development

No. 56314 (Amendment) R926-13: Designated Scenic

Byways

Published: 03/01/2024 Effective: 04/08/2024

Workforce Services

Employment Development

No. 56310 (Amendment) R986-700: Child Care Assistance

Published: 02/15/2024 Effective: 04/01/2024

**End of the Notices of Rule Effective Dates Section**