R25. Administrative Services, Finance.
R25-10. State Entities' Posting of Financial Information to the Utah Public Finance Website.
R25-10-1. Purpose.

The purpose of this rule is to establish procedures related to the posting of the participating state entities' financial information to the Utah Public Finance Website (UPFW).

R25-10-2. Authority.

This rule is established pursuant to Subsection 63A-3-404, which authorizes the Division of Finance to make rules governing the posting of financial information for participating state entities on the UPFW after consultation with the Utah Transparency Advisory Board.

R25-10-3. Definitions.

(1) "Utah Public Finance Website" (UPFW) means the website created in UCA 63A-3-402 which is administered by the Division of Finance and which permits Utah taxpayers to view, understand, and track the use of taxpayer dollars by making public financial information available on the internet without paying a fee.

(2) "Participating state entities" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions, including institutions of higher education such as colleges, universities, and the Utah System of Technical Colleges, and includes all component units of these entities as defined by the Governmental Accounting Standards Board (GASB).

(3) "Division" means the Division of Finance of the Department of Administrative Services.

R25-10-4. Public Financial Information.

(1) Participating state entities shall submit detail revenue and expense transactions from their general ledger accounting system to the UPFW at least quarterly and within one month after the end of the fiscal quarter. The detail transactions for all participating state entities that are recorded in the central general ledger of the State, FINET, shall be submitted by the Division.

(2) Participating state entities will submit employee compensation detail information on a basis consistent with its fiscal year to the UPFW at least once per year and within three months after the end of the fiscal year. The employee compensation detail information that is recorded in the central payroll system of the State that is operated by the Division will be submitted by the Division.

(a) Employee compensation detail information will, at a minimum, break out the following amounts separately for each employee:

(i) Total wages or salary

(ii) Total benefits only, benefit detail is not allowed

(iii) Incentive awards

(iv) Taxable allowances and reimbursements

(v) Leave paid, if recorded separately from wages or salary in the participating state entity's payroll system.

(b) In addition, the following information will be submitted for each employee:

(i) Name

(ii) Hourly rate for those employees paid on an hourly basis.

(iii) Gender

(iv) Job title

(3) Entities must not submit any data to the UPFW that is classified as private, protected, or controlled by UCA 63G-2, Government Records Management Act. All detail transactions or records are required to be submitted; however, the words "not provided" shall be inserted into any applicable data field in lieu of private, protected, or controlled information.

R25-10-5. UPFW Data Submission Procedures.

(1) Entities must submit data to the UPFW according to the file specifications listed below.

(a) The public financial information required in R25-10-4 will be submitted to the UPFW in a pipe delimited text file. The detail file layout is available from the Division and is posted on the UPFW under the Helps and FAQs tab.

(b) Data will be submitted to the UPFW at the detail transaction level. However, the detailed transactions for compensation information for each employee may be summarized into transactions that represent an entire fiscal year.

(c) Each transaction submitted to the website must contain the information required in the detail file layout including:

(i) Organization - Categorizes transactions within the entity's organization structure. If available, at least 2 levels of organization will be submitted but not more than 10 levels.

(ii) Category - Categorizes transactions and further describes the transaction type. If available, at least 2 levels of category will be submitted but not more than 7 levels.

(iii) Fund - Categorizes transactions by fund types and individuals funds. At least 1 but not more than 4 levels of fund will be submitted.

KEY: Utah Public Financial Website, transparency, state employees, finance
January 23, 2019 63A-3-404
Notice of Continuation November 20, 2018

R25. Administrative Services, Finance.
R25-11. Utah Transparency Advisory Board, Procedures for Electronic Meetings.
R25-11-1. Purpose and Authority.

(1) Purpose. Utah Code Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to establish written procedures for such meetings. This rule establishes procedures for conducting Utah Transparency Advisory Board meetings by electronic means.

(2) Authority. This rule is enacted under the authority of Utah Code Sections 52-4-207, 63G-3-201, and 63A-3-404

R25-11-2. Meeting Procedure.

(1) Procedure. The following provisions govern any meeting at which one or more board members appear telephonically or electronically pursuant to Utah Code Section 52-4-207:

(a) If one or more members of the board may participate in any meeting electronically or telephonically, public notices of the meeting shall so indicate. In addition, the notices shall specify the anchor location where the members of the board who are not participating electronically or telephonically will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(b) In accordance with Utah Code Section 52-4-202 and Section 52-4-207, notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be provided at least 24 hours before the meetings on the Public Notice Website and to at least one newspaper of general circulation within the state or to a local media correspondent.

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

(d) When notice is given of the possibility of a board member(s) appearing electronically or telephonically, any member(s) 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 board. At the commencement of the meeting, or at such time as any member initially appears electronically or telephonically, the chair shall identify for the record all those who are appearing telephonically or electronically. Votes by members of the board who are not at the physical location of the meeting shall be confirmed by the chair.

(e) The anchor location, unless otherwise designated in the notice, shall be in the State Capitol Building, room 415, 350 North State Street, Salt Lake City, Utah. The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. In addition, the anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

KEY: electronic meetings, Utah Transparency Advisory Board

August 21, 2014	**52-4-207**
Notice of Continuation January 7, 2019	**63G-3-201**
	63A-3-404

R37. Administrative Services, Risk Management.
R37-4. Adjusted Utah Governmental Immunity Act Limitations on Judgments.
R37-4-1. Authority and Calculation Process.

Pursuant to UCA 63G-7-605(4) the Risk Manager hereby establishes new limitations of judgments, based upon the adjustments communicated by the Legislative Fiscal Analyst.

R37-4-2. New Limitation of Judgment Amounts.

The new limitation of judgment amounts currently required by UCA 63G-7-604(3) are increased as follows, pursuant to UCA 63G-7-605, and are effective July 1, 2018 for claims occurring on or after that date:

1) The limit for damages for personal injury against a governmental entity, or an employee who a governmental entity has a duty to indemnify, is $745,200 for one person in any one occurrence, and $2,552,000 aggregate amount of individual awards that be may awarded in relation to a single occurrence; and

2) The limit for property damages (excluding damages awarded as compensation when a governmental entity has taken or damaged private property for public use without just compensation) against a governmental entity, or an employee whom a governmental entity has a duty to indemnify is $295,000 in any one occurrence.

R37-4-3. Limitations of Judgments by Calendar Date.

The limitations on judgments are established by the date of the occurrence. The dates and dollar amounts are as follows:

1) Incident(s) occurring before July 1, 2001 - $250,000 for one person in an occurrence, $500,000 aggregate for two or more persons in an occurrence; and $100,000 for property damage for any one occurrence.

2) Incident(s) occurring on or after July 1, 2001 - $500,000 for one person in an occurrence, $1,000,000 aggregate for two or more persons in an occurrence; and $200,000 for property damage for any one occurrence.

3) Incident(s) occurring on or after July 1, 2002 - $532,500 for one person in an occurrence, $1,065,000 aggregate for two or more persons in an occurrence; and $213,000 for property damage for any one occurrence.

4) Incident(s) occurring on or after July 1, 2004 - $553,500 for one person in an occurrence, $1,107,000 aggregate for two or more persons in an occurrence, and $221,400 for property damage for any one occurrence.

5) Incident(s) occurring on or after July 1, 2006 - $583,900 for one person in an occurrence, $1,167,900 aggregate for two or more persons in an occurrence, and $233,600 for property damage for any one occurrence.

6) Incident(s) occurring on or after July 1, 2007 - $583,900 for one person in an occurrence, $2,000,000 aggregate for two or more persons in an occurrence, and $233,600 for property damage for any one occurrence.

7) Incident(s) occurring on or after July 1, 2008 - $620,700 for one person in an occurrence, $2,126,000 aggregate for two or more persons in an occurrence, and $248,300 for property damage for any one occurrence.

8) Incident(s) occurring on or after July 1, 2010 - $648,700 for one person in an occurrence, $2,221,700 aggregate for two or more persons in an occurrence, and $259,500 for property damage for any one occurrence.

9) Incident(s) occurring on or after July 1, 2012 - $674,000 for one person in an occurrence, $2,308,400 aggregate for two or more persons in an occurrence, and $269,700 for property damage for any one occurrence.

10) Incident(s) occurring on or after July 1, 2014 - $703,000 for one person in an occurrence, $2,407,700 aggregate for two or more persons in an occurrence, and $281,300 for property damage for any one occurrence.

11) Incident(s) occurring on or after July 1, 2016 - $717,100 for one person in an occurrence, $2,455,900 aggregate for two or more persons in an occurrence, and $286,900 for property damage for any one occurrence.

12) Incident(s) occurring on or after July 1, 2018 - $745,200 for one person in an occurrence, $2,552,000 aggregate for two or more persons in an occurrence, and $295,000 for property damage for any one occurrence as explained in R37-4-2(2).

KEY: limitation on judgments, risk management, Governmental Immunity Act caps
January 18, 2019 63G-7-604(4)
Notice of Continuation May 5, 2017

R58. Agriculture and Food, Animal Industry.
R58-20. Domesticated Elk Hunting Parks.
R58-20-1. Authority and Purpose.

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

(i) procedures for obtaining domesticated elk facility licenses,

(ii) requirements for operating those facilities,

(iii) standards for disposal/removal of animals within those facilities, and

(iv) health standards and requirements in such facilities.

R58-20-2. Definitions.

In addition to terms used in Section 4-39-102, and R58-18-2:

(1) "Division" means the Division of Animal Industry, in the Utah Department of Agriculture and Food.

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

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

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

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

(6) "Secure Enclosure" means a perimeter fence or barrier that is constructed and maintained in accordance with Section 4-39-201 and will prevent domestic elk from escaping into the wild or the ingress of big game wildlife into the facility.

R58-20-3. Application and Licensing Process.

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

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

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

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

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

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

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

R58-20-4. License Renewal.

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

R58-20-5. Facilities.

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

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

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

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

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

R58-20-6. Records.

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

R58-20-7. Genetic Purity.

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

R58-20-8. Acquisition of Elk.

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

R58-20-9. Identification.

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

R58-20-10. Inspections.

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

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

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

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

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

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

(6) A Domestic Elk Harvest Permit must be filled out by the park owner at the time of harvest. One copy of the permit shall be sent to the division office, one copy shall go to the hunter and one copy shall be kept on file at the facility. Validated tags must be attached to the carcass and the antlers

prior to leaving the park and remain affixed during transportation to residence, meat processor, taxidermist, etc.

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

R58-20-11. Health Rules.

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

R58-20-12. Meat.

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

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

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

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

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

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

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

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

R58-20-14. Liability.

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

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

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

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

KEY: elk, hunting parks, inspections
September 19, 2016 4-39-106
Notice of Continuation January 7, 2019

R156. Commerce, Occupational and Professional Licensing.
R156-20b. Environmental Health Scientist Act Rule.
R156-20b-101. Title.

This rule is known as the "Environmental Health Scientist Act Rule."

R156-20b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 20b, as used in Title 58, Chapters 1 and 20b or this rule:

(1) "Distance learning" means the acquisition of knowledge and skills through information and instruction encompassing all technologies and other forms of learning at a distance, including internet, audio/visual recordings, mail or other correspondence.

(2) "Qualified professional continuing education," as used in this rule, means professional continuing education that meets the standards set forth in Section R156-20b-304.

(3) "Unprofessional conduct," as defined in Title 58 Chapters 1 and 20b, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-20b-502.

R156-20b-103. Authority - Purpose.

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 20b.

R156-20b-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-20b-302. Good Moral Character - Disqualifying Convictions.

(1) When reviewing an application to determine the good moral character of an applicant as set forth in Section 58-20b-302 and whether the applicant has been involved in unprofessional conduct as set forth in Subsection 58-1-501(2)(c), the Division and the Board shall consider the applicant's criminal record as follows:

(a) A criminal conviction for a sex offense as defined in Title 76, Chapter 5, Part 4 and Chapter 5a, and Title 76, Chapter 10, Part 12 and 13, may disqualify an applicant from becoming licensed.

(b) Other criminal history is relevant, including as to the following:

(i) crimes against a person as defined in Title 76, Chapter 5, Parts 1, 2 and 3;

(ii) crimes against property as defined in Title 76, Chapter 6, Parts 1 through 6;

(iii) any offense involving controlled dangerous substances; or

(iv) conspiracy to commit or any attempt to commit any of the above offenses.

(2) An applicant who has a criminal conviction for a felony crime of violence may be considered ineligible for licensure for a period of seven years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(3) An applicant who has a criminal conviction for a felony involving a controlled substance may be considered ineligible for licensure for a period of five years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(4) An applicant who has a criminal conviction for any misdemeanor crime of violence or the use of a controlled substance may be considered ineligible for licensure for a period of three years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(5) Each application for licensure or renewal of licensure shall be considered in accordance with the requirements of Section R156-1-302.

(6) A person whose moral character is subject to review under this Section R156-20b-302 is not guaranteed licensure after allowing a specified period of time to pass after conviction.

R156-20b-302a. Qualifications for Licensure - Education Requirements.

In accordance with Subsections 58-20b-102(1)(b) and 58-20b-302(1)(d) and (2)(d), an applicant for licensure shall satisfy the education requirement as follows:

(1) The applicant shall submit evidence of a bachelor's degree or higher from:

(a) an environmental health program accredited by the National Environmental Health Science and Protection Accreditation Council (EHAC);

(b) an accredited program with major study in one of the following:

(i) agronomy;
(ii) biology;
(iii) botany;
(iv) chemistry;
(v) civil engineering;
(vi) environmental health;
(vii) environmental science;
(viii) environmental studies;
(ix) geology;
(x) microbiology;
(xi) physics;
(xii) physiology;
(xiii) sanitary engineering;
(xiv) sustainability studies;
(xv) zoology; or
(xvi) coursework approved by the Division in collaboration with the Board; or

(c) an accredited program that includes:

(i) a college or university level algebra or math course; and

(ii) 30 semester hours or 45 quarter hours from at least three of the areas of study listed in Subsection (1)(b).

(2) If the applicant's degree was earned at an institution, college, or university not accredited by the Department of Education or the Council for Higher Education Accreditation (such as in a foreign country), the applicant shall submit evidence of the education's equivalency to Department of Education-accredited programs, as determined by:

(a) Academic Evaluation Services, Inc;

(b) Josef Silny and Associates, Inc.; or

(c) a credentialing agency approved by the Division in collaboration with the Board.

(3) An applicant may satisfy deficiencies in coursework by completion of additional hours of approved coursework at an institution, college, or university accredited by the Department of Education or the Council for Higher Education Accreditation, as approved by the Division in collaboration with the Board.

R156-20b-302b. Qualifications for Licensure - Examination Requirement.

(1) In accordance with Subsection 58-20b-302(1)(e), an applicant shall satisfy the examination requirement by submitting evidence of having passed the National Environmental Health Association Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS) Examination or the National Environmental Health Association Registered Environmental Health Specialist/Registered Sanitarian-in-training Examination.

(2) An applicant may take either examination identified in Subsection (1) upon completion of the education requirements listed in Section R156-20b-302a.

R156-20b-302c. Qualifications for Licensure - Supervision

Requirements.

In accordance with Subsections 58-1-203(1)(b) and 58-20b-302(3)(f), an applicant when licensed as an environmental health scientist-in-training shall practice under the general supervision of a supervising licensed environmental health scientist for a minimum of six months, except for an applicant who has completed an environmental health science program accredited by EHAC as set forth in Subsection R156-20b-302a(1).

R156-20b-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1)(a), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 20b is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-20b-304. Professional Continuing Education.

(1) In accordance with Section 58-20b-304, during each two year period commencing June 1 of each odd numbered year, an environmental health scientist or environmental health scientist-in-training shall be required to complete not less than 30 hours of qualified professional continuing education directly related to the licensee's professional practice.

(2) The required number of hours of professional continuing education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(3) Qualified professional continuing education under this section shall:

(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a environmental health scientist;

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training, and experience; and

(e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(4) Credit shall be recognized for professional continuing education on an hour for hour basis as a student completed in blocks of time of not less than 50 minutes in formally established classroom courses, distance learning, seminars, lectures, labs, or specific environmental conferences approved, taught or sponsored by:

(a) Utah Environmental Health Association;

(b) Bureau of Environmental Services;

(c) Utah Department of Environmental Quality;

(d) Bureau of Epidemiology;

(e) State Food Program;

(f) National Environmental Health Association;

(g) Food and Drug Administration;

(h) Center for Disease Control and Prevention;

(i) any local, state or federal agency; and

(j) a college or university which provides courses in or related to environmental health science.

(5) A maximum of 15 hours of credit may be recognized for a person who teaches continuing professional education on an hour for hour basis completed in block of time of not less than 50 minutes in formally established classroom courses, seminars, lectures, conferences which meet the requirements in Subsections (3) and (4).

(6) A licensee is responsible for maintaining competent records of completed qualified professional continuing education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

(7) If properly documented that a licensee is engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing professional education requirements established under this section, the licensee may be excused from the requirement for a period of up to three years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

R156-20b-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) failing to comply with the professional continuing education requirements in Section R156-20b-304; and

(2) failing to provide general supervision as defined in Subsection 58-20b-102(2).

KEY: licensing, environmental health scientist, sanitarian, environmental health scientist-in-training

December 10, 2018	**58-1-106(1)(a)**
Notice of Continuation April 27, 2015	**58-1-202(1)(a)**
	58-20b-101

R156. Commerce, Occupational and Professional Licensing.
R156-80a. Medical Language Interpreter Act Rule.
R156-80a-101. Title.

This rule is known as the "Medical Language Interpreter Act Rule".

R156-80a-103. Authority - Purpose.

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 80a.

R156-80a-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Section R156-1 is as described in Section R156-1-107.

R156-80a-303. Qualifications for Certification - Examination Requirements.

(1) In accordance with Subsection 58-80a-303(1)(b)(i), an applicant for certification as either a tier 1 or tier 2 certified medical language interpreter shall provide verification that the examinations or examination passed by the applicant are administered or recognized by either:

(a) the National Board of Certification for Medical Interpreters (NBCMI); or

(b) the Certification Commission for Healthcare Interpreters (CCHI).

(2) In accordance with Subsection 58-80a-303(2), an applicant for certification shall apply for tier 1 certification if the language for which the applicant will provide medical interpreting is:

(a) Arabic;
(b) Cantonese;
(c) Korean;
(d) Russian;
(e) Mandarin;
(f) Spanish; or
(g) Vietnamese.

(3) In accordance with Subsection 58-80a-303(2), an applicant for certification as a tier 2 certified medical language interpreter shall:

(a) attest that an oral examination meeting the requirements of Subsection 58-80a-303(1)(b) is not available in the language for which the applicant seeks certification; and

(b) agree that if an oral examination meeting the requirements of Subsection 58-80a-303(1)(b) does become available, the applicant must pass that exam and apply for tier 1 certification within six months of the exam's availability or by the end of that licensing period, whichever is later.

R156-80a-304. Renewal Cycle - Procedures.

(1) In accordance with Section 58-80a-304, the renewal date for the three-year renewal cycle applicable to licensees under Title 58, Chapter 80a is established by rule in Subsection R156-1-308a(2).

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

KEY: licensing, medical language interpreter, certified medical language interpreter

December 11, 2017	**58-80a-101**
Notice of Continuation January 2, 2019	**58-1-106(1)(a)**
	58-1-202(1)(a)

R162. Commerce, Real Estate.
R162-2f. Real Estate Licensing and Practices Rules.
R162-2f-101. Title and Authority.

(1) This chapter is known as the "Real Estate Licensing and Practices Rules."

(2) The authority to establish rules for real estate licensing and practices is granted by Section 61-2f-103.

(3) The authority to establish rules governing undivided fractionalized long-term estates is granted by Section 61-2f-307.

(4) The authority to collect fees is granted by Section 61-2f-105.

R162-2f-102. Definitions.

(1) "Active license" means a license granted to an applicant who:

(a) qualifies for licensure under Section 61-2f-203 and these rules;

(b) pays all applicable nonrefundable license fees; and

(c) affiliates with a principal brokerage.

(2) "Advertising" means a commercial message through:

(a) newspaper;

(b) magazine;

(c) Internet;

(d) e-mail;

(e) radio;

(f) television;

(g) direct mail promotions;

(h) business cards;

(i) door hangers;

(j) signs;

(k) other electronic communication; or

(l) any other medium.

(3) "Affiliate":

(a) when used in reference to licensure, means to form, for the purpose of providing a real estate service, an employment or non-employment association with another individual or entity licensed or registered under Title 61, Chapter 2f et seq. and these rules; and

(b) when used in reference to an undivided fractionalize long-term estate, means an individual or entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified individual or entity.

(4) "Branch broker" means an associate broker who manages a branch office under the supervision of the principal broker.

(5) "Branch office" means a principal broker's real estate brokerage office other than the principal broker's main office.

(6) "Brokerage" means a real estate sales or a property management company.

(7) "Brokerage record" means any record related to the business of a principal broker, including:

(a) record of an offer to purchase real estate;

(b) record of a real estate transaction, regardless of whether the transaction closed;

(c) licensing records;

(d) banking and other financial records;

(e) independent contractor agreements;

(f) trust account records, including:

(i) deposit records in the form of a duplicate deposit slip, deposit advice, or equivalent document; and

(ii) conveyance records in the form of a check image, wire transfer verification, or equivalent document; and

(g) records of the brokerage's contractual obligations.

(8) "Business day" is defined in Subsection 61-2f-102(3).

(9) "Certification" means authorization from the division to:

(a) establish and operate a school that provides courses approved for prelicensing education or continuing education; or

(b) function as an instructor for courses approved for prelicensing education or continuing education.

(10) "Closing gift" means any gift given by a principal broker, or a licensee affiliated with the principal broker, to a buyer or seller, lessor or lessee, in appreciation for having used the services of a real estate brokerage.

(11) "Commission" means the Utah Real Estate Commission.

(12) "Continuing education" means professional education required as a condition of renewal in accordance with Section R162-2f-204 and may be either:

(a) core: topics identified in Subsection R162-2f-206c(5)(c); or

(b) elective: topics identified in Subsection R162-2f-206c(5)(e).

(13) "Correspondence course" means a self-paced real estate course that:

(a) is not distance or traditional education; and

(b) fails to meet real estate educational course certification standards because:

(i) it is primarily student initiated; and

(ii) the interaction between the instructor and student lacks substance and/or is irregular.

(14) "Day" means calendar day unless specified as "business day."

(15)(a) "Distance education" means education in which the instruction does not take place in a traditional classroom setting, but occurs through other interactive instructional methods where teacher and student are separated by distance and sometimes by time, including the following:

(i) computer conferencing;

(ii) satellite teleconferencing;

(iii) interactive audio;

(iv) interactive computer software;

(v) Internet-based instruction; and

(vi) other interactive online courses.

(b) "Distance education" does not include home study and correspondence courses.

(16) "Division" means the Utah Division of Real Estate.

(17) "Double contract" means executing two or more purchase agreements, one of which is not made known to the prospective lender or loan funding entity.

(18) "Expired license" means a license that is not renewed pursuant to Section 61-2f-204 and Section R162-2f-204 by:

(a) the close of business on the expiration date, if the expiration date falls on a day when the division is open for business; or

(b) the next business day following the expiration date, if the expiration date falls on a day when the division is closed.

(19) "Guaranteed sales plan" means:

(a) a plan in which a seller's real estate is guaranteed to be sold; or

(b) a plan whereby a licensee or anyone affiliated with a licensee agrees to purchase a seller's real estate if it is not purchased by a third party:

(i) in the specified period of a listing; or

(ii) within some other specified period of time.

(20) "Inactive license" means a license that has been issued pursuant to Sections R162-2f-202a through 202c or renewed pursuant to Section R162-2f-204, but that may not be used to conduct the business of real estate because the license holder is not affiliated with a principal broker. Pursuant to Section R162-2f-203, a license may be inactivated:

(a) voluntarily, with the assent of the license holder; or

(b) involuntarily, without the assent of the license holder.

(21) "Inducement gift" means any gift given by a principal broker, or a licensee affiliated with the principal broker, to a buyer or seller, lessor or lessee, in a real estate transaction as an incentive to use the services of a real estate brokerage.

(22) "Informed consent" means written authorization, obtained from both principals to a single transaction, to allow a licensee to act as a limited agent.

(23) "Limited agency" means the representation of all principals in the same transaction to negotiate a mutually acceptable agreement:

(a) subject to the terms of a limited agency agreement; and

(b) with the informed consent of all principals to the transaction.

(24) "Net listing" means a listing agreement under which the real estate commission is the difference between the actual selling price of the property and a minimum selling price as set by the seller.

(25)(a) "Non-certified education" means a continuing education course offered outside of Utah, but for which a licensee may apply for credit pursuant to Subsection R162-2f-206c(1)(b).

(b) "Non-certified education" does not include:

(i) home study courses; or

(ii) correspondence courses.

(26) "Nonresident applicant" means a person:

(a) whose primary residence is not in Utah; and

(b) who qualifies under Title 61, Chapter 2f et seq. and these rules for licensure as a principal broker, associate broker, or sales agent.

(27) "Principal brokerage" means the main real estate or property management office of a principal broker.

(28) "Principal" in a transaction means an individual who is represented by a licensee and may be:

(a) the buyer or lessee;

(b) an individual having an ownership interest in the property;

(c) an individual having an ownership interest in the entity that is the buyer, seller, lessor, or lessee; or

(d) an individual who is an officer, director, partner, member, manager, or employee of the entity that is the buyer, seller, lessor, or lessee.

(29) "Provider" means an individual or business that is approved by the division to offer continuing education.

(30) "Property management" is defined in Subsection 61-2f-102(19).

(31) "Registration" means authorization from the division to engage in the business of real estate as:

(a) a corporation;

(b) a partnership;

(c) a limited liability company;

(d) an association;

(e) a dba;

(f) a professional corporation;

(g) a sole proprietorship; or

(h) another legal entity of a real estate brokerage.

(32) "Reinstatement" is defined in Subsection 61-2f-102(22).

(33) "Reissuance" is defined in Subsection 61-2f-102(23).

(34) The acronym RELMS means "real estate licensing and management system," which is the online database through which licensees shall submit licensing information to the division.

(35) "Renewal" is defined in Subsection 61-2f-102(24).

(36) "Residential property" means real property consisting of, or improved by, a single-family one- to four-unit dwelling.

(37) "School" means:

(a) any college or university accredited by a regional accrediting agency that is recognized by the United States Department of Education;

(b) any community college or vocational-technical school;

(c) any local real estate organization that has been approved by the division as a school; or

(d) any proprietary real estate school.

(38) "Sponsor" means:

(a) a person who is the original seller of an undivided fractionalized long-term estate.

(b) sponsor includes, if the seller is an entity, any individual who exercises managerial responsibility in the sponsoring entity.

(39) "Third party service provider" means an individual or entity that provides a service necessary to the closing of a specific transaction and includes:

(a) mortgage brokers;

(b) mortgage lenders;

(c) loan originators;

(d) title service providers;

(e) attorneys;

(f) appraisers;

(g) providers of document preparation services;

(h) providers of credit reports;

(i) property condition inspectors;

(j) settlement agents;

(k) real estate brokers;

(l) marketing agents;

(m) insurance providers; and

(n) providers of any other services for which a principal or investor will be charged.

(40) "Traditional education" means education in which instruction takes place between an instructor and students where all are physically present in the same classroom.

(41) "Undivided fractionalized long-term estate" is defined in Subsection 57-29-102(8).

R162-2f-105. Fees.

Any fee collected by the division is nonrefundable.

R162-2f-200. Owner.

(1) For purposes of Section 61-2f-202(1):

(a) "owner" means a person who has:

(i) a sole ownership interest in real estate, or

(ii) an ownership interest in real estate as a joint tenant or a tenant in common;

(b) "owner or lessor" does not include:

(i) a person who holds an option to purchase real property;

(ii) a mortgagee;

(iii) a beneficiary under a deed of trust;

(iv) a trustee under a deed of trust; or

(v) a person who owns or holds a claim that encumbers any real property or an improvement to the real property.

(2) For purposes of Subsection 61-2f-202(1)(a)(i):

(a) any person performing an act described in Subsection 61-2f-102(20) on behalf of an entity must be:

(i) if the entity is a corporation, an officer or director of the corporation;

(ii) if the entity is a limited liability company,

(A) a member of a member-managed limited liability company, or

(B) a manager of a manager-managed limited liability company;

(iii) if the entity is a partnership, a partner of the partnership;

(iv) if the entity is a limited partnership, a general partner of the limited partnership;

(v) if the entity is a trust, a trustee of the trust;

(vi) if the entity is an estate of a deceased individual, a court-appointed personal representative of the estate; or

(vii) if the entity is the estate of an individual subject to a conservatorship, a court-appointed conservator of the estate.

(b) A person who is an entity or organization not described in Subsections (1)(c)(i) through (vii) above is not exempt from licensure under Section 61-2f-202(1)(a)(i).

R162-2f-201. Qualification for Licensure.

(1) Character. Pursuant to Subsection 61-2f-203(1)(c), an applicant for licensure as a sales agent, associate broker, or principal broker shall evidence honesty, integrity, truthfulness, and reputation.

(a) An applicant shall be denied a license for:

(i) a felony that resulted in:

(A) a conviction occurring within the five years preceding the date of application;

(B) a plea agreement occurring within the five years preceding the date of application; or

(C) a jail or prison term with a release date falling within the five years preceding the date of application; or

(ii) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty that resulted in:

(A) a conviction occurring within the three years preceding the date of application; or

(B) a jail or prison term with a release date falling within the three years preceding the date of application.

(b) An applicant may be denied a license or issued a restricted license for incidents in the applicant's past that reflect negatively on the applicant's honesty, integrity, truthfulness, and reputation. In evaluating an applicant for these qualities, the division and commission may consider:

(i) criminal convictions or plea agreements other than those specified in this Subsection (1)(a);

(ii) past acts related to honesty or truthfulness, with particular consideration given to any such acts involving the business of real estate, that would be grounds under Utah law for sanctioning an existing license;

(iii) civil judgments in lawsuits brought on grounds of fraud, misrepresentation, or deceit;

(iv) court findings of fraudulent or deceitful activity;

(v) evidence of non-compliance with court orders or conditions of sentencing; and

(vi) evidence of non-compliance with:

(A) terms of a diversion agreement not yet closed and dismissed;

(B) a probation agreement; or

(C) a plea in abeyance.

(c)(i) An applicant who, as of the date of application, is serving probation or parole for a crime that contains an element of violence or physical coercion shall, in order to submit a complete application, provide for the commission's review current documentation from two licensed therapists, approved by the division, stating that the applicant does not pose an ongoing threat to the public.

(ii) For purposes of applying this rule, crimes that contain an element of violence or physical coercion include, but are not limited to, the following:

(A) assault, including domestic violence;

(B) rape;

(C) sex abuse of a child;

(D) sodomy on a child;

(E) battery;

(F) interruption of a communication device;

(G) vandalism;

(H) robbery;

(I) criminal trespass;

(J) breaking and entering;

(K) kidnapping;

(L) sexual solicitation or enticement;

(M) manslaughter; and

(N) homicide.

(iii) Information and documents submitted in compliance with this Subsection (1)(c) shall be reviewed by the commission, which may exercise discretion in determining whether the applicant qualifies for licensure.

(2) Competency. In evaluating an applicant for competency, the division and commission may consider evidence including:

(a) civil judgments, with particular consideration given to any such judgments involving the business of real estate;

(b) failure to satisfy a civil judgment that has not been discharged in bankruptcy;

(c) suspension or revocation of a professional license;

(d) sanctions placed on a professional license; and

(e) investigations conducted by regulatory agencies relative to a professional license.

(3) Age. An applicant shall be at least 18 years of age.

(4) Minimum education. An applicant shall have:

(a) a high school diploma;

(b) a GED; or

(c) equivalent education as approved by the commission.

R162-2f-202a. Sales Agent Licensing Fees and Procedures.

(1) To obtain a Utah license to practice as a sales agent, an individual who is not currently and actively licensed in any state shall:

(a) evidence honesty, integrity, truthfulness, and reputation pursuant to Subsection R162-2f-201(1);

(b) evidence competency to transact the business of real estate pursuant to Subsection R162-2f-201(2);

(c)(i) successfully complete 120 hours of approved prelicensing education;

(ii) evidence current membership in the Utah State Bar; or

(iii) apply to the division for waiver of all or part of the education requirement by virtue of:

(A) completing equivalent education as part of a college undergraduate or postgraduate degree program, regardless of the date of the degree; or

(B) completing other equivalent real estate education within the 12-month period prior to the date of application;

(d)(i) apply with a testing service designated by the division to sit for the licensing examination; and

(ii) pay a nonrefundable examination fee to the testing center;

(e) pursuant to this Subsection (3)(a), take and pass both the state and national components of the licensing examination;

(f) pursuant to this Subsection (3)(b), submit to the division an application for licensure including:

(i) documentation indicating successful completion of the required prelicensing education;

(ii) a report of the examination showing a passing score for each component of the examination; and

(iii) the applicant's business, home, and e-mail addresses;

(g) if applying for an active license, affiliate with a principal broker; and

(h) pay the nonrefundable fees required for licensure, including the nonrefundable fee required under Section 61-2f-505 for the Real Estate Education, Research, and Recovery Fund.

(2) To obtain a Utah license to practice as a sales agent, an individual who is currently and actively licensed in another state shall:

(a) evidence honesty, integrity, truthfulness, and reputation pursuant to Subsection R162-2f-201(1);

(b) evidence competency to transact the business of real estate pursuant to Subsection R162-2f-201(2);

(c)(i) successfully complete 120 hours of approved prelicensing education;

(ii) evidence current membership in the Utah State Bar; or

(iii) apply to the division for waiver of all or part of the education requirement by virtue of:

(A) completing equivalent education as part of a college undergraduate or postgraduate degree program, regardless of the date of the degree;

(B) completing other equivalent real estate education

within the 12-month period prior to the date of application; or

(C) having been licensed in a state that has substantially equivalent prelicensing education requirements;

(d)(i) apply with a testing service designated by the division to sit for the licensing examination; and

(ii) pay a nonrefundable examination fee to the testing center;

(e)(i) pursuant to this Subsection (3)(a), take and pass both the state and national components of the licensing examination; or

(ii) if actively licensed during the two years immediately preceding the date of application in a state that has substantially equivalent licensing examination requirements:

(A) take and pass the state component of the licensing examination; and

(B) apply to the division for a waiver of the national component of the licensing examination;

(f) pursuant to this Subsection (3)(b), submit to the division an application for licensure including:

(i) documentation indicating successful completion of the required prelicensing education;

(ii) a report of the examination showing a passing score for each component of the examination; and

(iii) the applicant's business, home, and e-mail addresses;

(g) provide from any state where licensed:

(i) a written record of the applicant's license history; and

(ii) complete documentation of any disciplinary action taken against the applicant's license;

(h) if applying for an active license, affiliate with a principal broker; and

(i) pay the nonrefundable fees required for licensure, including the nonrefundable fee required under Section 61-2f-505 for the Real Estate Education, Research, and Recovery Fund.

(3) Deadlines.

(a) If an individual passes one test component but fails the other, the individual shall retake and pass the failed component:

(i) within six months of the date on which the individual achieves a passing score on the passed component; and

(ii) within 12 months of the date on which the individual completes the prelicensing education.

(b) An application for licensure shall be submitted:

(i) within 90 days of the date on which the individual achieves passing scores on both examination components; and

(ii) within 12 months of the date on which the individual completes the prelicensing education.

(c) If any deadline in this Section R162-2f-202a falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

R162-2f-202b. Broker Licensing Fees and Procedures.

(1) To obtain a Utah license to practice as a broker, an individual shall:

(a) evidence honesty, integrity, truthfulness, and reputation pursuant to Subsection R162-2f-201(1);

(b) evidence competency to transact the business of real estate pursuant to Subsection R162-2f-201(2);

(c)(i) successfully complete 120 hours of approved prelicensing education, including:

(A) 45 hours of broker principles;

(B) 45 hours of broker practices; and

(C) 30 hours of Utah law and testing; or

(ii) apply to the division for waiver of all or part of the education requirement by virtue of:

(A) completing equivalent education as part of a college undergraduate or postgraduate degree program, regardless of the date of the degree; or

(B) completing other equivalent real estate education within the 12-month period prior to the date of application;

(d)(i) apply with a testing service designated by the division to sit for the licensing examination; and

(ii) pay a nonrefundable examination fee to the testing center;

(e) pursuant to this Subsection (3)(a), take and pass both the state and national components of the licensing examination;

(f)(i) unless Subsection (2)(a) applies, evidence the individual's having, within the five-year period preceding the date of application either:

(A) three years full-time, licensed, active real estate experience; or

(B) two years full-time, licensed, active, real estate experience and one year full-time professional real estate experience from the optional experience table in Appendix 3; and

(ii) evidence having accumulated, within the five-year period preceding the date of application, a total of at least 60 documented experience points complying with R162-2f-401a, as follows:

(A) 45 to 60 points pursuant to the experience points tables found in Appendices 1 and 2, of which a maximum of 25 points may have been accumulated from the "All other property management" subsections of Appendix 2; and

(B) 0 to 15 points pursuant to the experience point table found in Appendix 3;

(iii) a minimum of one-half of the experience points from Tables 1 and 2 must derive from transactions of properties located in the state of Utah;

(iv) evidence of qualifying experience which the individual shall submit to the division by:

(A) selecting from the individual's total qualifying experience documented experience points for which the experience complies with the requirements in section R162-2f-401a; and

(B) submitting for review and approval by the division documentation of at least 60 documented experience points and no more than 80 documented experience points of the individual's qualifying experience; and

(v) if an individual submits evidence of experience points for transactions involving a team or group, experience points are limited to those transactions for which the individual is named in any written agency agreements and purchase and lease contracts and the applicable experience points will be divided proportionally among the licensees identified in the agency agreements and lease contracts;

(g) pursuant to this Subsection (3)(b), submit to the division an application for licensure including:

(i) documentation indicating successful completion of the approved broker prelicensing education;

(ii) a report of the examination showing a passing score for each component of the examination; and

(iii) the applicant's business, home, and e-mail addresses;

(h) provide from any state where licensed as a real estate agent or broker:

(i) a written record of the applicant's license history; and

(ii) complete documentation of any disciplinary action taken against the applicant's license;

(i) if applying for an active license, affiliate with a registered company;

(j) pay the nonrefundable fees required for licensure, including the nonrefundable fee required under Section 61-2f-505 for the Real Estate Education, Research, and Recovery Fund; and

(k) if applying for licensure as a principal broker, establish real estate and property management trust accounts, as applicable pursuant to Section R162-2f-403, that:

(i) contain the term "real estate trust account" or "property management trust account", as applicable, in the account name; and

(ii) are separate from any operating account(s) of the registered entity for which the individual will serve as a broker; and

(iii) identify the location(s) where brokerage records will be kept.

(2)(a) If an individual applies under this Subsection R162-2f-202b within two years of allowing a broker license to expire, the experience required under Subsection (1)(f) shall be accumulated within the seven-year period preceding the date of application.

(b) Pursuant to Section R162-2f-407, an individual whose application is denied by the division for failure to meet experience requirements under this Subsection (1)(f) may bring the application before the commission.

(3) Deadlines.

(a) If an individual passes one test component but fails the other, the individual shall retake and pass the failed component:

(i) within six months of the date on which the individual achieves a passing score on the passed component; and

(ii) within 12 months of the date on which the individual completes the prelicensing education.

(b) An application for licensure shall be submitted:

(i) within 90 days of the date on which the individual achieves passing scores on both examination components; and

(ii) within 12 months of the date on which the individual completes the prelicensing education.

(c) If any deadline in this Section R162-2f-202b falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

(4) Restriction. A broker license may not be granted to an applicant whose sales agent license is on suspension or probation at the time of application.

(5) Dual broker licenses.

(a)(i) A person who holds or obtains a dual broker license under this Subsection may function as the principal broker of a property management company that is a separate entity from the person's real estate brokerage.

(ii) A dual broker may not conduct real estate sales activities from the separate property management company.

(iii) A principal broker may conduct property management activities from the person's real estate brokerage:

(A) without holding a dual broker license; and

(B) in accordance with Subsections R162-2f-401j and R162-2f-403a-403c;

(b) A dual broker who wishes to consolidate real estate and property management operations into a single brokerage may:

(i) at the broker's request, convert the dual broker license to a principal broker license; and

(ii)(A) convert the property management company to a branch office of the real estate brokerage, including the assignment of a branch broker and using the same name as the real estate brokerage; or

(B) close the separate property management company.

(c) As of May 8, 2013:

(i) the Division shall:

(A) cease issuing property management principal broker (PMPB) licenses;

(B) cease issuing property management company (MN) registrations except as to a second company registered under a dual broker license;

(C) convert any property management principal broker (PMPB) license to a real estate principal broker (PB) license; and

(D) as to any property management company (MN) registration that is not a second company under a dual broker license, convert the registration to a real estate brokerage (CN) registration; and

(ii) it shall be permissible to conduct real estate sales activities under any company registration that is converted pursuant to this Subsection (5)(c)(i)(C).

R162-2f-202c. Associate Broker Licensing Fees and Procedures.

To obtain a Utah license to practice as an associate broker, an individual shall:

(1) comply with Subsections R162-2f-202b(1)(a) through (j); and

(2) if applying for an active license, affiliate with a principal broker.

R162-2f-202d. Property Management Sales Agent Licensing Fees and Procedures.

(1) A sales agent affiliated with a dual broker through a property management company may act as a property management sales agent if:

(a) the dual broker designates the sales agent as a property management sales agent, and

(b) the sales agent pays to the division the property management sales agent designation fee.

(2) A property management sales agent may simultaneously provide both property management services and real estate sales services under the supervision of the dual broker if the property management sales agent:

(a) provides property management services only through the property management company overseen by the dual broker, and

(b) provides real estate sales services only through the real estate brokerage overseen by the dual broker.

(3) Before a property management sales agent may affiliate with another principal broker who is not a dual broker or with a dual broker who does not approve of the property management sales agent designation, the property management sales agent shall pay the additional fee to remove the property management sales agent designation.

R162-2f-203. Inactivation and Activation.

(1) Inactivation.

(a) To voluntarily inactivate the license of a sales agent or an associate broker, the holder of the license shall complete and submit a change form through RELMS pursuant to Section R162-2f-207.

(b) To voluntarily inactivate a principal broker license, the principal broker shall:

(i) prior to inactivating the license:

(A) give written notice to each licensee affiliated with the principal broker of the date on which the principal broker proposes to inactivate the license; and

(B) provide to the division evidence that the licensee has complied with this Subsection (1)(b)(i)(A); and

(ii) complete and submit a change form through RELMS pursuant to Section R162-2f-207.

(c) The license of a sales agent or associate broker is involuntarily inactivated upon:

(i) termination of the licensee's affiliation with a principal broker;

(ii) expiration, suspension, revocation, inactivation, or termination of the license of the principal broker with whom the sales agent or associate broker is affiliated; or

(iii) inactivation or termination of the registration of the entity with which the licensee's principal broker is affiliated.

(d) The registration of an entity is involuntarily inactivated upon:

(i) termination of the entity's affiliation with a principal broker; or

(ii) expiration, suspension, revocation, inactivation, or termination of the license of the principal broker with whom the entity is affiliated.

(e) The license of a principal broker is involuntarily inactivated upon termination of the licensee's affiliation with a registered entity.

(f) If the division or commission orders that a principal broker's license is to be suspended or revoked:

(i) the order shall state the effective date of the suspension or revocation; and

(ii) prior to the effective date, the entity shall:

(A)(I) affiliate with a new principal broker; and

(II) submit change forms through RELMS to affiliate each licensee with the new principal broker; or

(B)(I) provide written notice to each licensee affiliated with the principal broker of the pending suspension or revocation; and

(II) comply with Subsection R162-2f-207(3)(c)(ii)(B).

(2) Activation.

(a) To activate a license, the holder of the inactive license shall:

(i) complete and submit a change card through RELMS pursuant to Section R162-2f-207;

(ii) submit proof of:

(A) having been issued an active license at the time of last renewal;

(B) having completed, within the one-year period preceding the date on which the licensee requests activation, 18 hours of continuing education, including nine hours of core topics; or

(C) having passed the licensing examination within the six-month period prior to the date on which the licensee requests activation;

(iii)(A) if applying to activate a sales agent or associate broker license, evidence affiliation with a principal broker; or

(B) if applying to activate a principal broker license, evidence affiliation with a registered entity; and

(iv) pay a non-refundable activation fee.

(b) A licensee who submits continuing education to activate a license may not use the same continuing education to renew the license at the time of the licensee's next renewal.

R162-2f-204. License Renewal.

(1) Renewal period and deadlines.

(a) A license issued under these rules is valid for a period of two years from the date of licensure.

(b) By the 15th day of the month of expiration, an applicant for renewal shall submit to the division proof of having completed all continuing education required under this Subsection (2)(b).

(c) In order to renew on time without incurring a late fee:

(i) an individual who is required to submit a renewal application through the online RELMS system shall complete the online process, including the completion and banking of continuing education credits, by the license expiration date; and

(ii) an individual whose circumstances require a "yes" answer to a disclosure question on the renewal application shall submit a paper renewal:

(A) by the license expiration date, if that date falls on a day when the division is open for business; or

(B) on the next business day following the license expiration date, if that date falls on a day when the division is closed for business.

(2) Qualification for renewal.

(a) Character and competency.

(i) An individual applying for a renewed license shall evidence that the individual maintains character and competency as required for initial licensure.

(ii) An individual applying for a renewed license may not have:

(A) a felony conviction since the last date of licensure; or

(B) a finding of fraud, misrepresentation, or deceit entered against the applicant, related to activities requiring a real estate license, by a court of competent jurisdiction or a government agency since the last date of licensure, unless the finding was explicitly considered by the division in a previous application.

(b) Continuing education.

(i) To renew at the end of the first renewal cycle, an individual shall complete:

(A) the 12-hour new sales agent course certified by the division; and

(B) an additional six non-duplicative hours of continuing education:

(I) certified by the division as either core or elective; or

(II) acceptable to the division pursuant to this Subsection (2)(b)(ii)(B).

(ii) To renew at the end of a renewal cycle subsequent to the first renewal, an individual shall:

(A) complete 18 non-duplicative hours of continuing education:

(I) certified by the division;

(II) including at least nine non-duplicative hours of core curriculum; and

(III) taken during the previous license period; or

(B) apply to the division for a waiver of all or part of the required continuing education hours by virtue of having completed non-certified courses that:

(I) were not required under Subsection R162-2f-206c(1)(a) to be certified; and

(II) meet the continuing education objectives listed in Subsection R162-2f-206c(2)(f).

(iii)(A) Completed continuing education courses will be credited to an individual when the hours are uploaded by the course provider pursuant to Subsection R162-2f-401d(1)(k).

(B) If a provider fails to upload course completion information within the ten-day period specified in Subsection R162-2f-401d(1)(k), an individual who attended the course may obtain credit by:

(I) filing a complaint against the provider; and

(II) submitting the course completion certificate to the division.

(c) Principal broker. In addition to meeting the requirements of this Subsection (2)(a) and (b), an individual applying to renew a principal broker license shall certify that:

(i) the business name under which the individual operates is current and in good standing with the Division of Corporations and Commercial Code; and

(ii) the trust account maintained by the principal broker is current and in compliance with Section R162-2f-403.

(3) Renewal and reinstatement procedures.

(a) To renew a license, an applicant shall, prior to the expiration of the license:

(i) submit the forms required by the division, including proof of having completed continuing education pursuant to this Subsection (2)(b); and

(ii) pay a nonrefundable renewal fee.

(b) To reinstate an expired license, an applicant shall, according to deadlines set forth in Subsections 61-2f-204(2)(b)-(d):

(i) submit all forms required by the division, including proof of having completed continuing education pursuant to Subsection 61-2f-204(2); and

(ii) pay a nonrefundable reinstatement fee.

(4) Transition to online renewal. An individual licensee shall submit an application for renewal through the online RELMS system unless the individual's circumstances require a "yes" answer in response to a disclosure question.

R162-2f-205. Registration of Entity.

(1) A principal broker may not conduct business through an entity, including a branch office, dba, or separate property

management company, without first registering the entity with the division.

(2) Exemptions. The following locations may be used to conduct real estate business without being registered as branch offices:

(a) a model home;

(b) a project sales office; and

(c) a facility established for twelve months or less as a temporary site for marketing activity, such as an exhibit booth.

(3) To register an entity with the division, a principal broker shall:

(a) evidence that the name of the entity is registered with the Division of Corporations;

(b) certify that the entity is affiliated with a principal broker who:

(i) is authorized to use the entity name; and

(ii) will actively supervise the activities of all sales agents, associate brokers, branch brokers, and unlicensed staff;

(c) if registering a branch office, identify the branch broker who will actively supervise all licensees and unlicensed staff working from the branch office;

(d) submit an application that includes:

(i) the physical address of the entity;

(ii) if the entity is a branch office, the name and license number of the branch broker;

(iii) the names of associate brokers and sales agents assigned to the entity; and

(iv) the location and account number of any real estate and property management trust account(s) in which funds received at the registered location will be deposited;

(e) inform the division of:

(i) the location and account number of any operating account(s) used by the registered entity; and

(ii) the location where brokerage records will be kept; and

(f) pay a nonrefundable application fee.

(4) Restrictions.

(a)(i) The division shall not register an entity proposing to use a business name that:

(A) is likely to mislead the public into thinking that the entity is not a real estate brokerage or property management company;

(B) closely resembles the name of another registered entity; or

(C) the division determines might otherwise be confusing or misleading to the public.

(ii) Approval by the division of an entity's business name does not ensure or grant to the entity a legal right to use or operate under that name.

(b) A branch office shall operate under the same business name as the principal brokerage.

(c) An entity may not designate a post office box as its business address, but may designate a post office box as a mailing address.

(d) All trust accounts and operating accounts used by a registered entity shall be maintained in a bank or credit union located in the state of Utah.

(5) Registration not transferable.

(a) A registered entity shall not transfer the registration to any other person.

(b) A registered entity shall not allow an unlicensed person to use the entity's registration to perform work for which licensure is required.

(c) If a change in corporate structure of a registered entity creates a separate and unique legal entity, that entity shall obtain a unique registration, and shall not operate under an existing registration.

(d) The dissolution of a corporation, partnership, limited liability company, association, or other entity registered with the division terminates the registration.

R162-2f-206a. Certification of Real Estate School.

(1) Prior to offering real estate prelicensing or continuing education, a school shall:

(a) first, obtain division approval of the school name; and

(b) second, certify the school with the division pursuant to this Subsection (2).

(2) To certify, a school applicant shall, at least 90 days prior to teaching any course, prepare and supply the following information to the division:

(a) contact information, including:

(i) name, phone number, email address, and address of the physical facility;

(ii) name, phone number, email address, and address of each school director;

(iii) name, phone number, email address, and address of each school owner; and

(iv) an e-mail address where correspondence will be received by the school;

(b) evidence that the school directors and owners meet the character requirements outlined in Subsection R162-2f-201(1) and the competency requirements outlined in Subsection R162-2f-201(2);

(c) evidence that the school name, as approved by the division pursuant to this Subsection (1)(a), is registered with the Division of Corporations and Commercial Code as a real estate education provider;

(d) school description, including:

(i) type of school; and

(ii) description of the school's physical facilities;

(e) list of courses to be offered, including the following:

(i) a statement of whether each course is a prelicensing or continuing education course; and

(ii) as to a continuing education course, whether it is designed to qualify as fulfilling all or part of the core curriculum requirement for new agents;

(f) list of the instructor(s), including any guest lecturer(s), who will be teaching each course;

(g) proof that each instructor is:

(i) certified by the division;

(ii) qualified as a guest lecturer by having:

(A) requisite expertise in the field; and

(B) approval from the division; or

(iii) exempt from certification under Subsection R162-2f-206d(4);

(h) schedule of courses offered, including the days, times, and locations of classes;

(i) statement of attendance requirements as provided to students;

(j) refund policy as provided to students;

(k) disclaimer as provided to students and as specified in Subsection (3)(c);

(l) criminal history disclosure statement as provided to students and as specified in Subsection (3)(d);

(m) disclosure, as specified in Subsection (3)(e), of any possibility of obtaining an education waiver;

(n) course completion policy, as provided to students, describing the length of time allowed for completion and detailed requirements; and

(o) any other information the division requires.

(3) Minimum standards.

(a) The course schedule may not provide or allow for more than eight credit hours per student per day.

(b) The attendance statement shall require that each student attend at least 90% of the scheduled class periods, excluding breaks.

(c) The disclaimer shall adhere to the following requirements:

(i) be typed in all capital letters at least 1/4 inch high; and

(ii) state the following language: "Any student attending

(school name) is under no obligation to affiliate with any of the real estate brokerages that may be soliciting for licensees at this school."

(d) The criminal history disclosure statement shall:

(i) be provided to each student prior to the school accepting payment; and

(ii) clearly inform the student that upon application with the division, the student will be required to:

(A) accurately disclose the student's criminal history according to the licensing questionnaire provided by the division;

(B) submit fingerprint cards to the division and consent to a criminal background check; and

(C) provide to the division complete court documentation relative to any criminal proceeding that the applicant is required to disclose;

(iii) clearly inform the student that the division will consider the applicant's criminal history pursuant to Subsection 61-2f-204(1)(e) and Subsection R162-2f-201(1) in making a decision on the application; and

(iv) include a section for the student's attestation that the student has read and understood the disclosure.

(e) The education waiver disclosure shall adhere to the following requirements:

(i) disclose to students the requirements for obtaining an education waiver while they are still eligible for a full refund;

(ii) be typed in all capital letters at least 1/4 inch high;

(iii) inform the students that the division grants education waivers for qualified individuals; and

(iv) state the following language: "A student accepted or enrolled for education hours cannot later reduce those hours by applying for an education waiver. An education waiver must be obtained before a student enrolls and is accepted by a school for education hours."

(f) Within 15 days after the occurrence of any material change in the information outlined in this Subsection (2)(a), the school shall provide, to the division's education staff, written notice of the change.

(4)(a) A school certification expires 24 months from the date of issuance and must be renewed before the expiration date in order to remain active.

(b) To renew a school certification, an applicant shall:

(i) complete a renewal application as provided by the division; and

(ii) pay a nonrefundable renewal fee.

(c) To reinstate an expired school certification within 30 days following the expiration date, a person shall:

(i) comply with all requirements for a timely renewal; and

(ii) pay a nonrefundable late fee.

(d) To reinstate an expired school certification after 30 days and within six months following the expiration date, a person shall:

(i) comply with all requirements for a timely renewal; and

(ii) pay a non-refundable reinstatement fee.

(e) A certification that is expired for more than six months may not be reinstated. To obtain a certification, a person must apply as a new applicant.

(f) If a deadline specified in this Subsection (4) falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

R162-2f-206b. Certification Prelicensing Course.

(1) To certify a prelicensing course for traditional education, a person shall, no later than 30 days prior to the date on which the course is proposed to begin, provide the following to the division:

(a) comprehensive course outline including:

(i) description of the course, including a statement of whether the course is designed for:

(A) sales agents; or

(B) brokers;

(ii) number of class periods spent on each subject area;

(iii) minimum of three to five learning objectives for every three hours of class time; and

(iv) reference to the course outline approved by the commission for each topic;

(b) number of quizzes and examinations;

(c) grading system, including methods of testing and standards of grading;

(d)(i) a copy of at least two final examinations to be used in the course;

(ii) the answer key(s) used to determine if a student has passed the exam; and

(iii) an explanation of procedure if the student fails the final examination and thereby fails the course; and

(e) a list of the titles, authors and publishers of all required textbooks.

(2) To certify a prelicensing course for distance education, a person shall, no later than 60 days prior to the date on which the course is proposed to begin, provide the following to the division:

(a) all items listed in this Subsection (1);

(b) description of each method of course delivery;

(c) description of any media to be used;

(d) course access for the division using the same delivery methods and media that will be provided to the students;

(e) description of specific and regularly scheduled interactive events included in the course and appropriate to the delivery method that will contribute to the students' achievement of the stated learning objectives;

(f) description of how the students' achievement of the stated learning objectives will be measured at regular intervals;

(g) description of how and when certified prelicensing instructors will be available to answer student questions;

(h) attestation from the school director of the availability and adequacy of the equipment, software, and other technologies needed to achieve the course's instructional claims; and

(i) a description of the complaint process to resolve student grievances.

(3) Minimum standards. A prelicensing course shall:

(a) address each topic required by the course outline as approved by the commission;

(b) meet the minimum hourly requirement as established by Subsection 61-2f-203(1)(d)(i) and these rules;

(c) limit the credit that students may earn to no more than eight credit hours per day;

(d) be taught in an appropriate classroom facility unless approved for distance education;

(e) allow a maximum of 10% of the required class time for testing, including:

(i) practice tests; and

(ii) a final examination;

(f) use only texts, workbooks, and supplemental materials that are appropriate and current in their application to the required course outline; and

(g) reflect the current statutes and rules of the division.

(4) A prelicensing course certification expires at the same time as the school certification and is renewed automatically when the school certification is renewed.

R162-2f-206c. Certification of Continuing Education Course.

(1)(a) The division may not award continuing education credit for a course that is advertised in Utah to real estate licensees unless the course is certified prior to its being taught.

(b) A licensee who completes a course that is not required to be certified pursuant to this Subsection (1)(a), and who

believes that the course satisfies the objectives of continuing education pursuant to this Subsection (2)(f), may apply to the division for an award of continuing education credit after successfully completing the course.

(2) To certify a continuing education course for traditional education, a person shall, no later than 30 days prior to the date on which the course is proposed to begin, provide the following to the division:

(a) name and contact information of the course provider;

(b) name and contact information of the entity through which the course will be provided;

(c) description of the physical facility where the course will be taught;

(d) course title;

(e) number of credit hours;

(f) statement defining how the course will meet the objectives of continuing education by increasing the participant's:

(i) knowledge;

(ii) professionalism; and

(iii) ability to protect and serve the public;

(g) course outline including a description of the subject matter covered in each 15-minute segment;

(h) a minimum of three learning objectives for every three hours of class time;

(i) name and certification number of each certified instructor who will teach the course;

(j) copies of all materials to be distributed to participants;

(k) signed statement in which the course provider and instructor(s):

(i) agree not to market personal sales products;

(ii) allow the division or its representative to audit the course on an unannounced basis; and

(iii) agree to upload, within ten business days after the end of a course offering, to the database specified by the division, the following:

(A) course name;

(B) course certificate number assigned by the division;

(C) date(s) the course was taught;

(D) number of credit hours; and

(E) names and license numbers of all students receiving continuing education credit;

(l) procedure for pre-registration;

(m) tuition or registration fee;

(n) cancellation and refund policy;

(o) procedure for taking and maintaining control of attendance during class time;

(p) sample of the completion certificate;

(q) nonrefundable fee for certification as required by the division; and

(r) any other information the division requires.

(3) To certify a continuing education course for distance education, a person shall:

(a) comply with this Subsection (2);

(b) submit to the division a complete description of all course delivery methods and all media to be used;

(c) provide course access for the division using the same delivery methods and media that will be provided to the students;

(d) describe specific frequent and periodic interactive events included in the course and appropriate to the delivery method that will contribute to the students' achievement of the stated learning objectives and encourage student participation;

(e) describe how and when certified instructors will be available to answer student questions; and

(f) provide an attestation from the sponsor of the availability and adequacy of the equipment, software, and other technologies needed to achieve the course's instructional claims.

(4) Minimum standards.

(a) Except for distance education courses, all courses shall be taught in an appropriate classroom facility and not in a private residence.

(b) The minimum length of a course shall be one credit hour.

(c) Except for online courses, the procedure for taking attendance shall be more extensive than having the student sign a class roll.

(d) The completion certificate shall allow for entry of the following information:

(i) licensee's name;

(ii) type of license;

(iii) license number;

(iv) date of course;

(v) name of the course provider;

(vi) course title;

(vii) number of credit hours awarded;

(viii) course certification number;

(ix) course certification expiration date;

(x) signature of the course sponsor; and

(xi) signature of the licensee.

(5) Certification procedures.

(a) Upon receipt of a complete application for certification of a continuing education course, the division shall, at its own discretion, determine whether a course qualifies for certification.

(b) Upon determining that a course qualifies for certification, the division shall determine whether the content satisfies core or elective requirements.

(c) Core topics include the following:

(i) state approved forms and contracts;

(ii) other industry used forms or contracts;

(iii) ethics;

(iv) agency;

(v) short sales or sales of bank-owned property;

(vi) environmental hazards;

(vii) property management;

(viii) prevention of real estate and mortgage fraud;

(ix) federal and state real estate laws;

(x) fair housing;

(xi) division administrative rules;

(xii) broker trust accounts; and

(xiii) water law, rights and transfer.

(d) If a course regarding an industry used form or contract is approved by the division as a core course, the provider of the course shall:

(i) obtain authorization to use the form(s) or contract(s) taught in the course;

(ii) obtain permission for licensees to subsequently use the form(s) or contract(s) taught in the course; and

(iii) if applicable, arrange for the owner of each form or contract to make it available to licensees for a reasonable fee.

(e) Elective topics include the following:

(i) real estate financing, including mortgages and other financing techniques;

(ii) real estate investments;

(iii) real estate market measures and evaluation;

(iv) real estate appraising;

(v) market analysis;

(vi) measurement of homes or buildings;

(vii) accounting and taxation as applied to real property;

(viii) estate building and portfolio management for clients;

(ix) settlement statements;

(x) real estate mathematics;

(xi) real estate law;

(xii) contract law;

(xiii) agency and subagency;

(xiv) real estate securities and syndications;

(xv) regulation and management of timeshares, condominiums, and cooperatives;

(xvi) resort and recreational properties;
(xvii) farm and ranch properties;
(xviii) real property exchanging;
(xix) legislative issues that influence real estate practice;
(xx) real estate license law;
(xxi) division administrative rules;
(xxii) land development;
(xxiii) land use;
(xxiv) planning and zoning;
(xxv) construction;
(xxvi) energy conservation in buildings;
(xxvii) water rights;
(xxviii) landlord/tenant relationships;
(xxix) property disclosure forms;
(xxx) Americans with Disabilities Act;
(xxxi) affirmative marketing;
(xxxii) commercial real estate;
(xxxiii) tenancy in common;
(xxxiv) professional development;
(xxxv) business success;
(xxxvi) customer relation skills;
(xxxvii) sales promotion, including:
(A) salesmanship;
(B) negotiation;
(C) sales psychology;
(D) marketing techniques related to real estate knowledge;
(E) servicing clients; and
(F) communication skills;
(xxxviii) personal and property protection for licensees and their clients;
(xxxix) any topic that focuses on real estate concepts, principles, or industry practices or procedures, if the topic enhances licensee professional skills and thereby advances public protection and safety;
(xl) any other topic that directly relates to the real estate brokerage practice and directly contributes to the objective of continuing education; and
(xli) technology courses that utilize the majority of the time instructing students how the technology:
(A) directly benefits the consumer; or
(B) enables the licensee to be more proficient in performing the licensee's agency responsibilities.
(f) Unacceptable topics include the following:
(i) offerings in mechanical office and business skills, including:
(A) typing;
(B) speed reading;
(C) memory improvement;
(D) language report writing;
(E) advertising; and
(F) technology courses with a principal focus on technology operation, software design, or software use;
(ii) physical well-being, including:
(A) personal motivation;
(B) stress management; and
(C) dress-for-success;
(iii) meetings held in conjunction with the general business of the licensee and the licensee's broker, employer, or trade organization, including:
(A) sales meetings;
(B) in-house staff meetings or training meetings; and
(C) member orientations for professional organizations;
(iv) courses in wealth creation or retirement planning for licensees; and
(v) courses that are specifically designed for exam preparation.
(g) If an application for certification of a continuing education course is denied by the division, the person making application may appeal to the commission.

(6)(a) A continuing education course certification expires 24 months from the date of issuance and must be renewed before the expiration date in order to remain active.
(b) To renew a continuing education course certification, an applicant shall:
(i) complete a renewal application as provided by the division; and
(ii) pay a nonrefundable renewal fee.
(c) To reinstate an expired continuing education course certification within 30 days following the expiration date, a person shall:
(i) comply with all requirements for a timely renewal; and
(ii) pay a nonrefundable late fee.
(d) To reinstate an expired continuing education course certification after 30 days and within six months following the expiration date, a person shall:
(i) comply with all requirements for a timely renewal; and
(ii) pay a non-refundable reinstatement fee.
(e) A certification that is expired for more than six months may not be reinstated. To obtain a certification, a person must apply as a new applicant.
(f) If a deadline specified in this Subsection (6) falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

R162-2f-206d. Certification of Prelicensing Course Instructor.
(1) An instructor shall certify with the division prior to teaching a prelicensing course.
(2) To certify, an applicant shall provide, within the 30-day period prior to the date on which the applicant proposes to begin instruction:
(a) evidence that the applicant meets the character requirements of Subsection R162-2f-201(1) and the competency requirements of Subsection R162-2f-201(2);
(b) evidence of having graduated from high school or achieved an equivalent education;
(c) evidence that the applicant understands the real estate industry through:
(i) a minimum of five years of full-time experience as a real estate licensee;
(ii) post-graduate education related to the course subject; or
(iii) demonstrated expertise on the subject proposed to be taught;
(d) evidence of ability to teach through:
(i) a minimum of 12 months of full-time teaching experience;
(ii) part-time teaching experience equivalent to 12 months of full-time teaching experience; or
(iii) attendance at a division instructor development workshop totaling at least two days in length;
(e) evidence of having passed an examination:
(i) designed to test the knowledge of the subject matter proposed to be taught;
(ii) with a score of 80% or more correct responses, and;
(iii) within the six-month period preceding the date of application;
(f) name and certification number of the certified prelicensing school for which the applicant will work;
(g) a signed statement agreeing to allow the instructor's courses to be randomly audited on an unannounced basis by the division or its representative;
(h) a signed statement agreeing not to market personal sales products;
(i) any other information the division requires;
(j) an application fee; and
(k) course-specific requirements as follows:
(i) sales agent prelicensing course: evidence of being a

licensed sales agent or broker; and

(ii) broker prelicensing course: evidence of being a licensed associate broker, branch broker, or principal broker.

(3) An applicant may certify to teach a subcourse of the broker prelicensing course by meeting the following requirements:

(a) Brokerage Management. An applicant shall:

(i) hold a current real estate broker license;

(ii) possess at least two years practical experience as an active real estate principal broker; and

(iii)(A) have experience managing a real estate office; or

(B) hold a certified residential broker or equivalent professional designation in real estate brokerage management.

(b) Advanced Real Estate Law. An applicant shall:

(i) hold a current real estate broker license;

(ii) evidence current membership in the Utah State Bar; or

(iii)(A) have graduated from an American Bar Association accredited law school; and

(B) have at least two years real estate law experience.

(c) Advanced Appraisal. An applicant shall hold:

(i) a current real estate broker license, or

(ii) a current appraiser license or certification from the division.

(d) Advanced Finance. An applicant shall:

(i) evidence at least two years practical experience in real estate finance; and

(ii)(A) hold a current real estate broker license;

(B) evidence having been associated with a lending institution as a loan officer; or

(C) hold a degree in finance.

(e) Advanced Property Management. An applicant shall hold a current real estate license and:

(i) evidence at least two years full-time experience as a property manager; or

(ii) hold a certified property manager or equivalent professional designation.

(4) A college or university may use any faculty member to teach an approved course provided the instructor demonstrates to the satisfaction of the division academic training or experience qualifying the faculty member to teach the course.

(5)(a) A prelicensing instructor certification expires 24 months from the date of issuance and must be renewed before the expiration date in order to remain active.

(b) To renew a prelicensing course instructor certification, an individual shall:

(i) submit all forms required by the division;

(ii) evidence having taught, within the two-year period prior to the date of application, a certified real estate course;

(iii) evidence having attended, within the two-year period prior to the date of application, an instructor development workshop sponsored by the division; and

(iv) pay a nonrefundable renewal fee.

(c) To reinstate an expired prelicensing course instructor certification within 30 days following the expiration date, a person shall:

(i) comply with all requirements for a timely renewal; and

(ii) pay a nonrefundable late fee.

(d) To reinstate an expired prelicensing course instructor certification after 30 days and within six months following the expiration date, a person shall:

(i) comply with all requirements for a timely renewal; and

(ii) pay a non-refundable reinstatement fee.

(e) A certification that is expired for more than six months may not be reinstated. To obtain a certification, a person must apply as a new applicant.

(f) If a deadline specified in this Subsection (5) falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

R162-2f-206e. Certification of Continuing Education Course Instructor.

(1) An instructor shall certify with the division before teaching a continuing education course.

(2) To certify, an applicant shall, within the 30-day period prior to the date on which the applicant proposes to begin instruction, provide the following:

(a) name and contact information of the applicant;

(b) evidence that the applicant meets the character requirements of Subsection R162-2f-201(1) and the competency requirements of Subsection R162-2f-201(2);

(c) evidence of having graduated from high school or achieved an equivalent education;

(d) evidence that the applicant understands the subject matter to be taught through:

(i) a minimum of two years of full-time experience as a real estate licensee;

(ii) college-level education related to the course subject; or

(iii) demonstrated expertise on the subject proposed to be taught;

(e) evidence of ability to teach through:

(i) a minimum of 12 months of full-time teaching experience; or

(ii) part-time teaching experience equivalent to 12 months of full-time teaching experience;

(f) a signed statement agreeing to allow the instructor's courses to be randomly audited on an unannounced basis by the division or its representative;

(g) a signed statement agreeing not to market personal sales products;

(h) any other information the division requires; and

(i) a nonrefundable application fee.

(3)(a) A continuing education course instructor certification expires 24 months from the date of issuance and must be renewed before the expiration date in order to remain active.

(b) To renew a continuing education course instructor certification, a person shall:

(i) submit all forms required by the division;

(ii)(A) evidence having taught, within the previous renewal period, a minimum of 12 continuing education credit hours; or

(B) submit written explanation outlining:

(I) the reason for not having taught a minimum of 12 continuing education credit hours; and

(II) documentation to the division that the applicant maintains satisfactory expertise in the subject area proposed to be taught; and

(iii) pay a nonrefundable renewal fee.

(c) To reinstate an expired continuing education instructor certification within 30 days following the expiration date, a person shall:

(i) comply with all requirements for a timely renewal; and

(ii) pay a nonrefundable late fee.

(d) To reinstate an expired continuing education instructor certification after 30 days and within six months following the expiration date, a person shall:

(i) comply with all requirements for a timely renewal; and

(ii) pay a non-refundable reinstatement fee.

(e) A certification that is expired for more than six months may not be reinstated. To obtain a certification, a person must apply as a new applicant.

(f) If a deadline specified in this Subsection (3) falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

R162-2f-207. Reporting a Change of Information.

(1) Individual notification requirements.

(a) An individual licensed as a sales agent, associate broker, or principal broker shall report the following to the division:

(i) change in licensee's name; and

(ii) change in licensee's business, home, e-mail, or mailing address.

(b) In addition to complying with this Subsection (1)(a):

(i) an individual licensed as a sales agent or associate broker shall report to the division a change in affiliation with a principal broker; and

(ii) an individual licensed as a principal broker shall report to the division:

(A) termination of a sales agent, associate broker, or branch broker, if the change is not reported pursuant to this Subsection (1)(b)(i);

(B) change in assignment of branch broker; and

(C) termination of the principal broker's affiliation with an entity.

(2) Entity notification requirements. A registered entity shall report the following to the division:

(a) change in entity's name;

(b) change in entity's affiliation with a principal broker;

(c) change in corporate structure;

(d) dissolution of corporation; and

(e) change of location where brokerage records are kept.

(3) Notification procedures.

(a) Name. To report a change in name, a person shall submit to the division a paper change form and:

(i) if the person is an individual, attach to it official documentation such as a:

(A) marriage certificate;

(B) divorce decree;

(C) court order; or

(D) driver license; and

(ii) if the person is an entity:

(A) obtain prior approval from the division of the new entity name; and

(B) attach to the change form proof that the new name as approved by the division pursuant to this Subsection (3)(a)(ii)(A) is registered with, and approved by, the Division of Corporations.

(b) Address. To report a change in address, a person shall enter the change into RELMS.

(c) Affiliation.

(i) To terminate an affiliation between an individual and a principal broker, a person shall submit a change form through RELMS to inactivate or transfer the individual's license; and

(A)(I) obtain the electronic affirmation of the other party to the terminated affiliation; or

(II) comply with this Subsection (4); and

(B) if a sales agent, associate broker, or branch broker simultaneously establishes an affiliation with a new principal broker, obtain the electronic affirmation of the new principal broker on a change form.

(ii) To terminate an affiliation between a principal broker and an entity:

(A) the principal broker shall submit a paper change form to the division to inactivate or transfer the principal broker's license; and

(B) if the entity does not simultaneously affiliate with a new principal broker, the entity shall:

(I) cease operations;

(II) submit to the division a paper company/branch change form to inactivate the entity registration;

(III) submit change forms through RELMS to inactivate the license of any licensee affiliated with the entity;

(IV) advise the division as to the location where records will be stored;

(V) notify each listing and management client that the entity is no longer in business and that the client may enter into a new listing or management agreement with a different brokerage;

(VI) notify each party and cooperating broker to any existing contracts; and

(VII) retain money held in trust under the control of a signer on the trust account, or an administrator or executor, until all parties to each transaction agree in writing to the disposition or until a court of competent jurisdiction issues an order relative to the disposition.

(iii) Branch broker. To change an assignment of branch broker, a principal broker shall submit a paper change form to the division.

(d) Corporate structure.

(i) To report a change in corporate structure of a registered entity, the affiliated principal broker shall:

(A) if the change does not involve a new business license, or a new registration with the Utah Division of Corporations and Commercial Code, submit a letter to the division, fully explaining the change; and

(B) if the change involves a new business license or a new registration with the Utah Division of Corporations and Commercial Code for a purpose other than a company name change, obtain a new registration.

(ii) To report the dissolution of an entity registered with the division, a person shall comply with this Subsection (3)(c)(ii)(B).

(e) Brokerage records. To report a change in the location where brokerage records are kept, the principal broker of the registered entity shall submit to the division a letter on brokerage letterhead.

(4) Unavailability of individual. If an individual is unavailable to sign or electronically affirm a change form, the person responsible to report the change may do so by:

(a) sending a letter by certified mail to the last known address of the individual to notify that individual of the change; and

(i) as applicable:

(A) entering the certified mail reference number into the appropriate field on the electronic change form; or

(B) providing to the division a copy of the certified mail receipt; or

(b) sending an email to notify the individual.

(5) The termination of affiliation by sending an email is effective 10 days after the date that the email was sent.

(6) Fees. The division may require a notification submitted pursuant to this subsection to be accompanied by a nonrefundable change fee.

(7) Deadlines.

(a) A change in affiliation shall be reported to the division before the change is made.

(b) A change in branch manager shall be reported to the division at the time the change is made.

(c) Any other change shall be reported to the division within ten business days of the change taking effect.

(d) As to a change that requires submission of a paper form or document, if the deadline specified in this Section R162-2f-207 falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

(8) Effective date. A change reported in compliance with this Section R162-2f-207 becomes effective with the division the day on which the properly executed change form is received by the division.

R162-2f-307. Undivided Fractionalized Long-Term Estate.

A person who sells or offers to sell an undivided fractionalized long-term estate shall disclose to each prospective purchaser certain information related to the real property in

which the undivided fractionalized long-term estate is offered, as described in this rule. A real estate licensee who markets an undivided fractionalized long-term estate shall obtain from the sponsor or seller and provide to each prospective purchaser the required information related to the real property in which the undivided fractionalized long-term estate is offered. The information required to be disclosed hereunder shall be in written or documented form, which shall be provided to the purchaser prior to purchasing, and shall include the following:

(1) for all undivided fractionalized long-term estates:

(a) a brief account describing the professional qualifications, background, and experience of the sponsor;

(b) any material information that relates to a current lease or sublease that affects the real property in which the undivided fractionalized long-term estate is offered;

(c) the tenant in common agreement or other agreement that forms the substance of the undivided fractionalized long-term estate and includes a definition of the undivided fractionalized interest;

(d) description of any improvements to the real property in which the undivided fractionalized long-term estate is offered;

(e) any defects in the property known by the sponsor that may materially affect the value of the property;

(f) material information known by the sponsor concerning any environmental issues affecting the real property; and,

(g) a preliminary title report on the real property;

(2) in addition to the disclosures required by subsection (1), if the undivided fractionalized long-term estate includes:

(a) management of the real property by the sponsor or an affiliate of the sponsor in accordance with UCA Section 61-1-13(1)(ee)(ii)(C)(II) and (III), the information required to be disclosed shall include:

(i) the sponsor's continuing interest, if any, in the real property;

(ii) any bankruptcies or civil lawsuits involving the sponsor and each affiliate of the sponsor;

(iii) whether any affiliate of the sponsor is or is expected to become a third-party service provider to the real property;

(iv) any relationship between the property managers and the sponsor; and,

(v) any property management agreements that would continue after the sale;

(b) multiple tenants, the information required to be disclosed shall include:

(i) any rent rolls and payment history for the property which the sponsor has in their possession, custody, or control; and

(ii) any tenant financial records the sponsor has in their possession, custody, or control;

(c) debt on the real property, the information required to be disclosed shall include:

(i) each of the loan documents; and

(ii) a current loan statement;

(d) a master lease agreement, the information required to be disclosed shall include:

(i) the master lease agreement;

(ii) disclosure of the sponsor's relationship with the master tenant, if any;

(iii) if the master lease tenant is an affiliate of the sponsor, or the sponsor participated in establishing the master lease:

(A) audited financial statements of the master lease tenant; and

(B) all bankruptcies or civil lawsuits involving the sponsor, an affiliate of the sponsor, or the master lease tenant.

R162-2f-401a. Affirmative Duties Required of All Licensed Individuals.

An individual licensee shall:

(1) uphold the following fiduciary duties in the course of representing a principal:

(a) loyalty, which obligates the agent to place the best interests of the principal above all other interests, including the agent's own;

(b) obedience, which obligates the agent to obey all lawful instructions from the principal;

(c) full disclosure, which obligates the agent to inform the principal of any material fact the agent learns about:

(i) the other party; or

(ii) the transaction;

(d) confidentiality, which prohibits the agent from disclosing, without permission, any information given to the agent by the principal that would likely weaken the principal's bargaining position if it were known, but excepting any known material fact concerning:

(i) a defect in the property; or

(ii) the client's ability to perform on the contract;

(e) reasonable care and diligence;

(f) holding safe and accounting for all money or property entrusted to the agent; and

(g) any additional duties created by the agency agreement;

(2) for the purpose of defining the scope of the individual's agency, execute a written agency agreement between the individual and the individual's principal, including:

(a) seller(s) the individual represents;

(b) buyer(s) the individual represents;

(c) buyer(s) and seller(s) the individual represents as a limited agent in the same transaction pursuant to this Subsection (4);

(d) the owner of a property for which the individual will provide property management services; and

(e) a tenant whom the individual represents;

(3) in order to represent both principals in a transaction as a limited agent, obtain prior informed consent by:

(a) clearly explaining in writing to both parties:

(i) that each is entitled to be represented by a separate agent;

(ii) the type(s) of information that will be held confidential;

(iii) the type(s) of information that will be disclosed; and

(iv) the circumstances under which the withholding of information would constitute a material misrepresentation regarding the property or regarding the abilities of the parties to fulfill their obligations;

(b) obtaining a written acknowledgment from each party affirming that the party waives the right to:

(i) undivided loyalty;

(ii) absolute confidentiality; and

(iii) full disclosure from the licensee; and

(c) obtaining a written acknowledgment from each party affirming that the party understands that the licensee will act in a neutral capacity to advance the interests of each party;

(4) when acting under a limited agency agreement:

(a) act as a neutral third party; and

(b) uphold the following fiduciary duties to both parties:

(i) obedience, which obligates the limited agent to obey all lawful instructions from the parties, consistent with the agent's duty of neutrality;

(ii) reasonable care and diligence;

(iii) holding safe all money or property entrusted to the limited agent; and

(iv) any additional duties created by the agency agreement;

(5) when making an offer or solicitation to buy, sell, lease or rent real property as a principal, either directly or indirectly, or as an agent for a client, a licensee shall disclose in the initial contact with the other party the fact that the licensee holds a license with the division, whether the license status is active or inactive;

(6) prior to the execution of a binding purchase or lease

agreement, disclose in writing to clients, agents for other parties, and unrepresented parties:

(a) the licensee's position as a principal in any transaction where the licensee operates either directly or indirectly to buy, sell, lease, or rent real property;

(b) the fact that the licensee holds a license with the division, whether the license status is active or inactive, in any circumstance where the licensee is a principal in an agreement to buy, sell, lease, or rent real property;

(c) the licensee's agency relationship(s);

(d)(i) the existence or possible existence of a due-on-sale clause in an underlying encumbrance on real property; and

(ii) the potential consequences of selling or purchasing a property without obtaining the authorization of the holder of an underlying encumbrance;

(7) in order to offer any property for sale or lease, make reasonable efforts to verify the accuracy and content of the information and data to be used in the marketing of the property;

(8) in order to offer a residential property for sale, disclose the source on which the licensee relies for any square footage data that will be used in the marketing of the property:

(a) in the written agreement, executed with the seller, through which the licensee acquires the right to offer the property for sale; and

(b) in a written disclosure provided to the buyer, at the licensee's direction, at or before the deadline for the seller's disclosure per the contract for sale;

(9) upon initial contact with another agent in a transaction, disclose the agency relationship between the licensee and the client;

(10) when executing a binding agreement in a sales transaction, confirm the prior agency disclosure:

(a) in the currently approved Real Estate Purchase Contract; or

(b) in a separate provision with substantially similar language incorporated in or attached to the binding agreement;

(11) when executing a lease or rental agreement, confirm the prior agency disclosure by:

(a) incorporating it into the agreement; or

(b) attaching it as a separate document;

(12) if the licensee desires to act as a sub-agent for the purpose of showing property owned by a seller who is under contract with another brokerage, prior to showing the seller's property:

(a) notify the listing brokerage that sub-agency is requested; and

(b) enter into a written agreement with the listing brokerage with which the seller has contracted:

(i) consenting to the sub-agency; and

(ii) defining the scope of the agency;

(c) obtain from the listing brokerage all available information about the property; and

(d) uphold the same fiduciary duties outlined in this Subsection (1);

(13) provide copies of a lease or purchase agreement, properly signed by all parties, to the party for whom the licensee acts as an agent;

(14)(a) in identifying the seller's brokerage in paragraph 5 of the approved Real Estate Purchase Contract, use:

(i) the principal broker's individual name; or

(ii) the principal broker's brokerage name; and

(b) personally fulfill the licensee's agency relationship with the client, notwithstanding the information used to complete paragraph 5;

(15) timely inform the licensee's principal broker or branch broker of real estate transactions in which:

(a) the licensee is involved as agent or principal;

(b) the licensee has received funds on behalf of the principal broker; or

(c) an offer has been written;

(16)(a) disclose in writing to all parties to a transaction any compensation in addition to any real estate commission that will be received in connection with a real estate transaction; and

(b) ensure that any such compensation is paid to the licensee's principal broker;

(17)(a) in negotiating and closing a transaction, a licensee may fill out those legal forms as provided for in Section 61-2f-306;

(18) use an approved addendum form to make a counteroffer or any other modification to a contract;

(19) in order to sign or initial a document on behalf of a principal in a sales transaction:

(a) obtain prior written authorization in the form of a power of attorney duly executed by the principal;

(b) retain in the file for the transaction a copy of said power of attorney;

(c) attach said power of attorney to any document signed or initialed by the individual on behalf of the principal;

(d) sign as follows: "(Principal's Name) by (Licensee's Name), Attorney-in-Fact;" and

(e) initial as follows: "(Principal's Initials) by (Licensee's Name), Attorney-in-Fact for (Principal's Name);"

(20) in order to sign or initial a document on behalf of a principal in a property management transaction:

(a) obtain prior written authorization executed by the principal which specifically identifies the actions that are authorized to be taken on behalf of the principal;

(b) retain in the file for the transaction a copy of the written authorization;

(c) sign as follows: "by (Licensee's Name), on behalf of Owner;" and

(d) initial as follows: "by (Licensee's initials), on behalf of Owner;"

(21) if employing an unlicensed individual to provide assistance in connection with real estate transactions, adhere to the provisions of Section R162-2f-401g;

(22) strictly adhere to advertising restrictions as outlined in Section R162-2f-401h;

(23) as to a guaranteed sales agreement, provide full disclosure regarding the guarantee by executing a written contract that contains:

(a) the conditions and other terms under which the property is guaranteed to be sold or purchased;

(b) the charges or other costs for the service or plan;

(c) the price for which the property will be sold or purchased; and

(d) the approximate net proceeds the seller may reasonably expect to receive;

(24) immediately deliver money received in a real estate transaction to the principal broker for deposit; and

(25) as contemplated by Subsection 61-2f-401(20), when notified by the division that information or documents are required for investigation purposes, respond with the required information or documents in full and within ten business days.

R162-2f-401b. Prohibited Conduct As Applicable to All Licensed Individuals.

An individual licensee may not:

(1) engage in any of the practices described in Section 61-2f-401 et seq., whether acting as agent or on the licensee's own account, in a manner that:

(a) fails to conform with accepted standards of the real estate sales, leasing, or management industries;

(b) could jeopardize the public health, safety, or welfare; or

(c) violates any provision of Title 61, Chapter 2f et seq. or the rules of this chapter;

(2) require parties to acknowledge receipt of a final copy

of any document prepared by the licensee prior to all parties signing a contract evidencing agreement to the terms thereof;

(3) make a misrepresentation to the division:

(a) in an application for license renewal; or

(b) in an investigation.

(4)(a) propose, prepare, or cause to be prepared a document, agreement, settlement statement, or other device that the licensee knows or should know does not reflect the true terms of the transaction; or

(b) knowingly participate in a transaction in which such a false device is used;

(5) participate in a transaction in which a buyer enters into an agreement that:

(a) is not disclosed to the lender; and

(b) if disclosed, might have a material effect on the terms or the granting of the loan;

(6) use or propose the use of a double contract;

(7) place a sign on real property without the written consent of the property owner;

(8) take a net listing;

(9) sell listed properties other than through the listing broker;

(10) subject a principal to paying a double commission without the principal's informed consent;

(11) enter or attempt to enter into a concurrent agency representation when the licensee knows or should know that the principal has an existing agency representation agreement with another licensee;

(12) pay a finder's fee or give any valuable consideration to an unlicensed person or entity for referring a prospect, except that:

(a) a licensee may give a gift valued at $150 or less to an individual in appreciation for an unsolicited referral of a prospect that results in a real estate transaction; and

(b) as to a property management transaction, a licensee may compensate an unlicensed employee or current tenant up to $200 per lease for assistance in retaining an existing tenant or securing a new tenant;

(13) accept a referral fee from:

(a) a lender; or

(b) a mortgage broker;

(14) act as a real estate agent or broker in the same transaction in which the licensee also acts as a:

(a) mortgage loan originator, associate lending manager, or principal lending manager;

(b) appraiser or appraiser trainee;

(c) escrow agent; or

(d) provider of title services;

(15) act or attempt to act as a limited agent in any transaction in which:

(a) the licensee is a principal in the transaction; or

(b) any entity in which the licensee is an officer, director, partner, member, manager, employee, or stockholder is a principal in the transaction;

(16) make a counteroffer by striking out, whiting out, substituting new language, or otherwise altering:

(a) the boilerplate provisions of the Real Estate Purchase Contract; or

(b) language that has been inserted to complete the blanks of the Real Estate Purchase Contract;

(17) advertise or offer to sell or lease property without the written consent of:

(a) the owner(s) of the property; and

(b) if the property is currently listed, the listing broker;

(18) advertise or offer to sell or lease property at a lower price than that listed without the written consent of the seller or lessor;

(19) represent on any form or contract that the individual is holding client funds without actually receiving funds and securing them pursuant to Subsection R162-2f-401a(24);

(20) when acting as a limited agent, disclose any information given to the agent by either principal that would likely weaken that party's bargaining position if it were known, unless the licensee has permission from the principal to disclose the information;

(21) disclose, or make any use of, a short sale demand letter outside of the purchase transaction for which it is issued;

(22) in a short sale, have the seller sign a document allowing the licensee to lien the property; or

(23) charge any fee that represents the difference between:

(a) the total concessions authorized by a seller and the actual amount of the buyer's closing costs; or

(b) in a short sale, the sale price approved by the lender and the total amount required to clear encumbrances on title and close the transaction.

R162-2f-401c. Additional Provisions Applicable to Brokers.

(1) A principal broker shall:

(a) strictly comply with the record retention and maintenance requirements of Subsection R162-2f-401k;

(b) provide to the person whom the principal broker represents in a real estate transaction:

(i) a detailed statement showing the current status of a transaction upon the earlier of:

(A) the expiration of 30 days after an offer has been made and accepted; or

(B) a buyer or seller making a demand for such statement; and

(ii) an updated transaction status statement at 30-day intervals thereafter until the transaction either closes or fails;

(c)(i) regardless of who closes a real estate transaction, ensure that final settlement statements are reviewed for content and accuracy at or before the time of closing by:

(A) the principal broker;

(B) an associate broker or branch broker affiliated with the principal broker; or

(C) the sales agent who is:

(I) affiliated with the principal broker; and

(II) representing the principal in the transaction; and

(ii) ensure the principals in each closed real estate transaction receive copies of all documents executed in the transaction closing;

(d) in order to assign all or part of the principal broker's compensation to an associate broker or sales agent in accordance with Section 61-2f-305, provide written instructions to the title insurance agent that include the following:

(i) an identification of the property involved in the real estate transaction;

(ii) an identification of the principal broker and sales agent or associate broker who will receive compensation in accordance with the written instructions;

(iii) a designation of the amount of compensation that will be received by both the principal broker and the sales agent or associate broker;

(iv) a prohibition against alteration of the written instructions by anyone other than the principal broker; and

(v) additional instructions at the discretion of the principal broker;

(e) obtain written consent from both the buyer and the seller before retaining any portion of an earnest money deposit being held by the principal broker;

(f) exercise active supervision over the conduct of all licensees and unlicensed staff employed by or affiliated with the principal broker, whether acting as:

(i) the principal broker for an entity; or

(ii) a branch broker;

(g) strictly adhere to the rules governing real estate auctions, as outlined in Section R162-2f-401i;

(h) strictly adhere to the rules governing property management, as outlined in Section R162-2f-401j;

(i)(i) except as provided in this Subsection (1)(i)(iii), within three business days of receiving a client's money in a real estate transaction, deposit the client's money into a trust account:

(A) maintained by the principal broker pursuant to Section R162-2f-403; or

(B) if the parties to the transaction agree in writing, maintained by:

(I) a title company pursuant to Section 31A-23a-406; or

(II) another authorized escrow entity; and

(ii) within three business days of receiving money from a client or a tenant in a property management transaction, deposit the money into a trust account maintained by the principal broker pursuant to Section R162-2f-403 or forward or deposit client or tenant money into an account maintained by the property owner;

(iii) a principal broker is not required to comply with this Subsection (1)(i)(i) or (ii) if:

(A) the contract or other written agreement states that the money is to be:

(I) held for a specific length of time; or

(II) as to a real estate transaction, deposited upon acceptance by the seller; or

(B) as to a real estate transaction, the Real Estate Purchase Contract or other written agreement states that a promissory note may be tendered in lieu of good funds and the promissory note:

(I) names the seller as payee; and

(II) is retained in the principal broker's file until closing;

(j)(i) maintain at the principal business location a complete record of all consideration received or escrowed for real estate and property management transactions; and

(ii) be personally responsible at all times for deposits held in the principal broker's trust account;

(k)(i)(A)(I) in a real estate transaction, assign a consecutive, sequential number to each offer; and

(II) assign a unique identification to each property management client; and

(B) include the transaction number or client identification, as applicable, on:

(I) trust account deposit records; and

(II) trust account checks or other equivalent records evidencing the transfer of trust funds;

(ii) maintain a separate transaction file for each offer in a real estate transaction, including a rejected offer, that involves funds tendered through the brokerage and deposited into a trust account;

(iii) maintain a record of each rejected offer in a real estate transaction that does not involve funds deposited to trust:

(A) in separate files; or

(B) in a single file holding all such offers; and

(l) if the principal broker assigns an affiliated associate broker or branch broker to assist the principal broker in accomplishing the affirmative duties outlined in this Subsection (1):

(i) actively supervise any such associate broker or branch broker; and

(ii) remain personally responsible and accountable for adequate supervision of all licensees and unlicensed staff affiliated with the principal broker.

(2) A branch broker shall:

(a) exercise active supervision over the conduct of all licensees and unlicensed staff employed by or affiliated with the branch or branches supervised by the branch broker; and

(b) be personally responsible and accountable for all other responsibilities and duties assigned to the branch broker by the principal broker and accepted by the branch broker.

(3) Neither a principal broker nor a branch broker shall be deemed in violation of Subsections (1)(f)and (2) where:

(a) an affiliated licensee or unlicensed staff member violates a provision of Title 61, Chapter 2f et seq. or the rules promulgated thereunder;

(b) the supervising broker had in place at the time of the violation specific written policies or instructions to prevent such a violation;

(c) reasonable procedures were established by the broker to ensure that licensees receive adequate supervision and the broker has followed those procedures;

(d) upon learning of the violation, the broker attempted to prevent or mitigate the damage;

(e) the broker did not participate in the violation;

(f) the broker did not ratify the violation; and

(g) the broker did not attempt to avoid learning of the violation.

R162-2f-401d. School and Provider Conduct.

(1) Affirmative duties. A school's owner(s) and director(s) shall:

(a) within 15 days after the occurrence of any material change in the information provided to the division under Subsection R162-2f-206a(2)(a), give the division written notice of that change;

(b)(i) provide instructors of prelicensing courses with the state-approved course outline; and

(ii) ensure that any prelicensing course adheres to the topics mandated in the state-approved course outline;

(c) ensure that all instructors comply with Section R162-2f-401e.

(d) prior to accepting payment from a prospective student for a prelicensing education course:

(i) provide the criminal history disclosure statement described in Subsection R162-2f-206a(3)(d);

(ii) obtain the student's signature on the criminal history disclosure; and

(iii) have the enrollee verify that an education waiver has not been obtained from the division;

(e)(i) retain signed criminal history disclosures for a minimum of three years from the date of course completion; and

(ii) make the signed criminal history disclosures available for inspection by the division upon request;

(f) maintain for a minimum of three years after enrollment:

(i) the registration record of each student;

(ii) the attendance record of each student; and

(iii) any other prescribed information regarding the offering, including exam results, if any;

(g) ensure that course topics are taught only by:

(i) certified instructors; or

(ii) guest lecturers;

(h)(i) limit the use of approved guest lecturers to a total of 20% of the instructional hours per approved course; and

(ii) prior to using a guest lecturer to teach a portion of a course, document for the division the professional qualifications of the guest lecturer;

(i) furnish to the division an updated roster of the school's approved instructors and guest lecturers each time there is a change;

(j) within ten days of teaching a course, upload course completion information for any student who:

(i) successfully completes the course; and

(ii) provides an accurate name or license number within seven business days of attending the course;

(k) substantiate, upon request by the division, any claims made in advertising; and

(l) include in all advertising materials the continuing education course certification number issued by the division.

(2) Prohibited conduct. A provider may not:

(a) award continuing education credit for a course that has

not been certified by the division prior to its being taught;

(b) award continuing education credit to any student who fails to:

(i) attend a minimum of 90% of the required class time; or

(ii) pass a prelicense course final examination;

(c) accept a student for a reduced number of hours without first having a written statement from the division defining the exact number of hours the student must complete;

(d) allow a student to challenge by examination any course or part of a course in lieu of attendance;

(e) allow a course approved for traditional education to be:

(i) taught in a private residence; or

(ii) completed through home study;

(f) make a misrepresentation about a competing school or continuing education provider including a misrepresentation regarding personnel, a course of instruction, or a business practice;

(g) disseminate advertisements or public notices that are false or disparage the dignity and integrity of the real estate profession;

(h) make false or disparaging remarks about a competitor's services or methods of operation;

(i) attempt by any means to obtain or use the questions on the prelicensing examinations unless the questions have been dropped from the current exam bank;

(j) give valuable consideration to a real estate brokerage or licensee for referring students to the school;

(k) accept valuable consideration from a real estate brokerage or licensee for referring students to the brokerage;

(l) allow real estate brokerages to solicit for agents at the school during class time, including the student break time;

(m) obligate or require students to attend any event in which a brokerage solicits for agents;

(n) award more than eight credit hours per day per student;

(o) advertise or market a continuing education course that has not been:

(i) approved by the division; and

(ii) issued a current continuing education course certification number; or

(p) advertise, market, or promote a continuing education course with language indicating that division certification is pending or otherwise forthcoming.

R162-2f-401e. Instructor Conduct.

(1) Affirmative duties. An instructor shall:

(a) adhere to the approved outline for any course taught;

(b) comply with a division request for information within ten business days of the date of the request; and

(c) maintain a professional demeanor in all interactions with students.

(2) Prohibited conduct. An instructor may not:

(a) continue to teach any course after the instructor's certification has expired and without renewing the instructor's certification; or

(b) continue to teach any course after the course has expired and without renewing the course certification.

R162-2f-401f. Approved Forms.

(1) The following standard forms are approved by the commission and the Office of the Attorney General for use by all licensees:

(a) September 1, 2017, Real Estate Purchase Contract;

(b) January 1, 1987, Uniform Real Estate Contract;

(c) October 1, 1983, All Inclusive Trust Deed;

(d) October 1, 1983, All Inclusive Promissory Note Secured by All Inclusive Trust Deed;

(e) August 5, 2003, Addendum to Real Estate Purchase Contract;

(f) August 27, 2008, Seller Financing Addendum to Real Estate Purchase Contract;

(g) January 1, 1999, Buyer Financial Information Sheet;

(h) August 27, 2008, FHA/VA Loan Addendum to Real Estate Purchase Contract;

(i) January 1, 1999, Assumption Addendum to Real Estate Purchase Contract;

(j) August 1, 2018, Lead-based Paint Addendum to Real Estate Purchase Contract; and

(k) August 1, 2018, Disclosure and Acknowledgment Regarding Lead-based Paint and/or Lead-based Paint Hazards; and

(l) January 1, 2018, Deposit of Earnest Money With Title Company Addendum to Real Estate Purchase Contract.

R162-2f-401g. Use of Personal Assistants.

In order to employ an unlicensed individual to provide assistance in connection with real estate transactions, an individual licensee shall:

(1) obtain the permission of the licensee's principal broker before employing the individual;

(2) supervise the assistant to ensure that the duties of an unlicensed assistant are limited to those that do not require a real estate license, including the following:

(a) performing clerical duties, including making appointments for prospects to meet with real estate licensees, but only if the contact is initiated by the prospect and not by the unlicensed assistant;

(b) at an open house, distributing preprinted literature written by a licensee, where a licensee is present and the unlicensed person provides no additional information concerning the property or financing, and does not become involved in negotiating, offering, selling or completing contracts;

(c) acting only as a courier service in delivering documents, picking up keys, or similar services, so long as the courier does not engage in any discussion or completion of forms or documents;

(d) placing brokerage signs on listed properties;

(e) having keys made for listed properties; and

(f) securing public records from a county recorder's office, zoning office, sewer district, water district, or similar entity;

(3) compensate a personal assistant at a predetermined rate that is not:

(a) contingent upon the occurrence of real estate transactions; or

(b) determined through commission sharing or fee splitting; and

(4) prohibit the assistant from engaging in telephone solicitation or other activity calculated to result in securing prospects for real estate transactions, except as provided in this Subsection (2)(a).

R162-2f-401h. Requirements and Restrictions in Advertising.

(1) Except as provided for in subsections (2) and (3), a licensee shall not advertise or permit any person employed by or affiliated with the licensee to advertise real estate services or property in any medium without clearly and conspicuously identifying in the advertisement the name of the brokerage with which the licensee is affiliated.

(2) When it is not reasonable for a licensee to identify the name of the brokerage in an electronic advertisement, the licensee shall ensure the electronic advertisement directly links to a display that clearly and conspicuously identifies the name of the brokerage.

(3) A licensee is not required to identify the name of the brokerage with which the licensee is affiliated if:

(a) the licensee advertises a property not currently listed with the brokerage with which the licensee is affiliated;

(b) the licensee has an ownership interest in the property; and

(c) the advertisement identifies the name of the individual licensee as "owner-agent" or "owner-broker."

(4) The name of the brokerage identified by a licensee in an advertisement shall be the name of the brokerage as shown on division records.

(5) A team, group, or other marketing entity which includes one or more licensees shall be subject to the same requirements and restrictions with regard to advertising as is an individual licensee.

(6)(a) If a licensee advertises a guaranteed sales plan, the advertisement shall include, in a clear and conspicuous manner:

(i) a statement that costs and conditions may apply; and

(ii) information about how to contact the licensee offering the guarantee so as to obtain the disclosures required under Subsection R162-2f-401a(23).

(b) Any radio or television advertisement of a guaranteed sales plan shall include a conspicuous statement advising if any conditions and limitations apply.

R162-2f-401i. Standards for Real Estate Auctions.

For auctions of real property in this state:

(1) the auctioneer or auction company shall:

(a) be licensed as a principal broker under Utah Code Title 61, Chapter 2f; or

(b) affiliate with a licensed principal broker for purposes of advertising and conducting all aspects of the auction;

(2) the auctioneer or auction company shall not advertise the services of the auctioneer or auction company directly to an owner of real property who is already subject to an agency agreement;

(3) if an auctioneer or auction company affiliates with a principal broker as provided in Utah Administrative Code R162-2f-401i(1)(b), the principal broker shall:

(a) ensure that all aspects of the auction comply with the requirements of this section and all other laws otherwise applicable to real estate licensees in real estate transactions;

(b) ensure that advertising and promotional materials associated with an auction name the principal broker;

(c) attend and supervise the auction;

(d) ensure that any purchase agreement used at the auction is completed by an individual holding an active Utah real estate license and is filled out in compliance with Section 61-2f-306;

(e) ensure that any money deposited at the auction is placed in trust pursuant to Utah Administrative Code R162-2f-401c(1)(i); and

(f) ensure that adequate arrangements are made for the closing of any real estate transaction arising out of the auction.

R162-2f-401j. Standards for Property Management.

(1) Property management performed by a real estate brokerage, or by licensees or unlicensed assistants affiliated with the brokerage, shall be done under the name of the brokerage as registered with the division unless the principal broker holds a dual broker license and obtains a separate registration pursuant to Section R162-2f-205 for a separate business name.

(2) In addition to fulfilling all duties related to supervision per Section 61-2f-401(14), the principal broker of a registered entity, and the branch broker of a registered branch, shall implement training to ensure that each sales agent, associate broker, and unlicensed employee who is affiliated with the licensee has the knowledge and skills necessary to perform assigned property management tasks within the boundaries of these rules, including this Subsection R162-2f-401j(3).

(3) An unlicensed individual employed by a real estate or property management company may perform the following services under the supervision of the principal broker without holding an active real estate license:

(a) providing a prospective tenant with access to a rental unit;

(b) providing secretarial, bookkeeping, maintenance, or rent collection services;

(c) quoting rent and lease terms as established or approved by the principal broker;

(d) completing pre-printed lease or rental agreements, except as to terms that may be determined through negotiation of the principals;

(e) serving or receiving legal notices;

(f) addressing tenant or neighbor complaints; and

(g) inspecting units.

(4) Within 30 days of the termination of a contract with a property owner for property management services, the principal broker shall deliver all trust money to the property owner, the property owner's designated agent, or other party as designated under the contract with the property owner.

R162-2f-401k. Recordkeeping Requirements.

A principal broker shall:

(1) maintain and safeguard the following records to the extent they relate to the business of a principal broker:

(a) all trust account records;

(b) any document submitted by a licensee affiliated with the principal broker to a lender or underwriter as part of a real estate transaction;

(c) any document signed by a seller or buyer with whom the principal broker or an affiliated licensee is required to have an agency agreement; and

(d) any document created or executed by a licensee over whom the principal broker has supervisory responsibility pursuant to Subsection R162-2f-401c(1)(f);

(2) maintain the records identified in Subsection R162-2f-401k(1):

(a)(i) physically:

(A) at the principal business location designated by the principal broker on division records; or

(B) where applicable, at a branch office as designated by the principal broker on division records; or

(ii) electronically, in a storage system that complies with Title 46 Chapter 04, Utah Uniform Electronic Transactions Act; and

(b) for at least three calendar years following the year in which:

(i) an offer is rejected; or

(ii) the transaction either closes or fails;

(3) upon request of the division, make any record identified in Subsection R162-2f-401k(1) available for inspection and copying by the division;

(4) notify the division in writing within ten business days after terminating business operations as to where business records will be maintained; and

(5) upon filing for brokerage bankruptcy, notify the division in writing of:

(a) the filing; and

(b) the current location of brokerage records.

R162-2f-401l. Gifts and Inducements.

(1) An inducement gift is permissible and is not an illegal sharing of commission if the principal broker or affiliated licensee offering the inducement gift to a buyer or a seller complies with the underwriting guidelines that apply to any loan in the transaction for which the inducement has been offered.

(2) A closing gift is permissible and is not an illegal sharing of commissions.

R162-2f-402. Investigations.

The investigative and enforcement activities of the division shall include the following:

(1) verifying information provided on new license applications and applications for license renewal;

(2) evaluation and investigation of complaints;

(3) auditing licensees' business records, including trust account records;

(4) meeting with complainants, respondents, witnesses and attorneys;

(5) making recommendations for dismissal or prosecution;

(6) preparation of cases for formal or informal hearings, restraining orders, or injunctions;

(7) working with the assistant attorney general and representatives of other state and federal agencies; and

(8) entering into proposed stipulations for presentation to the commission and the director.

R162-2f-403a. Trust Accounts - General Provisions.

(1) A principal broker shall:

(a)(i) if engaged in listing or selling real estate, maintain at least one real estate trust account in a bank or credit union located within the state of Utah; and

(ii) if engaged in property management, refer to Subsection R162-2f-403b(3);

(b) at the time a trust account is established, notify the division in writing of:

(i) the account number;

(ii) the address of the bank or credit union where the account is located; and

(iii) the type of activity for which the account is used.

(2) A trust account maintained by a principal broker shall be non-interest-bearing, unless:

(a) the parties to the transaction agree in writing to deposit the funds in an interest-bearing account;

(b) the parties to the transaction designate in writing the person to whom the interest will be paid upon completion or failure of the sale;

(c) the person designated under this Subsection (2)(b):

(i) qualifies at the time of payment as a non-profit organization under Section 501(c)(3) of the Internal Revenue Code; and

(ii) operates exclusively to provide grants to affordable housing programs in Utah; and

(d) the affordable housing program that is the recipient of the grant under this Subsection (2)(c)(ii) qualifies at the time of payment as a non-profit organization under Section 501(c)(3) of the Internal Revenue Code.

(3) A principal broker may not deposit into the principal broker's real estate trust account funds received in connection with rental of tourist accommodations where the rental period is less than 30 consecutive days.

(4) Records of deposits to a trust account shall include:

(a) transaction number or unique client identifier, as applicable pursuant to Subsection R162-2f-401c(1)(k);

(b) identification of payee and payor;

(c) amount of deposit;

(d) location of property subject to the transaction; and

(e) date and place of deposit.

(5) Any instrument by which funds are disbursed from a real estate or property management trust account shall include:

(a) the business name of the registered entity;

(b) the address of the registered entity;

(c) clear identification of the trust account from which the disbursement is made, including:

(i) account name; and

(ii) account number;

(iii) transaction number or unique client identification, as applicable, pursuant to Subsection R162-2f-401c(1)(k);

(iv) date of disbursement;

(v) clear identification of payee and payor;

(vi) amount disbursed;

(vii) notation identifying the purpose for disbursement; and

(viii) check number, wire transfer number, or equivalent bank or credit union instrument identification.

(6) Any instrument of conveyance that is voided shall be clearly marked with the term "void" and the original instrument retained pursuant to Subsection R162-2f-401k.

(7) If both parties to a contract make a written claim to money held in a principal broker's trust fund and the principal broker cannot determine from any signed agreement which party's claim is valid, the principal broker may:

(a) interplead the funds into court and thereafter disburse:

(i) upon written authorization of the party who will not receive the funds; or

(ii) pursuant to the order of a court of competent jurisdiction; or

(b) within 15 days of receiving written notice that both parties claim the funds, refer the parties to mediation if:

(i) no party has filed a civil suit arising out of the transaction; and

(ii) the parties have contractually agreed to submit disputes arising out of their contract to mediation.

(8) If a principal broker is unable to disburse trust funds within five years after the failure of a transaction, the principal broker shall remit the funds to the State Treasurer's Office as unclaimed property pursuant to Title 67, Chapter 4a et seq.

(9) Trust account reconciliation. For each real estate or property management trust account operated by a registered entity, the principal broker of the entity shall:

(a) maintain a date-sequential record of all deposits to and disbursements from the account, including or cross-referenced to the information specified in Subsection R162-2f-401c(1)(k);

(b) maintain a current, running total of the balance contained in the trust account;

(c)(i) maintain records sufficient to detail the final disposition of all funds associated with each transaction; and

(ii) ensure that each closed transaction balances to zero;

(d) reconcile the brokerage trust account records with the bank or credit union records at least monthly; and

(e) upon request, make all trust account records available to the division for auditing or investigation.

(10) The principal broker shall notify the division within 30 days if:

(a) the principal broker receives, from a bank or credit union in which the principal broker maintains a real estate or property management trust account, documentation to evidence that the trust account is out of balance; and

(b) the imbalance cannot be cured within the 30-day notification period.

R162-2f-403b. Real Estate Trust Accounts.

(1) A real estate trust account shall be used for the purpose of securing client funds:

(a) deposited with the principal broker in connection with a real estate transaction regulated under Title 61, Chapter 2f et seq.;

(b) if the principal broker is also a builder or developer, deposited under a Real Estate Purchase Contract, construction contract, or other agreement that provides for the construction of a dwelling; and

(c) collected in the performance of property management duties, pursuant to this Subsection (3).

(2) A principal broker violates Subsection 61-2f-401(4)(B) if the principal broker deposits into the real estate trust account more than $500 of the principal broker's own funds.

(3)(a) A principal broker who regularly engages in property management on behalf of seven or more individual units shall establish at least one property management trust account that is:

(i) separate from the real estate trust account; and

(ii) operated in accordance with Subsection R162-2f-403c.

(b) A principal broker who collects rents or otherwise manages property for no more than six individual units at any given time may use the real estate trust account to secure funds received in connection with the principal broker's property management activities.

(4) Unless otherwise agreed pursuant to this Subsection (5)(b), a principal broker may not pay a commission from the real estate trust account without first:

(a) obtaining written authorization from the buyer and seller, through contract or otherwise;

(b) closing or otherwise terminating the transaction;

(c) delivering the settlement statement to the buyer and seller;

(d) ensuring that the buyer or seller whom the principal broker represents has been paid the amount due as determined by the settlement statement;

(e) making a record of each disbursement; and

(f) depositing funds withdrawn as the principal broker's commission into the principal broker's operating account prior to further disbursing the money.

(5) A principal broker may disburse funds from a real estate trust account only in accordance with:

(a) specific language in the Real Estate Purchase Contract authorizing disbursement;

(b) other proper written authorization of the parties having an interest in the funds; or

(c) court order.

(6) A principal broker may not release for construction purposes those funds held as deposit money under an agreement that provides for the construction of a dwelling unless the purchaser authorizes such disbursement in writing.

(7) A principal broker may not release earnest money or other trust funds associated with a failed transaction unless:

(a) a condition in the Real Estate Purchase Contract authorizing disbursement has occurred; or

(b) the parties execute a separate signed agreement containing instructions and authorization for disbursement.

R162-2f-403c. Property Management Trust Accounts.

(1) As of January 1, 2014, a trust account that is used exclusively for property management purposes shall be used to secure the following:

(a) tenant security deposits;

(b) rents; and

(c) money tendered by a property owner as a reserve fund or for payment of unexpected expenses.

(2) A principal broker violates Subsection 61-2f-401(4)(B) if the principal broker deposits into a property management trust account any funds belonging to the principal broker without:

(a) maintaining records to clearly identify the total amount belonging to the principal broker; or

(b) performing a monthly line-item reconciliation of all deposits and withdrawals of funds belonging to the principal broker.

(3) A principal broker may disburse funds from a property management trust account only in accordance with:

(a) specific language in the property management contract or tenant lease agreement, as applicable, authorizing disbursement;

(b) other proper written authorization of the parties having an interest in the funds; or

(c) court order.

(4) A principal broker who transfers funds from a property management trust account for any purpose shall maintain records to clearly evidence that:

(a) prior to making the transfer, the principal broker verified the money as belonging to the property owner for whose benefit, or on whose instruction, the funds are transferred;

(b) any money transferred into an operating account as the principal broker's property management fee is earned according to the terms of the principal broker's contract with the property owner;

(c) any transfer for maintenance, repair, or similar purpose is:

(i) authorized according to the terms of the applicable property management contract, tenant lease agreement, or other instruction of the property owner; and

(ii) used strictly for the purpose for which the transfer is authorized, with any excess returned to the trust account.

R162-2f-407. Administrative Proceedings.

(1) An adjudicative proceeding conducted subsequent to the issuance of a cease and desist order shall be conducted as a formal adjudicative proceeding.

(2) Other adjudicative proceedings.

(a) All adjudicative proceedings as to any matter not specifically designated as requiring a formal adjudicative proceeding shall be designated as either formal or informal in the division's notice of agency action or notice of proceeding, as applicable.

(b) A hearing shall be held in an informal adjudicative proceeding only if required or permitted by the Utah Real Estate Licensing and Practices Act or by these rules.

(3) Hearings required. A hearing before the commission shall be held in a proceeding:

(a) commenced by the division for disciplinary action pursuant to Section 61-2f-401 and Subsection 63G-4-201(2);

(b) to adjudicate an appeal from an automatic revocation under Subsection 61-2f-204(1)(e), if the appellant requests a hearing;

(c) appealing a division order denying or restricting a license; and

(d) when an application presents unusual circumstances, such that the division determines that the application should be heard by the commission.

(4) Procedures for hearings in informal adjudicative proceedings.

(a) The division director shall be the presiding officer for any informal adjudicative proceeding unless the matter has been delegated to a member of the commission or an administrative law judge.

(b) All informal adjudicative proceedings shall adhere to procedures as outlined in:

(i) Utah Administrative Procedures Act Title 63G, Chapter 4;

(ii) Utah Administrative Code Rule R151-4 et seq.; and

(iii) the rules promulgated by the division.

(c) Except as provided in this Subsection (5)(b), a party is not required to file a written answer to a notice of agency action from the division in an informal adjudicative proceeding.

(d) In any proceeding under this Subsection 407, the commission and the division may at their discretion delegate a hearing to an administrative law judge or request that an administrative law judge assist the commission and the division in conducting the hearing. Any delegation of a hearing to an administrative law judge shall be in writing.

(e) Upon the scheduling of a hearing by the division and at least 30 days prior to the hearing, the division shall, by first class postage-prepaid delivery, mail written notice of the date, time, and place scheduled for the hearing:

(i) to the respondent at the address last provided to the division pursuant to Section 61-2f-207; and

(ii) if the respondent is an actively licensed sales agent or associate broker, to the principal broker with whom the respondent is affiliated.

(f) Formal discovery is prohibited.

(g) The division may issue subpoenas or other orders to compel production of necessary and relevant evidence:

(i) on its own behalf; or

(ii) on behalf of a party where the party:

(A) makes a written request;

(B) assumes responsibility for effecting service of the subpoena; and

(C) bears the costs of the service, any witness fee, and any mileage to be paid to a witness.

(h) Upon ordering a licensee to appear for a hearing, the division shall provide to the licensee the information that the division will introduce at the hearing.

(i) The division shall adhere to Title 63G, Chapter 2, Government Records Access and Management Act in addressing a request for information obtained by the division through an investigation.

(j) The division may decline to provide a party with information that it has previously provided to that party.

(k) Intervention is prohibited.

(l) Hearings shall be open to all parties unless the presiding officer closes the hearing pursuant to:

(i) Title 63G, Chapter 4, the Utah Administrative Procedures Act; or

(ii) Title 52, Chapter 4, the Open and Public Meetings Act.

(m) Upon filing a proper entry of appearance with the division pursuant to Utah Administrative Code Section R151-4-110(1)(a), an attorney may represent a party.

(5) Additional procedures for informal disciplinary proceedings.

(a) The division shall commence a disciplinary proceeding by filing and serving on the respondent:

(i) a notice of agency action;

(ii) a petition setting forth the allegations made by the division;

(iii) a witness list, if applicable; and

(iv) an exhibit list, if applicable.

(b) Answer.

(i) At the time the petition is filed, the presiding officer, upon a determination of good cause, may require the respondent to file an answer to the petition by so ordering in the notice of agency action.

(ii) The respondent may file an answer, even if not ordered to do so in the notice of agency action.

(iii) Any answer shall be filed with the division within thirty days after the mailing date of the notice of agency action and petition.

(c) Witness and exhibit lists.

(i) Where applicable, the division shall provide its witness and exhibit lists to the respondent at the time it mails its notice of hearing.

(ii) The respondent shall provide its witness and exhibit lists to the division no later than thirty days after the mailing date of the division's notice of agency action and petition.

(iii) Any witness list shall contain:

(A) the name, address, and telephone number of each witness; and

(B) a summary of the testimony expected from the witness.

(iv) Any exhibit list:

(A) shall contain an identification of each document or other exhibit that the party intends to use at the hearing; and

(B) shall be accompanied by copies of the exhibits.

(d) Pre-hearing motions.

(i) Any pre-hearing motion permitted under the Administrative Procedures Act or the rules promulgated by the Department of Commerce shall be made in accordance with those rules.

(ii) The division director shall receive and rule upon any pre-hearing motions.

(6) Formal adjudicative proceedings shall be conducted pursuant to the Administrative Procedures Act and the rules promulgated by the Department of Commerce.

R162-2f-501. Appendices.

(1) When submitting evidence of qualifying experience which experience complies with the requirements in section R162-2f-401a as part of an application for licensure as a broker, an applicant shall select from the applicant's total qualifying experience at least 60 documented experience points and no more than 80 documented experience points for review and approval by the division.

(2) When calculating experience points in Table 1, experience points for a transaction subject to an agency agreement other than an exclusive brokerage agreement as defined in Utah Code Subsection 61-2f-308(1)(d) are limited to one-quarter of the points described in Table 1.

(3) When calculating experience points from Tables 1 and 2, experience points are limited to points for those activities which require a real estate license and comply with R162-2f-401a. A minimum of one-half of the points in Tables 1 and 2 must derive from transactions of properties located in the state of Utah.

TABLE 1
APPENDIX 1 - REAL ESTATE SALES TRANSACTIONS
EXPERIENCE TABLE

RESIDENTIAL - points can be accumulated from either the selling or the listing side of a real estate closing:		
(a)	One unit dwelling	2.5 points
(b)	Two- to four-unit dwellings	5 points
(c)	Apartments, 5 units or over	10 points
(d)	Improved lot	2 points
(e)	Vacant land/subdivision	10 points
COMMERCIAL		
(f)	Hotel or motel	10 points
(g)	Industrial or warehouse	10 points
(h)	Office building	10 points
(i)	Retail building	10 points

TABLE 2
APPENDIX 2 - LEASING TRANSACTIONS AND PROPERTY MANAGEMENT
EXPERIENCE TABLE

RESIDENTIAL		
(a)	Each property management agreement	1 point per unit up to 5 points
(b)	Each unit leased	1.25 points per unit
*(c)	All other property management	0.25 pt/month
COMMERCIAL - hotel/motel, industrial/warehouse, office, or retail building		
(a)	Each property management agreement	1 point per unit up to 5 points
(b)	Each unit leased	1.25 points per unit
*(c)	All other property management	1 pt/month

*When calculating experience points from Table 2, the total combined monthly experience credit claimed for "All other property management" combined, both residential and commercial, may not exceed 25 points in any application to practice as a real estate broker.

TABLE 3
APPENDIX 3 - OPTIONAL EXPERIENCE TABLE

Real Estate Attorney	1 pt/month
CPA-Certified Public Accountant	1 pt/month
Mortgage Loan Officer	1 pt/month
Licensed Escrow Officer	1 pt/month
Licensed Title Agent	1 pt/month
Designated Appraiser	1 pt/monthLicensed
General Contractor	1 pt/month
Bank Officer in Real Estate Loans	1 pt/month
Certified Real Estate Prelicensing Instructor	.5 pt/month

KEY: real estate business, operational requirements, trust

R277. Education, Administration.
R277-419. Pupil Accounting.
R277-419-1. 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;

(c) Subsection 53E-3-501(1)(e), which directs the Board to establish rules and standards regarding:

(i) cost-effectiveness;

(ii) school budget formats; and

(iii) financial, statistical, and student accounting requirements;

(d) Subsection 53E-3-602(2), which requires a local school board's auditing standards to include financial accounting and student accounting;

(e) Subsection 53E-3-301(3)(d), which requires the Superintendent to present to the Governor and the Legislature data on the funds allocated to LEAs; and

(f) Section 53G-4-404, which requires annual financial reports from all school districts.

(2) The purpose of this rule is to specify pupil accounting procedures used in apportioning and distributing state funds for education.

R277-419-2. Definitions.

(1) "Aggregate Membership" means the sum of all days in membership during a school year for eligible students enrolled in a public school.

(2) "Approved CTE course" means a course approved by the Board within the Career and Technical Education (CTE) Pathways in the eight areas of study.

(3) "Blended learning program" means a program under the direction of an LEA:

(a) where a student learns at least in part:

(i) at a supervised brick and motar location away from a student's home; and

(ii) through an online delivery; and

(b) that may include some element of student control over time, place, or path, or pace.

(4) "Brick and mortar school" means a traditional school or traditional school building.

(5) "Competency based learning program" means an education program that requires a student to acquire a competency and includes a classroom structure and operation that aid and facilitate the acquisition of specified competencies on an individual basis wherein a student is allowed to master and demonstrate competencies as fast as the student is able.

(6) "Continuing enrollment measurement" means a methodology used to establish a student's continuing membership or enrollment status for purposes of generating membership days.

(7) "Data Clearinghouse" means the electronic data collection system used by the Superintendent to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.

(8) "Distance learning program" means a program, under the direction of an LEA, in which students receive educational services in a location other than a brick and mortar school, and may include educational services delivered over the internet.

(9) "Early graduation student" means a student who has an early graduation student education plan as described in Rule R277-703.

(10) "Eligible student" means a student who satisfies the criteria for enrollment in an LEA, set forth in Section R277-419-5.

(11) "Enrollment verification data" includes:

(a) a student's birth certificate or other verification of age;

(b) verification of immunization or exemption from immunization form;

(c) proof of Utah public school residency;

(d) family income verification; or

(e) special education program information, including:

(i) an individualized education program;

(ii) a Section 504 accommodation plan; or

(iii) an English learner plan.

(12) "Face-to-face learning program" means a program within an LEA that consists of eligible, enrolled public school students who physically attend school in a brick and mortar school.

(13)(a) "Home school" means the formal instruction of children in their homes instead of in an LEA.

(b) The differences between a home school student and an online student include:

(i) an online student may receive instruction at home, but the student is enrolled in a public school that follows state Core Standards;

(ii) an online student is:

(A) subject to laws and rules governing state and federal mandated tests; and

(B) included in accountability measures;

(iii) an online student receives instruction under the direction of a highly qualified, licensed teacher who is subject to the licensure requirements of R277-502 and fingerprint and background checks consistent with R277-516 and R277-520;

(iv) instruction delivered in a home school course is not eligible to be claimed in membership of an LEA and does not qualify for funding under the Minimum School Program in Title 53F, Chapter 2, Minimum School Program Act.

(14) "Home school course" means instruction:

(a) delivered in a home school environment where the curriculum and instruction methods, evaluation of student progress or mastery, and reporting, are provided or administered by the parent, guardian, custodian, or other group of individuals; and

(b) not supervised or directed by an LEA.

(15)(a) "Influenza pandemic" or "pandemic" means a global outbreak of serious illness in people.

(b) "Influenza pandemic" or "pandemic" may be caused by a strain of influenza that most people have no natural immunity to and that is easily spread from person to person.

(16) "ISI-1" means a student who receives 1 to 59 minutes of YIC related services during a typical school day.

(17) "ISI-2" means a student who receives 60 to 179 minutes of YIC related services during a typical school day.

(18)(a) "Membership" means a public school student is on the current roll of a public school class or public school as of a given date.

(b) A student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official removal from the class or school due to the student having left the school.

(c) Removal from the roll does not mean that an LEA should delete the student's record, only that the student should no longer be counted in membership.

(19) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.

(20) "Nontraditional Program" means a program within an LEA that consists of eligible, enrolled public school students where the student receives instruction through a:

(a) distance learning program;

(b) online learning program;

(c) blended learning program; or

(d) competency based learning program.

(21) "Online learning program" means a program:
(a) that is under the direction of an LEA; and
(b) in which students receive educational services primarily over the internet.
(22) "Private school" means an educational institution that:
(a) is not an LEA;
(b) is owned or operated by a private person, firm, association, organization, or corporation; and
(c) is not subject to governance by the Board consistent with the Utah Constitution.
(23) "Program" means a course of instruction within a school that is designed to accomplish a predetermined curricular objective or set of objectives.
(24) "Resource" means a student who receives 1 to 179 minutes of special education services during a typical school day consistent with the student's IEP provided for under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq., amended in 2004.
(25) "Qualifying school age" means:
(a) a person who is at least five years old and no more than 18 years old on or before September 1;
(b) with respect to special education, a person who is at least three years old and no more than 21 years old on or before July 1;
(c) with respect to YIC, a person who is at least five years old and no more than 21 years old on or before September 1.
(26) "Retained senior" means a student beyond the general compulsory school age who is authorized at the discretion of an LEA to remain in enrollment as a high school senior in the year(s) after the student's cohort has graduated due to:
(a) sickness;
(b) hospitalization;
(c) pending court investigation or action; or
(d) other extenuating circumstances beyond the control of the student.
(27) "S1" means the record maintained by the Superintendent containing individual student demographic and school membership data in a Data Clearinghouse file.
(28) "S2" means the record maintained by the Superintendent containing individual student data related to participation in a special education program in a Data Clearinghouse file.
(29) "S3" means the record maintained by the Superintendent containing individual student data related to participation in a YIC program in a Data Clearinghouse file.
(30) "School" means an educational entity governed by an LEA that:
(a) is supported with public funds;
(b) includes enrolled or prospectively enrolled full-time students;
(c) employs licensed educators as instructors that provide instruction consistent with Section R277-502;
(d) has one or more assigned administrators;
(e) is accredited consistent with Section R277-410-3; and
(f) administers required statewide assessments to the school's students.
(31) "School day" means a minimum of two hours per day per session in kindergarten and a minimum of four hours per day in grades one through twelve, subject to the requirements described in Section R277-419-4.
(32) "School membership" means membership other than in a special education or YIC program in the context of the Data Clearinghouse.
(33) "School of enrollment" means:
(a) a student's school of record; and
(b) the school that maintains the student's cumulative file, enrollment information, and transcript for purposes of high school graduation.
(34) "School year" means the 12 month period from July 1 through June 30.
(35) "Self-contained" means a public school student with an IEP or YIC, who receives 180 minutes or more of special education or YIC related services during a typical school day.
(36) "Self-Contained Resource Attendance Management (SCRAM)" means a record that tracks the aggregate membership of public school special education students for state funding purposes.
(37) "SSID" means Statewide Student Identifier.
(38) "Unexcused absence" means an absence charged to a student when:
(a) the student was not physically present at school at any of the times attendance checks were made in accordance with Subsection R277-419-6(3); and
(b) the student's absence could not be accounted for by evidence of a legitimate or valid excuse in accordance with local board policy on truancy as defined in Section 53G-6-201.
(39) "Year end upload" means the Data Clearinghouse file due annually by July 15 from LEAs to the Superintendent for the prior school year.
(40) "Youth in custody (YIC)" means a person under the age of 21 who is:
(a) in the custody of the Department of Human Services;
(b) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or
(c) being held in a juvenile detention facility.

R277-419-3. Schools and Programs.
(1)(a) The Superintendent shall provide a list to each school detailing the required accountability reports and other state-mandated reports for the school type and grade range.
(b) All schools shall submit a Clearinghouse report to the Superintendent.
(c) All schools shall employ at least one licensed educator and one administrator.
(2)(a) A student who is enrolled in a program is considered a member of a public school.
(b) The Superintendent may not require programs to receive separate accountability and other state-mandated reports.
(c) A student reported under an LEA's program shall be included in the LEA's WPU and student enrollment calculations of the LEA's school of enrollment.
(d) A course taught at a program shall be credited to the appropriate school of enrollment.
(3) A private school or program may not be required to submit data to the Superintendent.
(4) A private school or program may not receive annual accountability reports.

R277-419-4. Minimum School Days.
(1)(a) Except as provided in Subsection (1)(b) and Subsection 53F-2-102(7), an LEA shall conduct school for at least 990 instructional hours over a minimum of 180 school days each school year.
(b) an LEA may seek an exception to the number of school days described in Subsection (1)(a):
(i) except as provided in Subsection (1)(b)(ii), for a whole school or LEA as described in R277-121;
(ii) for a school closure due to snow, inclement weather, or other emergency as described in R277-419-12; or
(iii) for an individual student as described in Section R277-419-11.
(2)(a) An LEA may offer the required school days and hours described in Subsection (1)(a) at any time during the school year, consistent with the law.
(b) All school day calculations shall exclude lunch periods and pass time between classes but may include recess periods

that include organization or instruction from school staff.

(c) Each school day that satisfies the minimum hourly instruction time described in Subsection R277-419-2(31), shall count as a school day, regardless of the number or length of class periods or whether or not particular classes meet.

(3)(a) An LEA shall plan for emergency, activity, and weather-related exigency time in its annual calendaring.

(b) If school is closed for any reason, the school shall make up the instructional time missed under the emergency or activity time as part of the minimum required time to qualify for full Minimum School Program funding.

(4) Minimum standards apply to all public schools in all settings unless Utah law or this rule provides for a specific exception.

(5) An LEA's governing board shall provide adequate contingency school days and hours in the LEA's yearly calendar to avoid the necessity of requesting a waiver except in the most extreme circumstances.

(6)(a) In addition to the allowance to use up to 32 instructional hours or four school days for professional learning described in Subsection 53F-2-102(6), to provide planning and professional development time for staff, an LEA may hold school longer some days of the week and shorter other days so long as minimum school day requirements, as provided for in this R277-419-4 and Subsection R277-419-2(32), are satisfied.

(b) A school may conduct parent-teacher and student Plan for College and Career Readiness conferences during the school day.

(c) Parent-teacher and college and career readiness conferences may only be held for a total of the equivalent of three full school days or a maximum of 16.5 hours for the school year.

(d) Student membership for professional development or parent-teacher conference days shall be counted as that of the previous school day.

(e) An LEA may designate no more than a total of 12 instructional days at the beginning of the school year, at the end of the school year, or both for the assessment of students entering or completing kindergarten.

(f) If instruction days are designated for kindergarten assessment:

(i) an LEA shall designate the days in an open meeting;

(ii) an LEA shall provide adequate notice and explanation to kindergarten parents well in advance of the assessment period;

(iii) qualified school employees shall conduct the assessment consistent with Section 53F-4-205; and

(iv) assessment time per student shall be adequate to justify the forfeited instruction time.

(g) The final decision and approval regarding planning time, parent-teacher and SEP conferences rests with an LEA, consistent with Utah law and Board administrative rules.

(h) Total instructional time and school calendars shall be approved by an LEA in an open meeting.

R277-419-5. Student Membership Eligibility and Continuing Enrollment Measurements.

(1) A student may enroll in two or more LEAs at the discretion of the LEAs.

(2) A kindergarten student may only enroll in one LEA at a time.

(3) In order to generate membership for funding through the Minimum School Program for any clock hour of instruction on any school day, an LEA shall ensure that a student being counted by the LEA in membership:

(a) has not previously earned a basic high school diploma or certificate of completion;

(b) has not been enrolled in a YIC program with a YIC time code other than ISI-1 or ISI-2;

(c) does not have unexcused absences, which are determined using one of the continuing enrollment measurements described in Subsection (4);

(d) is a resident of Utah as defined under Section 53G-6-302;

(e) is of qualifying school age or is a retained senior;

(f)(i) is expected to attend a regular learning facility operated or recognized by an LEA on each regularly scheduled school day, if enrolled in a face-to-face learning program;

(ii) has direct instructional contact with a licensed educator provided by an LEA at:

(A) an LEA-sponsored center for tutorial assistance; or

(B) the student's place of residence or convalescence for at least 120 minutes each week during an expected period of absence, if physically excused from such a facility for an extended period of time, due to:

(I) injury;

(II) illness;

(III) surgery;

(IV) suspension;

(V) pregnancy;

(VI) pending court investigation or action; or

(VII) an LEA determination that home instruction is necessary;

(iii) is enrolled in an approved CTE course(s) on the campus of another state funded institution where such a course is:

(A) not offered at the student's school of membership;

(B) being used to meet Board-approved CTE graduation requirements under Subsection R277-700-6(14); and

(C) a course consistent with the student's SEOP/Plan for College and Career Readiness; or

(iv) is enrolled in a nontraditional program under the direction of an LEA that:

(A) is consistent with the student's SEOP/Plan for College and Career Readiness;

(B) has been approved by the student's counselor; and

(C) includes regular instruction or facilitation by a designated employee of an LEA.

(4) An LEA shall use one of the following continuing enrollment measures:

(a) For a student primarily enrolled in a face-to-face learning program, the LEA may not count a student as an eligible student if the eligible student has unexcused absences during all of the prior ten consecutive school days.

(b) For a student enrolled in a nontraditional program, an LEA shall:

(i) adopt a written policy that designates a continuing enrollment measurement to document the continuing membership or enrollment status for each student enrolled in the nontraditional program consistent with Subsection (3)(c);

(ii) document each student's continued enrollment status in compliance with the continuing enrollment policy at least once every ten consecutive school days; and

(iii) appropriately adjust and update student membership records in the student information system for students that did not meet the continuing enrollment measurement, consistent with Subsection (3)(c).

(5) The continuing enrollment measurement described in Subsection (4)(b) may include some or all of the following components, in addition to other components, as determined by an LEA:

(a) a minimum student login or teacher contact requirement;

(b) required periodic contact with a licensed educator;

(c) a minimum hourly requirement, per day or week, when students are engaged in course work; or

(d) required timelines for a student to provide or demonstrate completed assignments, coursework or progress

toward academic goals.

(6) For a student enrolled in both face-to-face and nontraditional programs, an LEA shall measure a student's continuing enrollment status using the methodology for the program in which the student earns the majority of their membership days.

(7)(a) An LEA desiring to generate membership for student enrollment in courses outlined in Subsection (3)(f)(iii), or to seek a waiver from a requirement(s) in Subsection (3)(f)(iii), shall submit an application for course approval by April 1 of the year prior to which the membership will be counted.

(b) An LEA shall be notified within 30 days of the application deadline if courses have been approved.

R277-419-6. Student Membership Calculations.

(1)(a) Except as provided in Subsection (1)(b) or (1)(c), a student enrolled in only one LEA during a school year is eligible for no more than 180 days of regular membership per school year.

(b) An early graduation student may be counted for more than 180 days of regular membership in accordance with the student's early graduation student education plan.

(c) A student transferring within an LEA to or from a year-round school is eligible for no more than 205 days of regular membership per school year.

(2)(a) Except as provided in Subsection (2)(b), (2)(c), or (2)(d), a student enrolled in two or more LEAs during a school year is eligible for no more than 180 days of regular membership per school year.

(b) A student transferring to or from an LEA with a schedule approved under Subsection R277-419-4(1)(b) is eligible for no more than 220 days of regular membership per school year.

(c) A student transferring to or from an LEA where the student attended or will attend a year-round school is eligible for no more than 205 days of regular membership per school year.

(d) If the exceptions in Subsections (2)(b) and (2)(c) do not apply but a student transfers from one LEA to another at least one time during the school year, the student is eligible for regular membership in an amount not to exceed the sum of:

(i) 170 days; plus

(ii) 10 days multiplied by the number of LEAs the student attended during the school year.

(3) If a student is enrolled in two or more LEAs during a school year and the aggregate regular membership generated for the student between all LEAs exceeds the amount allowed under Subsection (2), the Superintendent shall apportion the days of regular membership allowed between the LEAs.

(4) If a student was enrolled for only part of the school day or only part of the school year, an LEA shall prorate the student's membership according to the number of hours, periods or credits for which the student actually was enrolled in relation to the number of hours, periods or credits for which a full-time student normally would have been enrolled. For example:

(a) If the student was enrolled for 4 periods each day in a 7 period school day for all 180 school days, the student's aggregate membership would be 4/7 of 180 days or 103 days.

(b) If the student was enrolled for 7 periods each day in a 7 period school day for 103 school days, the student's membership would also be 103 days.

(5) For students in grades 2 through 12, an LEA shall calculate the days in membership using a method equivalent to the following: total clock hours of instruction for which the student was enrolled during the school year divided by 990 hours and then multiplied by 180 days and finally rounded up to the nearest whole day. For example, if a student was enrolled for only 900 hours during the school year, the student's aggregate membership would be (900/990)*180, and the LEA would report 164 days.

(6) For students in grade 1, an LEA shall adjust the first term of the formula to use 810 hours as the denominator.

(7) For students in kindergarten, an LEA shall adjust the first term of the formula to use 450 hours as the denominator.

(8) The sum of regular plus self-contained special education and self-contained YIC membership days may not exceed 180 days.

(9) The sum of regular and resource special education membership days may not exceed 360 days.

(10) The sum of regular, ISI-1 and ISI-2 YIC membership days may not exceed 360 days.

(11) An LEA may also count a student in membership for the equivalent in hours of up to:

(a) one period each school day, if the student has been:

(i) released by the school, upon a parent or guardian's request, during the school day for religious instruction or individual learning activity consistent with the student's SEOP/Plan for College and Career Readiness; or

(ii) participating in one or more extracurricular activities under Rule R277-438, but has otherwise been exempted from school attendance under Section 53G-6-204 for home schooling;

(b) two periods each school day per student for time spent in bus travel during the regular school day to and from another state-funded institution, if the student is enrolled in CTE instruction consistent with the student's SEOP/Plan for College and Career Readiness;

(c) all periods each school day, if the student is enrolled in:

(i) a concurrent enrollment program that satisfies all the criteria of Rule R277-713;

(ii) a private school without religious affiliation under a contract initiated by an LEA to provide special education services which directs that the instruction be paid by public funds if the contract with the private school is approved by an LEA board in an open meeting;

(iii) a foreign exchange student program under Subsection 53G-6-707(7); or

(iv) a school operated by an LEA under a Utah Schools for the Deaf and the Blind IEP provided that:

(A) the student may only be counted in S1 membership and may not have an S2 record; and

(B) the S2 record for the student is submitted by the Utah Schools for the Deaf and the Blind.

R277-419-7. Calculations for a First Year Charter School.

(1) For the first operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on October 1 counts.

(2) For the second operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on Section 53F-2-302.

R277-419-8. Reporting Requirements, LEA Records, and Audits.

(1) An LEA shall report aggregate membership for each student via the School Membership field in the S1 record and special education membership in the SCRAM Membership field in the S2 record and YIC membership in the S3 record of the Year End upload of the Data Clearinghouse file.

(2) In the Data Clearinghouse, aggregate membership is calculated in days of membership.

(3) To determine student membership, an LEA shall ensure that records of daily student attendance are maintained in each school which clearly and accurately show for each student the:

(a) entry date;

(b) exit date;

(c) exit or high school completion status;
(d) whether or not an absence was excused;
(e) disability status (resource or self-contained, if applicable); and
(f) YIC status (ISI-1, ISI-2 or self-contained, if applicable).
(4) An LEA shall ensure that:
(a) computerized or manually produced records for CTE programs are kept by teacher, class, and classification of instructional program (CIP) code; and
(b) the records described in Subsection (4)(a) clearly and accurately show for each student in a CTE class the:
(i) entry date;
(ii) exit date; and
(iii) excused or unexcused status of absence.
(5) An LEA shall ensure that each school within the LEA completes a minimum of one attendance check each school day.
(6) Due to school activities requiring schedule and program modification during the first days and last days of the school year:
(a) for the first five school days, an LEA may report aggregate days of membership equal to the number recorded for the second five-day period of the school year;
(b) for the last five-day period, an LEA may report aggregate days of membership equal to the number recorded for the immediately preceding five-day period; and
(c) schools shall continue instructional activities throughout required calendared instruction days.
(7) An LEA shall employ an independent auditor, under contract, to:
(a) annually audit student accounting records; and
(b) report the findings of the audit to:
(i) the LEA board; and
(ii) the Financial Operations Section of the Board.
(8) Reporting dates, forms, and procedures are found in the State of Utah Legal Compliance Audit Guide, provided to LEAs by the Superintendent in cooperation with the State Auditor's Office.
(9) The Superintendent:
(a) shall review each LEA's student membership and fall enrollment audits as they relate to the allocation of state funds in accordance with the policies and procedures established in Sections R277-484-7 and 8; and
(b) may periodically or for cause review LEA records and practices for compliance with the laws and this rule.

R277-419-9. High School Completion Status.
(1) An LEA shall account for the final status of all students who enter high school (grades 9-12) whether they graduate or leave high school for other reasons, using the following decision rules to indicate the high school completion or exit status of each student who leaves the Utah public education system:
(a) graduates are students who earn a basic high school diploma by satisfying one of the options consistent with Subsection R277-705-4(2) or out-of-school youths of school age who complete adult education secondary diploma requirements consistent with R277-733;
(b) completers are students who have not satisfied Utah's requirements for graduation but who:
(i) are in membership in twelfth grade on the last day of the school year; and
(ii)(A) meet any additional criteria established by an LEA consistent with its authority under Section R277-705-4;
(B) meet any criteria established for special education students under Utah State Board of Education Special Education Rules, Revised, June 2016, and available at: http://www.schools.utah.gov/sars/Laws.aspx and the Utah State Board of Education;
(C) meet any criteria established for special education students under Subsection R277-700-8(5); or
(D) pass a General Educational Development (GED) test with a designated score;
(c) continuing students are students who:
(i) transfer to higher education, without first obtaining a diploma;
(ii) transfer to the Utah Center for Assistive Technology without first obtaining a diploma; or
(iii) age out of special education;
(d) dropouts are students who:
(i) leave school with no legitimate reason for departure or absence;
(ii) withdraw due to a situation so serious that educational services cannot be continued even under the conditions of Subsection R277-419-5(3)(f)(ii);
(iii) are expelled and do not re-enroll in another public education institution; or
(iv) transfer to adult education;
(e) an LEA shall exclude a student from the cohort calculation if the student:
(i) transfers out of state, out of the country, to a private school, or to home schooling;
(ii) is a U.S. citizen who enrolls in another country as a foreign exchange student;
(iii) is a non-U.S. citizen who enrolls in a Utah public school as a foreign exchange student under Section 53G-6-707 in which case the student shall be identified by resident status (J for those with a J-1 visa, F for all others), not by an exit code;
(iv) dies; or
(v) beginning with the 2015-2016 school year, is attending an LEA that is not the student's school of enrollment.
(2)(a) An LEA shall report the high school completion status or exit code of each student to the Superintendent as specified in Data Clearinghouse documentation.
(b) High School completion status or exit codes for each student are due to the Superintendent by year end upload for processing and auditing.
(c) Except as provided in Subsection (2)(d), an LEA shall submit any further updates of completion status or exit codes by October 1 following the end of a student's graduating cohort pursuant to Section R277-484-3.
(d) An LEA with an alternative school year schedule where all of the students have an extended break in a season other than summer, shall submit the LEA's data by the next complete data submission update, following the LEA's extended break, as defined in Section R277-484-3.
(3)(a) The Superintendent shall report a graduation rate for each school, LEA, and the state.
(b) The Superintendent shall calculate the graduation rates in accordance with applicable federal law.
(c) The Superintendent shall include a student in a school's graduation rate if:
(i) the school was the last school the student attended before the student's expected graduation date; and
(ii) the student does not meet any exclusion rules as stated in Subsection (1)(e).
(d) The last school a student attended will be determined by the student's exit dates as reported to the Data Clearinghouse.
(e) A student's graduation status will be attributed to the school attended in their final cohort year.
(f) If a student attended two or more schools during the student's final cohort year, a tie-breaking logic to select the single school will be used in the following hierarchical order of sequence:
(i) school with an attached graduation status for the final cohort year;
(ii) school with the latest exit date;
(iii) school with the earliest entry date;
(iv) school with the highest total membership;

(v) school of choice;
(vi) school with highest attendance; or
(vii) school with highest cumulative GPA.
(g) The Superintendent shall report the four-year cohort rate on the annual state reports.

R277-419-10. Student Identification and Tracking.
(1)(a) Pursuant to Section 53E-4-308, an LEA shall:
(i) use the SSID system maintained by the Superintendent to assign every student enrolled in a program under the direction of the Board or in a program or a school that is supported by public school funding a unique student identifier; and
(ii) display the SSID on student transcripts exchanged with LEAs and Utah public institutions of higher education.
(b) The unique student identifier:
(i) shall be assigned to a student upon enrollment into a public school program or a public school-funded program;
(ii) may not be the student's social security number or contain any personally identifiable information about the student.
(2) An LEA shall require all students to provide their legal first, middle, and last names at the time of registration to ensure that the correct SSID follows students who transfer among LEAs.
(a) A school shall transcribe the names from the student's birth certificate or other reliable proof of the student's identity and age, consistent with Section 53G-6-603;
(b) The direct transcription of student names from birth certificates or other reliable proof of student identity and age shall be the student's legal name for purposes of maintaining school records; and
(c) An LEA may modify the order of student names, provide for nicknames, or allow for different surnames, consistent with court documents or parent preferences, so long as legal names are maintained on student records and used in transmitting student information to the Superintendent.
(3) The Superintendent and LEAs shall track students and maintain data using students' legal names.
(4) If there is a compelling need to protect a student by using an alias, an LEA should exercise discretion in recording the name of the student.
(5) An LEA is responsible to verify the accuracy and validity of enrollment verification data, prior to enrolling students in the LEA, and provide students and their parents with notification of enrollment in a public school.
(6) An LEA shall ensure enrollment verification data is collected, transmitted, and stored consistent with sound data policies, established by the LEA as required in Rule R277-487.

R277-419-11. Exceptions.
(1)(a) An LEA may, at its discretion, make an exception for school attendance for a public school student, in the length of the school day or year, for a student with compelling circumstances.
(b) The time an excepted student is required to attend school shall be established by the student's IEP or Plan for College and Career Readiness.
(2) A school using a modified 45-day/15-day year round schedule initiated prior to July 1, 1995 shall be considered to be in compliance with this rule if the school's schedule includes a minimum of 990 hours of instruction time in a minimum of 172 days.

R277-419-12. Snow, Inclement Weather, or Other Emergency School Closure Days.
(1) An LEA may seek a waiver directly from the Superintendent from the 180 day requirement described in Subsection R277-419-4(1) if:
(a) the LEA closes a school for one school day due to excessive snow, inclement weather, or an other emergency; and
(b) the school closure will result in the LEA not meeting the 180 day requirement described in Section R277-419-4.
(2) The Superintendent may grant up to one waiver, per school year, per school, for the school to close due to excessive snow, inclement weather, or other emergency without Board approval if the LEA has provided adequate contingency school days and hours into the LEA's calendar to avoid the necessity of requesting a waiver as required in Subsection R277-419-4(5).
(3) If the Superintendent denies an LEA's request described in Subsection (1), the LEA may appeal the Superintendent's decision by making the request of the full Board.
(4) If an LEA seeks a waiver for two or more school days due to excessive snow, inclement weather, or other emergency, the LEA shall seek the waiver pursuant to the procedures described in R277-121.
(5)(a) An LEA may request the Board to waive the school day and hour requirement pursuant to a directive from the Utah State Health Department or a local health department, that results in the closure of a school in the event of a pandemic or other public health emergency.
(b) A waiver described in this Subsection (5) may be for a designated time period, for a specific area, or for a specific LEA in the state, as determined by the health department directive.
(c) A waiver may allow an LEA to continue to receive state funds for pupil services and reimbursements.
(d) A waiver granted by the Board or Superintendent as described in this Subsection (5) shall direct an LEA to provide as much notice to students and parents of the suspension of school services, as is reasonably possible.
(e) A waiver granted shall direct an LEA to comply with health department directives, but to continue to provide any services to students that are not inconsistent with the directive.
(f) The Board may encourage an LEA to provide electronic or distance learning services to affected students for the period of the pandemic or other public health emergency to the extent of personnel and funds available.

KEY: education finance, school enrollment, pupil accounting

October 16, 2018	**Art X Sec 3**
Notice of Continuation August 14, 2017	**53E-3-401(4)**
	53F-2-102(7)
	53E-3-501(1)(e)
	53E-3-602(2)
	53E-3-301(3)(d)
	53G-4-404

R277. Education, Administration.
R277-437. Open Enrollment.
R277-437-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(c) Subsection 53G-6-405, which directs the Board to provide a formula by rule for resident students to attend school districts under 53G-6-401.

(2) The purpose of this rule is:

(a) to establish necessary definitions;

(b) to establish a formula for the residual per pupil expenditure for school districts to reimburse each other for full and part-time nonresident students;

(c) to summarize school, school district, and state responsibilities under Section 53G-6-401; and

(d) to provide a standard statewide open enrollment form required under Subsection 53G-6-402(4)(b)(ii).

R277-437-2. Definitions.

(1) "Available school or program" means a school or program currently designated under the law and this rule by a district as open to nonresident students.

(2) "Nonresident student" means a student attending or seeking to attend a school other than the designated school of residence.

(3) "Resident district" means a student's school district of residence under Section 53G-6-302.

(4) "Resident district's per student expenditure" means the expenditure based on the most recent State Superintendent's Annual Report according to the following formula calculated by the Superintendent:

(a) take total expenditures before interfund transfer for:

(i) maintenance and operation;

(ii) tort liability; and

(iii) capital projects;

(b) subtract the following from the sum of (4)(a), above:

(i) resident district's taxes collected under the Minimum School Program;

(ii) state revenue;

(iii) federal revenue; and

(iv) expenditures for site acquisition or new facility construction, which includes remodeling that increases building square footage or other major remodeling; and

(c) divide the remainder of (4)(a) and (4)(b) above by the total student membership of the district as reported in the most recent annual year-end Membership Report.

(5) "School of residence" means the school which a student would normally attend in the student's district of residence.

(6) "School into which the school's students feed" for purposes of this rule means school boundaries and feeder systems as determined by the local board of education which may change over time.

(7) "Split enrollment" means a student that is enrolled in two or more LEAs simultaneously during a school year.

R277-437-3. Local School Board and District Responsibilities.

(1) A local school board shall have policies describing procedures for a student to follow in applying to attend school other than the student's respective schools of residence.

(2) A Local school board shall designate which schools and programs will be available for open enrollment during the coming school year consistent with the definitions and timelines of Title 53G, Chapter 6, Part 4, School District Enrollment.

(3) The school district shall adjust timelines for open enrollment applications if the district is developing a district-wide reconfiguration of the district's schools consistent with Subsection 53G-6-401(1).

(4) A school district may establish longer or broader timelines for enrollment than required by law.

(5) If construction, remodeling, or other circumstances beyond the control of the local school board do not reasonably permit the local school board to make sufficiently accurate enrollment projections for a given school to determine whether the school should be designated as available for open enrollment for the coming year, the local board shall designate delays and procedures consistent with Subsection 53G-6-402(4)(c).

(6)(a) As required under Subsection 53G-6-405(2), a resident district shall pay to a nonresident district one-half of the resident district's per student expenditure for each resident student properly registered in the nonresident district.

(b) A resident district may pay a nonresident district any additional amount if agreed upon by both districts.

(c) No payments shall be made pursuant to this rule for split enrollment of a student.

(d) Funding for students who are split enrolled shall be provided to the participating LEAs in accordance with Section R277-419-6.

(7) An agreement between the resident district and a nonresident district may be made prior to the acceptance of a requesting student and shall be done outside of the Statewide Online Education Program process described in R277-726.

(8) A local school board shall establish a procedure to consider appeals of a student's denial of initial or continued enrollment of a nonresident student under Subsection 53G-6-404(1).

(9) A local school board may deny a student's request for enrollment for a reason identified in Title 53G, Chapter 6, Part 4, School District Enrollment.

(10) This rule does not govern eligibility for nonresident students to participate in activities supervised by the Utah High School Activities Association (UHSAA).

R277-437-4. Special Education Open Enrollment Requirements.

(1) When considering an open enrollment request for a student who qualifies for special education services, a nonresident district shall:

(a) consider the individual needs of the student and whether the nonresident district can meet the student's needs when determining whether there is capacity to accept the student; and

(b) establish policies and procedures for open enrollment that do not have the effect of discriminating against a student who qualifies for special education services.

(2) The policies and procedures described in Subsection (1), as applied or implemented, may not lead to the categorical denial of accepting a nonresident student who qualifies for special education services.

(3) The Superintendent may provide model policies that meet the requirements of this section.

R277-437-5. Transportation.

(1) A school resident district may transport the district's students to schools in other districts under Subsection 53G-6-405(3)(b)(i).

KEY: public education, enrollment options

January 9, 2019	**Art X Sec 3**
Notice of Continuation October 5, 2018	**53E-3-401(1)(b)**
	53G-6-405
	53G-6-401 et seq.

53E-3-401(4)

R277. Education, Administration.
R277-509. Licensure of Student Teachers and Interns.
R277-509-1. 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;

(c) Subsection 53E-6-201(1), which permits the Board to issue licenses for educators; and

(d) Subsection 53E-6-402(1), which directs the Board to establish a procedure for obtaining and evaluating relevant information about license applicants.

(2) The purpose of this rule is to specify the procedure under which the Board issues licenses to student teachers and interns.

R277-509-2. Definitions.

(1) "Cooperating teacher" means a licensed teacher employed by an LEA who is qualified to directly supervise a student teacher or intern during the period the student teacher or intern is assigned to the LEA.

(2)(a) "Intern" means a teacher education student, who, in an advanced stage of preparation, usually as a culminating experience, may be employed in a school setting for a period of up to one year and receive salary proportionate to the service rendered.

(b) An intern is supervised primarily by the school system while maintaining a continuing relationship with college personnel as part of a planned program designed to produce a demonstrably competent professional.

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

(4) "Student teacher" means a college student preparing to teach who is assigned a period of guided teaching during which the student assumes increasing responsibility for directing the learning of a group or groups of students over a period of time.

R277-509-3. Issuing Licenses.

(1) The Superintendent shall recommend applicants enrolled in teacher preparation programs for student teacher or intern licenses.

(2) The Utah Professional Practices Advisory Commission shall review background check information and make recommendations to the Board regarding student teacher and intern license applicants in accordance with Rule R277-214.

(3)(a) An LEA may not give a student teacher or intern an unsupervised classroom assignment prior to issuance of a license in accordance with this Rule R277-509.

(b) If an LEA assigns a student teacher or intern to a position in violation of Subsection (3)(a), the Superintendent shall not recognize the service as fulfilling the student teacher's or intern's requirements for Level 1 licensure.

(c) An LEA is responsible to verify with the Board that a student teacher or intern has appropriate licensure.

(4) A teacher preparation programs may allow an unlicensed student teacher or intern to complete student teaching or intern hours only if the university provides a constant supervisor for the student teacher's or intern's work in the public schools.

(5)(a) The Superintendent may only recommend for licensure a student teacher or intern assigned to elementary, middle, or secondary schools under cooperating teachers for part of their preparation program.

(b) A supervising administrator must be permanently assigned to the building to which an intern is assigned.

(6) A student teacher or intern license is valid only for the period of time indicated on the license.

R277-509-4. Effective Dates.

(1) This rule shall be effective through June 30, 2020.

(2) This rule shall sunset on July 1, 2020.

KEY: student teachers, interns, teacher preparation programs

January 9, 2019	**Art X Sec 3**
Notice of Continuation September 13, 2017	**53E-6-201**
	53E-3-401
	53E-6-402

R277. Education, Administration.
R277-550. Charter Schools - Definitions.
R277-550-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(c) Title 53G, Chapter 5, Charter Schools, which allows the Board to make rules governing aspects of operations of charter schools.

(2) The purpose of this rule is to establish definitions for rules governing charter schools.

(3) The definitions contained in this rule apply to Rules R277-550 through R277-555.

R277-550-2. Definitions.

(1) "Amendment" means a change or addition to a charter agreement.

(2) "Authorizer" means an entity approved to authorize the establishment of a charter school under Sections 53G-5-304 through 53G-5-306.

(3) "Charter school" means a public school created in accordance with the provisions of Title 53G, Chapter 5, Charter Schools.

(4)(a) "Charter school agreement" or "Charter agreement" means a written agreement between a charter school and its authorizer containing the terms and conditions for the operation of a charter school.

(b) The charter school agreement maintained by a charter school's authorizer is the final, official, and complete agreement.

(5) "Charter school deficiency" means:

(a) failure of a charter school to comply with its charter agreement, including governance, financial, academic, or operational obligations;

(b) failure of a charter school to comply with the requirements of state or federal law or board rule;

(c) failure of a charter school to meet terms established by the school's authorizer as part of a remediation process; or

(d) fraud or misuse of funds by charter school governing board members or employees.

(6) "Charter school governing board" means the local board that governs a charter school.

(7) "Expansion" means:

(a) an increase in the number of grade levels offered by a charter school identified by a single school number; or

(b) an increase in the number of students for which a charter school identified by a single school number is authorized to receive funding.

(8) "Mentor" means an individual or organization with expertise or demonstrated competence, approved by the State Charter School Board to advise charter schools in the Mentoring Program.

(9) "Mentoring program" means the State Charter School Board mentoring program.

(10) "Probation" means a written formal action and notification through which a school is required to demonstrate the school's compliance with the authorizer's probationary requirements.

(11) "Replication school" means a charter school affiliated with an existing charter school physically located in the state of Utah that:

(a) has the same governing board as the existing charter school;

(b) has a similar program of instruction as the existing charter school;

(c) is located at a different site or in a different geographical area than the existing charter school; and

(d) has a separate school number than the existing charter school.

(12) "Non-operating charter school" means a charter school that has not received minimum school program funds or federal funds and is not providing educational services during a fiscal year, such as a charter school in a start-up period.

(13) "Operating charter school" means a charter school that has received minimum school program funds or federal funds and is providing educational services during a fiscal year.

(14) "Satellite school" means a charter school affiliated with an existing charter school physically located within the state of Utah that:

(a) has the same governing board as the existing charter school;

(b) has a different program of instruction or grades served from the existing charter school;

(c) is located at a different site or in a different geographical area than the existing charter school; and

(d) has a separate school number than the existing charter school.

(15) "School number" means a number assigned by the Superintendent in accordance with National Center for Education Statistics criteria that identifies a distinct school within an LEA.

(16) "State Charter School Board" means the board established in Section 53G-5-201.

(17) "Utah Consolidated Application" or "UCA" means the web-based grants management tool employed by the Superintendent through which LEAs submit plans and budgets for approval by the Superintendent or Board.

(18) "Utah eTranscript and Record Exchange" or "UTREx" has the same meaning as described in Subsection R277-484-2(11).

KEY: education, charter schools
January 9, 2019 **Art X Sec 3**
53E-3-401
53G-5-205

R277. Education, Administration.
R277-551. Charter Schools - General Provisions.
R277-551-1. Authority and Purpose.

(1) This rule is authorized under:

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

(b) Section 53F-2-702, which directs the Board to distribute funds for charter school students directly to the charter school;

(c) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities; and

(d) Subsection 53G-5-205(5), which requires the Board to make rules establishing minimum standards that a charter school authorizer is required to apply.

(2) The purpose of this rule is to provide operational requirements for charter schools.

R277-551-2. Alternate Methods for Determining the Economically Disadvantaged Status of a Charter School's Students.

(1) A charter LEA with a charter school that does not participate in the National School Lunch Program shall comply with the requirements of this Section R277-551-2 to identify the economically disadvantaged status of students in the school's daily UTREx submission.

(2) A charter LEA described in Subsection (1):

(a) shall determine the economically disadavantaged status for its students on the basis of criteria no less stringent than those established by the U.S. Department of Agriculture for identifying students who qualify for reduced price lunch for the fiscal year in question; or

(b) may use the Charter School Declaration of Household Income form provided by the Superintendent for this purpose.

(3) A school that does not use the form identified in Subsection (2)(b) shall maintain equivalent documentation in its records, which may be subject to review by the Superintendent.

R277-551-3. Transportation.

(1) A charter school may not receive to-and-from school transportation funds except as provided under Section 53F-5-211.

(2) A charter school that provides transportation to students shall comply with the inspection and safety requirements of Section 53-8-211.

(3) A school district may provide transportation for charter school students on a space-available basis on approved routes.

(4)(a) A school district may provide transportation or transportation information to charter school students and their parents who participate in transportation by the school district as guests.

(b) Charter schools or charter school students may forfeit with no recourse the privilege of transportation, as described in Subsection (4)(a), for violation of district policies.

R277-551-4. Student Health, Safety, and Welfare Reporting Requirements.

(1)(a) The State Charter School Board shall provide a form on its website for individuals to report threats to health, safety or welfare of students consistent with Subsection 53G-5-503(4).

(b) The State Charter School Board shall share reports received on charter schools from other authorizers with the applicable authorizer.

(2) Individuals making reports about threats shall report suspected criminal activity to local law enforcement and suspected child abuse to local law enforcement or the Division of Child and Family Services consistent with:

(a) Section 62A-4a-403;

(b) Subsection 53G-9-203(3)(a); and

(c) Rule R277-401.

(4) A charter school shall verify that potential criminal activity or suspected child abuse has been reported consistent with state law and this rule.

(5) A charter school shall act promptly to investigate and take disciplinary action, if appropriate, against students who may be participants in threatening activities or take appropriate and reasonable action to protect students or both.

(6) All charter schools shall be subject to accountability standards established by the Board and to monitoring and internal auditing by the Board.

R277-551-5. Charter School Information for Students and Parents.

(1) An authorizer shall ensure that each of the authorizer's charter schools has a website that contains the following information:

(a) the charter school s governance structure, including the name, qualification, and contact information of all charter school governing board members;

(b) the number of new students that will be admitted into the school;

(c) the school calendar, which shall include:

(i) the first and last days of school;

(ii) scheduled holidays;

(iii) scheduled professional development days; and

(iv) scheduled non-school days;

(d) timelines for acceptance of new students consistent with Section 53G-6-503;

(e) the requirement and availability of a charter school student application;

(f) the application timeline to be considered for enrollment in the charter school;

(g) procedures for transferring to or from a charter school;

(h) timelines for a transfer;

(i) provisions for payment, if required, of a one-time fee per secondary school enrollment, not to exceed $5.00, consistent with Subsection 53G-6-503(9);

(j) the charter school governing board s policies; and

(k) other items required by:

(i) the charter school s authorizer;

(ii) statute; and

(iii) Board rule.

(2) The fee described in Subsection 1(I) is subject to fee waiver in accordance with Rule R277-407.

(3) A charter school shall have an operative and readily accessible website containing the information described in Subsection (1) at least 180 days before the proposed opening day of school.

KEY: education, charter schools
January 9, 2019 **Art X Sec 3**
53E-3-401
53G-5-205

R277. Education, Administration.
R277-552. Charter School Timelines and Approval Processes.
R277-552-1. 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 adopt rules in accordance with its responsibilities;

(c) Subsection 53G-6-504(5), which requires the Board to make rules regarding a charter school expansion or satellite campus;

(d) Sections 53G-5-304 through 53G-5-306, which require the Board to make a rule providing a timeline for the opening of a charter school;

(e) Section 53F-2-702, which directs the Board to distribute funds for charter school students directly to the charter school;

(f) the Charter School Expansion Act of 1998, 20 U.S.C. Sec. 8063, which directs the Board to submit specific information prior to a charter school's receipt of federal funds; and

(d) Subsection 53G-5-205(5), which requires the Board to make rules establishing minimum standards that a charter school authorizer is required to apply.

(2) The purpose of this rule is to establish procedures for timelines and approval processes for charter schools.

R277-552-2. Charter School Authorization Process.

(1) An individual or non-profit organization as described in Subsection 53G-5-302(2)(b) may apply to open a charter school from any statutorily approved authorizer.

(2) An authorizer shall submit a process to the Board for approval of:

(a) a new charter school;

(b) a charter school expansion;

(c) a replication school; or

(d) a satellite school.

(3) A new authorizer shall submit a new charter school application process to the Board for approval at least six months prior to accepting applications for a new charter school.

(4)(a) The Board shall approve or deny an authorizer's application process within 65 days of receipt of the proposed process from an authorizer.

(b) If the Board denies an application process, the Superintendent shall provide a written explanation of the reasons for the denial to the applicant within 45 days.

(c) If an authorizer's application process is denied, the authorizer may submit a revised application process for approval at any time.

(5) An existing authorizer may not authorize a new charter school for the 2021-22 school year and beyond until the Board approves the authorizer's application process.

(6) An authorizer shall have an application and charter agreement, which shall include all elements required by Title 53G, Chapter 5, Part 3, Charter School Authorization.

(7) An authorizer shall maintain the official charter agreement, which shall presumptively be the final, and complete agreement between a school and the school's authorizer.

(8) An authorizer's review process for a new charter school shall include:

(a) a plan for pre-operational and other trainings;

(b) an evaluation of the school's governing board, including:

(i) a review of the resumes of and background information of proposed governing board members; and

(ii) a capacity interview of the proposed governing board;

(c) an evaluation of the school's financial viability, including:

(i) a market analysis;

(ii) anticipated enrollment; and

(iii) anticipated and break even budgets;

(d) an evaluation of the school's academic program and academic standards by which the authorizer will hold the school accountable; and

(e) an evaluation of the school's proposed pre-operational plan, including implementation of:

(i) required policies;

(ii) student data systems;

(iii) reporting; and

(iv) financial management.

(9) An authorizer review process shall include contacting the school district in which a proposed charter school will be located and consideration of any feedback provided by the district.

(10) An authorizer shall design its approval process so that the authorizer notifies the Superintendent of an authorizer approval of a request identified in Subsection (2) no later than October 1, one fiscal year prior to the state fiscal year the charter school intends to serve students.

R277-552-3. Timelines - Charter School Starting Date and Facilities.

(1) A charter school may receive state start-up funds if the charter school is approved as a new charter school by October 1, one fiscal year prior to the state fiscal year the charter school intends to serve students.

(2) Prior to receiving state start-up funds an authorizer shall certify in writing to the State Charter School Board that a charter school has:

(a) completed all financial identifying documents;

(b) completed background checks for each governing board member; and

(c) executed a signed charter agreement, which includes academic goals.

(3) A charter school may receive state funds, including minimum school program funds, if the charter school authorizer certifies in writing to the Superintendent by June 30 prior to the school's first operational year that:

(a) the charter school meets the requirements of Subsection (2);

(b) the charter school's governing board has adopted all policies required by statute or board rule, including a draft special education policies and procedures manual;

(c) the charter school's governing board has adopted an annual calendar in an open meeting and has submitted the calendar to the Superintendent;

(d) the authorizer has received the charter school's facility contract as required by Subsection 53G-5-404(9);

(e) the charter school has met the requirements of Subsections (5) and (6) and that the school's building is on track to be completed prior to occupancy;

(f)(i) the charter school has hired an executive director and a business administrator; or

(ii)(A) the charter school governing board has designated an executive director or business administrator employed by a third party; and

(B) the charter school governing board has established policies regarding the charter school's supervision of the charter school's third-party contractors;

(g) the charter school's enrollment is on track to be sufficient to meet the school's financial obligations and implement the charter school agreement;

(h) the charter school has an approved student data system that has successfully communicated with UTREx, including meeting the compatibility requirements of Subsection R277-484-5(3); and

(i) the charter school has a functional accounting system.

(4) An authorizer shall:

(a) create a process to verify the requirements in Subsection (3);

(b) maintain documentation of Subsection (4)(a); and

(c) provide the documentation described in Subsection (4)(b) to the Superintendent upon request.

(5) A charter school shall begin construction on a new or existing facility requiring major renovation, such as requiring a project number consistent with Rule R277-471, no later than January 1 of the year the charter school is scheduled to open.

(6) A charter school that intends to occupy a facility requiring only minimal renovation, such as renovation not requiring a project number according to Rule R277-471, shall enter into a written agreement no later than May 1 of the calendar year the charter school is scheduled to open.

(7) If a charter school fails to meet the requirements of this section within 36 months of approval, the approval of the charter school shall expire.

R277-552-4. Charter Amendment Requests.

(1) An authorizer shall have a policy establishing a process for consideration of proposed amendments to a school's charter agreement.

(2) An authorizer's timeline for consideration of an amendment to a charter agreement may not conflict with any funding deadline established in Board rule.

R277-552-5. Charter School Expansion Requests.

(1) A charter school may request approval for an expansion if:

(a) the charter school satisfies the requirements of federal and state law, regulations, rule, and the charter agreement; and

(b)(i) the charter school's charter agreement provides for an expansion consistent with the request; or

(ii) the charter school governing board has submitted a formal amendment request to the charter school authorizer consistent with the charter school authorizer's requirements.

(2) If the charter school authorizer approves a charter school expansion, the expansion shall be approved before October 1 of the state fiscal year prior to the school's intended expansion date.

(3) A charter school authorizer that authorizes an expansion of the authorizer's charter school shall provide the total number of students by grade that the charter school is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the charter school's intended expansion date.

(4) When considering whether to approve a charter school's request for an expansion, an authorizer shall consider the following:

(a) the amount of time the charter school has operated successfully meeting the terms of its charter agreement;

(b) two years of academic performance data of students at the charter school, including whether the charter school is performing at or above:

(i) the academic goals established in the charter school's charter agreement; and

(ii) the average academic performance of other district and charter schools in the area, or for schools targeting specific populations, schools with similar demographics;

(c) the financial position of the charter school, as evidenced by the charter school's financial records, including the charter school's:

(i) most recent annual financial report (AFR);

(ii) annual program report (APR); and

(iii) audited financial statement;

(d) whether the charter school has a waiting list for enrollment;

(e) adequacy of the charter school's facility;

(f) any student safety issues; and

(g) ability to meet state and federal reporting requirements, including whether the charter school has regularly met Board reporting deadlines.

(6) A charter school requesting an expansion shall provide the information described in Subsection (5) to the authorizer with the charter school's request for expansion.

R277-552-6. Requests for a New Replication or Satellite School for an Approved Charter School.

(1) A charter school and all of the charter school's replication or satellite schools are a single LEA for purposes of public school funding and reporting.

(2) An existing charter school may submit a request to the charter school's authorizer for a replication or satellite charter school if:

(a) the charter school satisfies requirements of federal and state law, regulations, and rule;

(b) the charter school has operated successfully for at least three years meeting the terms of its charter agreement;

(c) the students at the charter school are performing on standardized assessments at or above the academic goals in the charter agreement, or, if there are no such goals in the charter agreement, are performing at or above surrounding schools;

(d) the charter school has adequate qualified administrators and staff to meet the needs of the proposed student population at the replication or satellite charter school;

(e) the charter school provides any additional information or documentation requested by the charter school authorizer; and

(f) the charter school is in good standing with its authorizer.

(3) As part of the application process, the authorizer shall review the charter school's:

(a) educational services, assessment, and curriculum;

(b) governing board's capacity to manage multiple campuses; and

(c) the school's financial viability.

(4) A replication or satellite charter school that will receive School LAND Trust funds shall have a charter trust land council and satisfy all requirements for charter trust land councils consistent with Rule R277-477.

(5) A replication or satellite charter school may receive state funding if the authorizer approves the replication or satellite charter school by October 1 of the state fiscal year prior to the year the school intends to serve students.

(6) If a replication or satellite charter school does not open within 36 months of approval, the approval shall expire.

(7) A charter school authorizer that authorizes a replication or satellite charter school shall provide the total number of students by grade that the charter school is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the charter school's intended expansion date.

R277-552-7. Procedures and Timelines to Change Charter School Authorizers.

(1) A charter school may transfer to another charter school authorizer.

(2) A charter school shall submit an application to the new charter school authorizer at least 90 days prior to the proposed transfer.

(3) The charter school authorizer transfer application shall include:

(a) current governing board members;

(b) financial records that demonstrate the charter school's financial position, including the following:

(i) most recent annual financial report (AFR);

(ii) annual project report (APR); and
(iii) audited financial statement;
(c) test scores, including all state required assessments;
(d) current employees and assignments;
(e) board minutes for the most recent 12 months; and
(f) affidavits, signed by all board members certifying:
(i) the charter school's compliance with all state and federal laws and regulations;
(ii) all information on the transfer application is complete and accurate;
(iii) the charter school is current with all charter school governing board policies;
(iv) the charter school is operating consistent with the charter school's charter agreement; and
(v) there are no outstanding lawsuits or judgments or identifying outstanding lawsuits filed or judgments against the charter school.
(4) The current authorizer of a charter school seeking to transfer charter school authorizers shall submit a position statement to the new charter school authorizer about:
(a) the charter school's status;
(b) compliance with the charter school authorizer requirements; and
(c) unresolved concerns.
(5) A new charter school authorizer shall review an application for transferring a charter school authorizer for acceptance within 60 days of submission of a complete application, including all required documentation.
(6) If an authorizer accepts the transfer of a new charter school, the new authorizer shall notify the Superintendent within 30 days.

KEY: training, timelines, expansion, satellite
January 9, 2019 **Art X Sec 3**
53E-3-401
53G-5-205
53F-2-702
53G-6-503

R277. Education, Administration.
R277-553. Charter School Oversight, Monitoring and Appeals.
R277-553-1. Authority and Purpose.

(1) This rule is authorized under:

(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 adopt rules in accordance with its responsibilities;

(c) Subsection 53G-5-205(5), which requires the Board to establish minimum standards that a charter school authorizer is required to apply when evaluating a charter school application and monitoring charter school compliance; and

(d) Subsection 53G--5-501(5), which directs the Board to adopt rules specifying the timeline for remedying deficiencies and ensuring the compliance of a charter school with its charter.

(2) The purpose of this rule is to establish minimum standards that an authorizer is required to apply when monitoring charter school compliance.

R277-553-2. Authorizer Review of Charter Schools.

(1) An authorizer shall review and evaluate annually the performance of charter schools for which it is the authorizer, including requiring all charter schools to:

(a) comply with their charter agreements; and

(b) comply with statute and board rule.

(2) An authorizer shall:

(a) visit a charter school at least once during its first year of operation in order to ensure adherence to an implementation of the approved charter and to finalize a review process;

(b) visit a charter school as determined in the review process;

(c) provide written reports to a charter school after the visits that set forth:

(i) strengths;

(ii) deficiencies; and

(iii) proposed corrective actions;

(d) notify the Superintendent of a claim of fraud or misuse of public assets or funds by a charter school; and

(e) coordinate the investigation of claims identified in Subsection (d) with the Superintendent.

(3) An authorizer shall annually review, and document matters specific to effective charter school operations, including:

(a) financial performance;

(b) academic performance;

(c) enrollment; and

(d) governing board performance.

(4) An authorizer shall conduct and document a comprehensive review of governing board performance and review the charter agreement at least once every five years.

(5) An authorizer shall coordinate with the Superintendent to regularly review its charter schools as described in Subsection 53G-5-205(2).

R277-553-3. Remediation and Probation.

(1)(a) An authorizer shall develop a written policy documenting the process and for remediation of any deficiencies identified through the processes outlined in Section R277-553-2.

(b) An authorizer shall submit a copy of their remediation policy to the Board for approval along with their policy for approving new charters under Section R277-552-3.

(c) Notwithstanding Subsection (b), each authorizer shall submit a remediation policy to the Board for approval by January 1, 2020.

(2) If a school fails to remedy deficiencies through the remediation process, an authorizer may place the school on probation for no longer than one calendar year.

(3) Upon placing a school on probation, an authorizer shall set forth a written plan outlining those provisions in the charter agreement, applicable laws, rules, and regulations with which the school is not in compliance.

(4) The written plan required by Subsection (3) shall:

(a) set forth the terms, conditions, and timeline that the school shall follow in order to be removed from probation; and

(b) a plan for further remedial action if the school fails to comply with probationary terms.

(5) If a school complies with the terms of the written plan within the timeline prescribed, the authorizer shall remove the school from probation.

(6) A school may request a single extension of no more than six months from an authorizer to comply with the terms of the written plan.

(7) If a school fails to satisfy the terms of the written plan within the established timeline, the authorizer shall propose to terminate the school's charter.

(8) While a school is on probation, the school may seek technical assistance from the authorizer to remedy any deficiencies.

(9) An authorizer may, for good cause, or if the health, safety, or welfare of the students at the school is threatened at any time during the probationary period, terminate the charter immediately.

(10) An authorizer shall notify the Superintendent in writing within 30 days of any probationary terms imposed under this Section R277-553-3.

(11) An authorizer shall comply with the notification requirements in Section 53G-5-504 if the authorizer approves a motion to terminate a charter.

R277-553-4. Charter School Governing Board Compliance with Law.

(1) A charter school governing board may amend the charter school's charter agreement by receiving approval from its authorizer consistent with Section 53G-5-303.

(2) A charter school governing board shall comply with the charter school's authorizer's processes and timelines for all reviews, amendments, expansion requests, and satellite applications.

(3) A charter school shall notify the Superintendent and charter school's authorizer of lawsuits filed against the charter school within 30 days of the school being served with the complaint.

R277-553-5. Charter School Financial Practices and Training.

(1)(a) A charter school shall hire or contract with a business administrator to perform the duties described in Section 53G-4-303.

(b) A charter school business administrator shall attend business meetings required by the Superintendent or the school's authorizer.

(2) A charter school board shall:

(a) regularly monitor the charter school's business administrator described under Subsection (1); and

(b) ensure the business administrator fulfills the duties outlined in Section 53G-4-303.

(3) The Board may impose corrective action against a charter school for failure to provide financial and statistical information required by law or Board rules in accordance with Rule R277-114.

(3) A charter school shall comply with the Utah State Procurement Code, Title 63G, Chapter 6.

(4) A charter school may not receive necessarily existent small schools funding under Subsection 53F-2-304(2) and Rule R277-445.

R277-553-6. Remedying Charter School Deficiencies.

(1) Upon receiving credible information of charter school financial mismanagement or fraud, or a threat to the health, safety, or welfare of students, in coordination with the Superintendent an authorizer shall direct an independent review or monitoring, as appropriate.

(2) An authorizer may direct a charter school governing board or the charter school administration to take reasonable action to protect students or state or federal funds consistent with Section 53G-5-503.

(3) Upon receipt of findings documenting a threat to the health, welfare, or safety of a school under Subsection (1), an authorizer may:

(a) recommend that the Superintendent impose corrective action against the school in accordance with Rule R277-114;

(b) take immediate or subsequent corrective action with charter school governing board members or employees who are responsible for deficiencies consistent with Section 53G-5-501;

(c) identify a remediation team to work with the school; or

(d) immediately terminate the school's charter in accordance with Subsection 53G-5-503(5).

(4) Upon receipt of findings documenting financial mismanagement or fraud by a charter school, an authorizer shall coordinate appropriate corrective action with the Superintendent.

(5) An authorizer may exercise flexibility for good cause in making a recommendation regarding an identified deficiency.

R277-553-7. Appeals to the Board.

(1) An operating charter school may appeal an authorizer's decision to terminate the school's charter to the Board.

(2) Upon terminating a charter, an authorizer shall:

(a) provide written notice to the charter school;

(b) provide written notice of appeal rights and timelines to the charter school governing board chair or authorized agent; and

(c) post information about the appeals process on its website and provide training to charter school governing board members and authorized agents regarding the appeals procedure.

(3) If a charter school appeals an authorizer's decision to terminate a charter, the charter school governing board chair shall submit a written appeal to the Superintendent within 14 calendar days of the authorizer's action.

(4)(a) Upon receipt of an appeal under this section, Board leadership may:

(i) set a hearing before a standing committee to make a recommendation to the Board for consideration at its next regularly scheduled meeting;

(ii) designate three to five Board members and a hearing officer, who is not a Board member, to act as an objective hearing panel to conduct a hearing and provide a recommendation to the Board for consideration at its next regularly scheduled meeting; or

(iii) set a hearing before the full Board.

(b) A hearing under Subsection (4)(a) shall be held no more than 45 days following receipt of the written appeal.

(5) The Board shall:

(a) uphold the authorizer's decision; or

(b) remand the matter to the authorizer with identified deficiencies in the authorizer's decision and suggested remedies.

(6) The recommendation of the chartering entity shall be in place pending the conclusion of the appeals process, unless the Superintendent in the Superintendent's sole discretion, determines that the authorizer's decision or failure to act presents a serious threat to students or an imminent threat to public property or resources.

(7) The Board's acceptance or rejection of the hearing report is the final administrative action on the issue.

KEY: charter schools, oversight, monitoring, appeals
January 9, 2019 **Art X Sec 3**
53E-3-401(4)
53G-5-205(5)
53G-5-501(5)

R277. Education, Administration.
R277-554. State Charter School Board Grants and Mentoring Program.
R277-554-1. 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;

(c) Title 53G, Chapter 5, Charter Schools, which allows the Board to make rules governing aspects of operations of charter schools; and

(d) Section 53F-2-705, which requires the Board to make rules regarding start-up and implementation grants and a mentoring program.

(2) The purpose of this rule is to establish rules for the State Charter School Board to operate:

(a) a start-up and implementation grant for charter schools; and

(b) a mentoring program for charter schools.

R277-554-2. Charter School Start-up and Implementation Grants.

(1) A charter school that desires to receive State Charter School Board start-up and implementation grant funds shall comply with the requirements of this Section R277-554-2.

(2) To receive a State Charter School Board start-up or implementation grant, a charter school may be eligible if the charter school:

(a) meets the requirements of Section 53G-5-404;

(b) has a finalized charter agreement with the school's authorizer;

(c) submits an application for the grant within six months of approval by the school's authorizer; and

(d) demonstrates a plan to use the funds within the next two full school years.

(3) New, replication, and satellite schools may be eligible for start-up and implementation grant funds.

(4) A charter school may not receive start-up and implementation grant funds for school expansion.

(5) Only schools that have not received state start-up or implementation grant funds in prior years are eligible.

(6) The State Charter School Board shall determine amounts and conditions for distribution of state start-up or implementation grant funds.

(7) Grant funds may only be used for allowable expenditures as established by the State Charter School Board annual application form.

(8) Grant recipients shall participate in monitoring activities and shall provide monitoring information to the Superintendent, as directed.

(9)(a) A charter school shall repay grant funds to the State Charter School Board if recipients change to non-charter status within ten years of receiving grant funds.

(b) The State Charter School Board may grant an exception to the requirements of Subsection (9)(a) for a school that converts status, due to either federal or state law requirements, for academic purposes.

R277-554-3. Charter School Mentoring Program.

(1) The State Charter School Board shall identify critical mentoring needs of charter schools and, through an appropriate procurement process, allocate mentoring funds to one or more qualified individuals or organizations to meet identified needs.

(2) Mentoring program participants shall provide information to the State Charter School Board as requested.

(3) A participating mentor shall submit an annual program report to the State Charter School Board.

(4) The State Charter School Board shall evaluate the mentoring program annually.

KEY: charter schools, startup, implementation, mentoring
January 9, 2019 **Art X Sec 3**
53E-3-401
53G-5-205

R277. Education, Administration.
R277-555. Corrective Action Against Charter School Authorizers.
R277-555-1. 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;

(c) Title 53G, Chapter 5, Charter Schools, which allows the Board to make rules governing aspects of operations of charter schools; and

(d) Subsection 53G-5-205(6), which authorizes the Board to establish reasonable consequences for a charter school authorizer that fails to comply with state statute or board rule.

(2) The purpose of this rule is to establish procedures for review and consequences for non-compliance by a charter school authorizer.

R277-555-2. Authorizer Accountability.

(1) The Superintendent may initiate corrective action as described in this rule if an authorizer:

(a) fails to develop and implement a process meeting minimum standards for authorizing charter schools as described in Rule R277-552;

(b) fails to develop and implement a process meeting minimum standards for charter school oversight monitoring as described in Rule R277-553; or

(c) fails to comply with statute or Board rule.

(2) For each authorizer subject to corrective action, the Superintendent shall design and implement a consistent monitoring plan.

(3) The Superintendent shall clearly outline in a corrective action plan:

(a) all areas of noncompliance;

(b) steps required to satisfy the corrective action plan; and

(c) a reasonable time frame for an authorizer to correct identified issues.

(4) In addition to the requirements of Subsection (3), a corrective action plan may include provision and a timeline for:

(a) referral for monitoring by a Board section;

(b) referral for monitoring to the Board's internal audit department, with approval of the Board's Audit Committee;

(c) periodic meetings between a recipient administrator or governing board member and the Superintendent or a member of the Superintendency;

(d) planned appearances before the Board to provide status updates; and

(e) training for the authorizer's staff.

(5) The Superintendent may employ escalating restrictive conditions in a corrective action plan based on:

(a) the severity of the violation; or

(b) repeated violations by an authorizer.

(6) The Superintendent may include penalties for non-compliance with a corrective action plan in accordance with Subsection 53E-3-401(8).

(7) The Superintendent shall give notice and a copy of the corrective action plan in writing to:

(a) the authorizer's administrators; and

(b) the authorizer's governing board.

(8) The Superintendent shall notify an authorizer of changes to a corrective action plan.

(9) The Superintendent shall report to the Board monthly about the status of noncompliant authorizers.

R277-555-3. Authorizer Appeals.

(1) An authorizer may file an appeal to the Board of any adverse decision of the Superintendent resulting from a corrective action plan or penalty.

(2) An appeal must be made in writing and within 30 days of the date of the Superintendent's action.

(3) The Board may:

(a) review the appeal as a full board; or

(b) refer the matter to a Board standing or audit committee to make a recommendation to the Board for action.

KEY: charter schools, corrective action
January 9, 2019 **Art X Sec 3**
53E-3-401
53G-5-205

R277. Education, Administration.
R277-600. Student Transportation Standards and Procedures.
R277-600-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Subsection 53E-3-501(1)(d), which directs the Board to establish rules for bus routes, bus safety and other transportation needs;

(c) Sections 53F-2-402 and 53F-2-403, which provide for distribution of funds for transportation of public school students and disability standards for student bus riders;

(d) Section 53F-2-412, which directs the Board to make rules to implement unsafe route grants; and

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

(2) The purpose of this rule is to specify the standards under which school districts may qualify for and receive state transportation funds.

R277-600-2. Definitions.

(1) "ADA" means average daily attendance.

(2) "ADM" means average daily membership.

(3) "AFR" means a school district's annual financial report, one component of which is the AFR for all pupil transportation costs.

(4)(a) "Approved costs" means the Board approved costs of transporting eligible students from home to school to home once each day, after-school routes, approved routes for students with disabilities and vocational students attending school outside their regularly assigned attendance boundary, and a portion of the bus purchase prices.

(b) All approved costs are adjusted by the Superintendent consistent with a Board-approved formula per the annual legislative transportation appropriation.

(5) "Deadhead miles" means miles traveled while operating a bus with no passengers on board.

(6) "Extended school year" or "ESY" means an extension of the school district or charter school traditional school year to provide special education and related services to a student with a disability, in accordance with the student's IEP, and at no cost to the student's parents.

(7) "Hazardous" means in a state of danger or potential danger, which may result in injury or death.

(8) "Local school board" means a local school district board of education.

(9) "Multipurpose passenger vehicle" or "MPV" means any motor vehicle with less than 10 passenger positions, including the driver's position, which cannot be certified as a bus.

(10) "Pupil Transportation Advisory Committee" means the committee described in Subsection 53F-2-403(5).

(11) "Out-of-pocket expense" means gasoline, oil, and tire expenses.

(12) "Unsafe route" has the same meaning as defined in Subsection 53F-2-412(1).

R277-600-3. General Provisions.

(1)(a) The Superintendent shall use state transportation funds to reimburse school districts for the costs reasonably related to transporting students to and from school.

(b) The Board shall define the limits of a school district's transportation costs reimbursable by state funds in a manner that encourages safety, economy, and efficiency.

(2) Allowable transportation costs are divided into two categories:

(a) A Category costs include expenditures for regular bus routes established by the school district, and approved by the state.

(b) B Category costs include other methods of transporting students to and from school.

(3) The Superintendent shall develop a formula to allocate A Category costs based on a calculated rate.

(4) The Superintendent shall approve B Category costs on a line-by-line basis after:

(a) comparing the costs submitted by a school district with the costs of alternative methods of performing the designated functions; and

(b) accounting for legislative appropriation variations.

(5) The Superintendent shall develop a uniform accounting procedure for the financial reporting of transportation costs, which shall specify the methods used to calculate allowable transportation costs.

(6) The Superintendent shall develop uniform forms for the administration of the transportation program.

(7)(a) An LEA shall record all student transportation costs, including accurate mileage, minute, and trip records.

(b) An LEA may maintain records and financial worksheets during the fiscal year for audit purposes.

R277-600-4. Eligibility.

(1) The Superintendent shall only disburse state transportation funds for transporting eligible students.

(2) The Superintendent shall determine transportation eligibility for elementary students (k-6) and secondary students (7-12) in accordance with the mileage from home, specified in Subsections 53F-2-403(1) and (2), to the school attended by assignment of the local school board.

(3) A student whose IEP identifies transportation as a necessary related service is eligible for transportation regardless of distance from the school attended by assignment of the local school board.

(4) A student who attends school for at least one-half day at a location other than the local school board designated school is not eligible for transportation for distances up to one and one-half miles.

(5) A school district that implements double sessions as an alternative to new building construction may transport, one-way to or from school, with Board approval, affected elementary students residing less than one and one-half miles from school, if the local school board determines the transportation would improve safety affected by darkness or other hazardous conditions.

(6) The distance from home to school is determined as follows: From the center of the public route (road, thoroughfare, walkway, or highway) open to public use, opposite the regular entrance of the one where the pupil is living, over the nearest public route (thoroughfare, road, walkway, or highway) open regularly for use by the public, to the center of the public route (thoroughfare, road, walkway, or highway) open to public use, opposite the nearest public entrance to the school grounds which the student is attending.

R277-600-5. Student with Disabilities Transportation.

(1)(a) A student with a disability shall be transported on regular buses and regular routes whenever possible, unless the IEP team determines otherwise.

(b) A school district may request approval, prior to providing transportation, for reimbursement for transporting students with disabilities who cannot be safely transported on regular school bus runs.

(2) A school district may be reimbursed for the costs of transporting or for alternative transportation for students with disabilities whose severity of disability, or combination of disabilities, necessitates special transportation.

(3) During the regular school year, an eligible special transportation route from the assigned school site to an alternative program location shall be for a minimum of fifteen days with primarily the same group of students.

(4) During the ESY, an eligible special transportation route from the assigned school site to an alternative program location shall be for a minimum of ten days with primarily the same group of students.

(5) ESY services shall meet the standards of Part B of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1401(3) and Board Special Education Rules.

(6) The Utah Schools for the Deaf and the Blind shall provide transportation for students who are transported to its self-contained classes, unless an exception is approved by the Superintendent.

R277-600-6. Bus Route Approval.

(1)(a) A local school board shall propose bus routes subject to approval by the Superintendent.

(b) A local school board shall provide information requested by the Superintendent prior to approval of a route.

(c) During the regular school year, an eligible route from the assigned school site to an alternative program location shall be for a minimum of fifteen days with primarily the same group of students.

(d) The Superintendent may not approve a route for reimbursement if an equitable student transportation allowance or a subsistence allowance for the necessary transportation is more cost-effective.

(2) The Superintendent may approve exceptions for good cause shown.

(3) A bus route shall:

(a) traverse the most direct public route;

(b) be reasonably cost-effective in comparison to other feasible alternatives;

(c) provide adequate safety for students;

(d) traverse roads that are constructed and maintained in a manner that does not cause property damage; and

(e) include an economically appropriate number of students.

(4)(a) The minimum number of general education students required to establish a bus route is ten.

(b) The minimum number of students with disabilities required to establish a bus route is five.

(c) A bus route may be established for fewer students upon special permission of the Superintendent.

(5) A school district shall designate safe areas for bus stops.

(6)(a) A student is responsible for the student's own transportation to bus stops up to one and one-half miles from home.

(b) A student with a disability is responsible for the student's own transportation to bus stops unless the IEP team determines otherwise.

(7)(a) A school district shall report changes made in existing routes or the addition of new routes to the Superintendent as they occur.

(b) The Superintendent shall review and may refuse to fund route changes.

(8) The Superintendent may reimburse a school district for transporting another district's students across school district boundaries so long as:

(a) the route promotes efficient transportation for both districts;

(b) the route serves a group or community of students and families rather than a single student or a single family;

(c) the local school boards of both participating districts vote in an open meeting that students who reside in one district can be better and more economically served by another district; and

(d) both districts and the Superintendent maintain documentation annually of the boards' votes and the map of the approved route.

(9) A school district may transport eligible students home after school activities held at the students' school of regular attendance and within a reasonable time period after the close of the regular school day and receive approved route mileage.

(10)(a) The Superintendent may approve atypical routes as alternatives to building construction if routes are needed to allow more efficient school district use of school facilities.

(b) Building construction alternatives include:

(i) elementary double sessions;

(ii) year-round school; and

(iii) attendance across school district boundaries.

(11)(a) A school district may use the State Guarantee Transportation Levy or local transportation funds to transport students across state lines or out-of-state for school sponsored activities or required field trips if:

(i) the local school board has a policy that includes approval of trips at the appropriate administrative level;

(ii) the school or school district has considered the purpose of the trip or activity and any competing risk or liability;

(iii) given the distance, purpose and length of the trip, the school district has determined that the use of a publicly owned school bus is appropriate for the trip or activity; and

(iv) the local school board has consulted with State Risk Management.

(b) If school bus routes transport students across Utah state lines or outside of Utah for required to and from routes, routes are reimbursable providing a school district maintains documentation that:

(i) the routes are necessary;

(ii) the routes are more cost-effective; or

(iii) the routes provide greater safety for students than in-state routes.

R277-600-7. Alternative Transportation.

(1) The Superintendent shall analyze bus routes that involve a large number of deadhead miles to determine if an alternative method of transporting students is more efficient.

(2) Approved alternatives include the alternatives described in Subsections (3) through (9).

(3)(a) The costs incurred in transporting eligible pupils in a school district MPV are approved costs as long as the costs demonstrate efficiency; or

(b) The costs incurred in paying eligible students an allowance in lieu of school district-supplied transportation are approved costs.

(4)(a) A student may be reimbursed for the mileage to the bus stop or school, whichever is closer to the student's home.

(b) The allowance under this Subsection (4)(a) may not be less than $0.35 per mile, nor greater than the reimbursement allowance permitted by the Utah Department of Administrative Services for use of privately owned vehicles set forth in the Utah Travel Regulations.

(5) A district shall annually perform a cost-benefit analysis as part of its determination of the LEA specific reimbursement rate and make this analysis available to the public.

(6)(a) A district shall make a student mileage allowance under this Section R277-600-7 to only one student per family for each trip that is necessary for all the students within a family to attend school.

(b) If siblings are on different school schedules or ride buses that are on significantly different schedules, multiple students within a family may claim and be paid for student mileage allowances.

(7) If a student eligible for reimbursement under this

Section R277-600-7 or the student's parent is unable to provide private transportation, with prior approval from the Superintendent, an amount equivalent to the student allowance may be paid to the school district to help pay the costs of school district transportation.

(8)(a) A district shall measure and certify a student's mileage in school district records.

(b) A student's ADA, as entered in school records, is used to determine the student's attendance.

(9)(a) The cost incurred in providing a subsistence allowance is an approved cost under the following conditions:

(i) a student lives more than 60 miles (one way) on well-maintained roads from the student's assigned school, a parent may be reimbursed for the student's room and board if the student relocates temporarily to reside in close proximity to the student's assigned school;

(ii) payment may not exceed the Substitute Care Rate for Family Services for the current fiscal year;

(iii) adjustments for changes made in the rate during the year shall be included in the allowance; and

(iv) in addition to the reimbursement for room and board, the subsistence allowance may include the costs of up to 18 round trips per year.

(b)(i) A subsistence allowance is not available to a parent who maintains a separate home during the school year for the convenience of the family.

(ii) A parent's primary residence during the school year is the residence of the child.

(10) A school district may contract or lease with a third party provider for pupil transportation services.

(11)(a) The cost incurred in engaging in a contract or leasing for transportation is an approved cost at the prorated amount available to school districts.

(b) The Superintendent shall determine reimbursements for school districts using a leasing arrangement in accordance with the comparable cost for the school district to operate its own transportation.

(c) Under a contract or lease, a school district's transportation administrator's time may not exceed one percent of the commercial contract cost.

(12) If a school district contracts or leases with a third party provider or other LEA for pupil transportation services, it shall maintain and provide to the Superintendent upon request the following items as if it operated its own transportation:

(a) eligible student counts;

(b) bus route mileage;

(c) bus route minutes; and

(d) service to students with disabilities and bus inventory data.

R277-600-8. Other Reimbursable Expenses.

The Superintendent may reimburse a school district for the following costs with state transportation funds:

(1) salaries of clerks, secretaries, trainers, drivers, a supervisor, mechanics, and other personnel necessary to operate the transportation program, subject to the following limitations:

(a) a full time supervisor may be paid at the same rate as other professional directors in the school district; and

(b) a school district shall ensure that a supervisor's salary is commensurate with the number of buses, number of eligible students transported, and total responsibility relative to other school district supervisory functions;

(2) a school district may claim a percentage of the school district superintendent's or other supervisor's salary for reimbursement if the school district's eligibility count is less than 600 and a verifiable record of administrative time spent in the transportation operation is maintained; and

(3) the wage time for bus drivers may include to and from school time consisting of:

(i) 10 minute pre-trip inspection;

(ii) actual driving time;

(iii) 10 minute post-trip inspection and bus cleanup; and

(iv) 10 minute bus servicing and fueling;

(4) a proportionate amount of a superintendent's or supervisor's employee benefits (health, accident, life insurance);

(5) purchased property services;

(6) property, comprehensive, and liability insurance;

(7) communication expenses and travel for supervisors to workshops or national conventions;

(8) supplies and materials for vehicles, the school district transportation office and the garage;

(9) training expenses to complete bus driver instruction and certification required by the Board; and

(10) other related costs approved by the Superintendent, which may include additional bus driver training.

R277-600-9. Non-reimbursable Expenses.

(1) AFR for all pupil transportation costs may only include pupil transportation costs and other school district expenditures directly related to pupil transportation.

(2) In determining expenditures for eligible to and from school transportation, all related costs shall be reduced on a pro rata basis for the miles not connected with approved costs.

(3) Expenses determined by the Superintendent as not directly related to transportation of eligible students to and from school may not be reimbursed.

(4)(a) A local school board may determine appropriate non-school uses of school buses.

(b) A local school board may lease or rent public school buses to:

(i) federal, state, county, or municipal entities;

(ii) entities insured by State Risk Management;

(iii) non-government entities; or

(iv) entities not insured through State Risk Management.

(c) As part of any agreement to allow non-school use of a school bus, a local school board shall:

(i) require full cost reimbursement for any non-public school use including:

(A) cost per mile;

(B) cost per minute; and

(C) bus depreciation;

(ii) require a non-school user to provide:

(A) proof of insurance through State Risk Management or private insurance coverage; and

(B) a fully executed agreement for full release of indemnification;

(iii) require that any non-school use is revenue neutral; and

(iv) consult with State Risk Management to determine adequacy of documentation of insurance and indemnity for any entity requesting use or rental of publicly owned school buses.

(5) A local school board shall approve the use of school buses by a non-governmental entity or an entity not insured through State Risk Management in an open meeting.

(6)(a) In the event of an emergency, local, regional, state or federal authorities may request the use of school buses or school bus drivers or both for the period of the emergency.

(b) A local school board shall grant a request under Subsection (a) so long as the use can be accommodated consistent with continuing student transportation and student safety requirements.

R277-600-10. Board Local Levy.

(1) Costs for school district transportation of students which are not reimbursable may be paid for from general school district funds or from the proceeds of the Board Local Levy authorized under Section 53F-2-602.

(2) The revenue from the Board Local Levy may be used

for transporting students and for school bus replacement.

(3)(a) A local school board may approve the transportation of students in areas where walking constitutes a hazardous condition from general local school board funds or from the Board Local Levy.

(b) A local school board shall determine hazardous walking conditions by an analysis of the following factors:

(i) volume, type, and speed of vehicular traffic;

(ii) age and condition of students traversing the area;

(iii) condition of the roadway, sidewalks and applicable means of access in the area; and

(iv) environmental conditions.

(c) A local school board may designate hazardous conditions.

(4) Guarantee Transportation Levy

(a) The Superintendent shall distribute funds appropriated under Subsection 53F-2-403(7) according to each school district's proportional share of its qualifying state contribution.

(b) The qualifying state contribution for school districts shall be the difference between 85 percent of the average state cost per qualifying mile multiplied by the number of qualifying miles and the current funds raised per school district by an amount of revenue equal to at least .0002 per dollar of taxable value of the school district's Board Local Levy under Section 53F-2-602.

R277-600-11. Exceptions.

(1)(a) When undue hardships and inequities are created through exact application of these standards, a school district may request an exception to these rules from the Superintendent for individual cases.

(b) Hardships or inequities under Subsection (1)(a) may include written evidence demonstrating that no significant increased costs (less than one percent of a school district's transportation budget) is incurred due to a waiver or that students cannot be provided services consistent with the law due to transportation exigencies.

(c) The Superintendent may consult with the Pupil Transportation Advisory Committee in considering the exemption.

(2) A school district shall not be penalized in the computation of its state allocation for the presence on an approved to and from school route of an ineligible student who does not create an appreciable increase in the cost of the route.

(3) There is an appreciable increase in cost under Subsection (2) if, because of the presence of ineligible students, any of the following occurs:

(a) another route is required;

(b) a larger or additional bus is required;

(c) a route's mileage is increased;

(d) the number of pick-up points below the mileage limits for eligible students exceeds one; and

(e) significant additional time is required to complete a route.

(4)(a) An ineligible student may ride a school bus on a space available basis.

(b) An eligible student may not be displaced or required to stand in order to make room for an ineligible student.

R277-600-12. Rural School Transportation Reimbursement Program.

(1) The Superintendent shall annually determine which LEAs are eligible for rural school transportation reimbursement using the criteria described in Subsection 53F-5-211(1)(a).

(2) The Superintendent shall measure eligibility based on:

(a) the most recent October 1 UTREx submission; and

(b) the prior year's transportation data submitted in accordance with Section R277-484-3.

(3) By November 1 annually, the Superintendent shall notify an LEA that the LEA may seek reimbursement.

(4) An LEA eligible for reimbursement shall:

(a) provide evidence to the Superintendent in the first year of the LEA's eligibility that the LEA has provided transportation to and from the school for the past five years;

(b) submit to the Superintendent in the first year of the LEA's eligibility the LEA's current year pupil transportation Schedule A1 by December 30; and

(c) in subsequent years of eligibility, submit all transportation reports in accordance with Section R277-484-3.

(5) Submission of the pupil transportation Schedule A1 shall constitute an annual application and request for reimbursement by an LEA with an eligible school.

(6)(a) The Superintendent shall calculate and process reimbursements to LEAs once a year.

(b) The Superintendent shall determine allowable costs eligible for reimbursement taking into account:

(i) eligible routes; and

(ii) eligible miles and minutes as reported on the pupil transportation Schedule A1.

(c) The Superintendent shall reimburse an LEA based on the LEA's percentage of total unreimbursed eligible costs submitted.

(d) If the annual appropriation is insufficient to fund all submitted eligible cost payments, the Superintendent shall prorate the reimbursement up to the amount of the appropriation.

(7) An LEA shall permit the Superintendent to review accounting ledgers, student records, and transportation records upon request in order to determine:

(a) a school's eligibility in accordance with Subsection (1); and

(b) allowability of an LEA's submitted costs.

KEY: school buses, school transportation
January 9, 2019 **Art X Sec 3**
Notice of Continuation September 15, 2016 **53E-3-501(1)(d)**
53E-3-401(4)
53F-2-412
53F-2-403

R277. Education, Administration.
R277-922. Digital Teaching and Learning Grant Program.
R277-922-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(c) Section 53F-2-510, Digital Teaching and Learning Grant Program, which requires the Board to:

(i) establish a qualifying grant program; and

(ii) adopt rules related to administration of the Digital Teaching and Learning Grant Program.

(2) The purpose of this rule is to:

(a) establish an application and grant review committee and process;

(b) give direction to LEAs participating in the Digital Teaching and Learning Program.

R277-922-2. Definitions.

(1) "Advisory committee" means the Digital Teaching and Learning Advisory Committee:

(a) established by the Board as required in Section 53F-2-510; and

(b) required to perform the duties described in R277-922-5.

(2) "LEA plan" has the same meaning as that term is defined in Section 53F-2-510.

(3) "Master plan" means Utah's Master Plan: Essential Elements for Technology-Powered Learning incorporated by reference in R277-922-3.

(4) "Program" has the same meaning as that term is defined in Section 53F-2-510.

(5) "Participating LEA" means an LEA that:

(a) has an LEA plan approved by the Board; and

(b) receives a grant under the program.

R277-922-3. Incorporation of Utah's Master Plan by Reference.

(1) This rule incorporates by reference Utah's Master Plan: Essential Elements for Technology-Powered Learning, October 9, 2015, which establishes:

(a) the application process for an LEA to receive a grant under the program; and

(b) a more detailed description of the requirements of an LEA plan.

(2) A copy of the Master Plan is located at:

(a) https://www.uen.org/digital-learning/taskforce.shtml; and

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

R277-922-4. LEA Planning Grants.

(1) An LEA may apply for a planning grant in lieu of preparing an LEA plan and receiving a Digital Teaching and Learning Grant as described in this rule.

(2) A planning grant awarded under Subsection (1) shall be in the amount of $5,000.

(3) In order to qualify for a planning grant, an LEA shall:

(a) send an LEA representative to a pre-grant submission training conducted by the Superintendent; and

(b) complete the readiness assessment required in Section 53F-2-510.

(4)(a) If an LEA receives a planning grant, the LEA shall submit an LEA plan as set forth in Section R277-922-8 for the subsequent school year.

(b) An LEA that fails to submit an LEA plan in the subsequent year shall reimburse funds awarded under Subsection (2) to the program.

R277-922-5. Digital Teaching and Learning Advisory Committee Duties.

(1) The advisory committee shall include the following individuals who will serve as non-voting chairs:

(a) the Deputy Superintendent of Instructional Services or designee; and

(b) the Director of the Utah Education and Telehealth Network or designee.

(2) In addition to the chairs described in Subsection (1), the Board shall appoint five members to the advisory committee as follows:

(a) the Digital Teaching and Learning Coordinator;

(b) one member who represents a school district with expertise in digital teaching and learning;

(c) one member who represents a charter school with expertise in digital teaching and learning; and

(d) two members that have earned a national certification in education technology, that may include a certification from the Certified Education Technology Leader from the Consortium for School Networking (CoSN).

(3) The advisory committee shall:

(a) oversee review of an LEA plan to determine whether the LEA plan meets the criteria described in Section R277-922-8;

(b) make a recommendation to the Superintendent and the Board on whether the Board should approve or deny an LEA plan;

(c) make recommendations to an LEA on how the LEA may improve the LEA's plan; and

(d) perform other duties as directed by:

(i) the Board; or

(ii) the Superintendent.

(4) The advisory committee may select additional LEA plan reviewers to assist the advisory committee with the work described in Subsection (3).

(5) The advisory committee, or the Superintendent on behalf of the advisory committee, shall present the advisory committee's recommendations on whether to approve or deny each LEA plan to the Board for the Board's approval.

R277-922-6. Board Approval or Denial of LEA Plans.

(1) The Board will either approve or deny each LEA plan submitted by the advisory committee.

(2) If the Board denies an LEA's plan, the LEA may amend and re-submit the LEA's plan to the advisory committee until the Board approves the LEA plan.

R277-922-7. Pre-LEA Plan Submission Requirements.

(1) Before an LEA submits an LEA plan to the advisory committee for approval by the Board, an LEA shall:

(a) have an LEA representative participate in a pre-grant submission training conducted by the Superintendent;

(b) require the following individuals to participate in a leadership and change management training conducted by the Superintendent:

(i) a representative group of school leadership from schools participating in the program;

(ii) the school district superintendent or charter school executive director;

(iii) the LEA's technology director; and

(iv) the LEA's curriculum director; and

(c) complete the readiness assessment required in Section 53F-2-510.

(2) A member of an LEA's local school board or charter school governing board and other staff identified by the LEA may participate in:

(a) a pre-grant submission training conducted by the Superintendent as described in Subsection (1)(a); or

(b) a leadership and change management training conducted by the Superintendent as described in Subsections (1)(b).

R277-922-8. LEA Plan Requirements.

(1) An LEA shall develop a five-year LEA plan in cooperation with educators, paraeducators, and parents,

(2) An LEA plan shall include:

(a) an LEA's results on the readiness assessment required in Section 53F-2-510;

(b) a statement of purpose that describes the learning outcomes, and metrics of success an LEA will accomplish by implementing the program, including the following outcomes:

(i) a 5% increase in an LEA's growth or proficiency on the statewide accountability metrics by the end of the fifth year of the LEA's implementation of the program; or

(ii) a school level outcome:

(A) selected by the LEA;

(B) included in the LEA's plan; and

(C) approved by the advisory committee;

(c) long-term, intermediate, and direct outcomes as defined in the Master Plan and identified in an LEA's five-year plan;

(d) an implementation process structured to yield an LEA's school level outcomes;

(e) a plan for infrastructure needs and refreshment cycle;

(f) a description of necessary high quality digital primary instructional materials, as defined in Section R277-469-2, in relation to the outcomes provided for in Subsection R277-922-8(b)(i) including:

(i) providing special education students with appropriate software;

(ii) the recommended usage requirements of the software provider; and

(iii) the best practices recommended by the software or hardware provider;

(g) a detailed plan for student engagement in personalized learning;

(h) technical support standards for implementation and maintenance of the program that removes technical support burdens from the classroom teacher;

(i) proposed security policies, including security audits, student data privacy as referenced in R277-487, and remediation of identified lapses;

(j) a disclosure by an LEA of the LEA's current technology expenditures;

(k) the LEA's overall financial plan, including use of additional LEA non-grant funds, to be utilized to adequately fund the LEA plan;

(l) a description of how an LEA will provide high quality professional learning for educators, administrators, and support staff participating in the program, including ongoing periodic coaching;

(m) a plan for digital citizenship curricula and implementation; and

(n) a plan for how an LEA will monitor student and teacher usage of the program technology.

(2) An LEA's approved LEA plan is valid for five years, and may be required to be reapproved by the advisory committee and the Board after five years of implementation.

(3) An LEA is not required to implement the program in kindergarten through grade 4.

R277-922-9. Distribution of Grant Money to Participating LEAs.

(1) If an LEA's plan is approved by the Board, the Superintendent shall distribute grant money to the participating LEA as described in this section.

(2)(a) The amount available to distribute to participating charter schools is an amount equal to the product of:

(i) October 1 headcount in the prior year at charter schools statewide, divided by October 1 headcount in the prior year in public schools statewide; and

(ii) the total amount available for distribution under the program.

(b) The Superintendent shall distribute to participating charter schools the amount available for distribution to participating charter schools in proportion to each participating charter school's enrollment as a percentage of the total enrollment in participating charter schools in the prior year.

(c) A new LEA or new charter school satellite campus shall be funded based on the new LEA or new charter school satellite campus's projected October 1 headcount.

(3) The Superintendent shall distribute grant money to the Utah Schools for the Deaf and the Blind in an amount equal to the product of:

(a) October 1 headcount in the prior year at the Utah Schools for the Deaf and the Blind, divided by October 1 headcount in the prior year in public schools statewide; and

(b) the total amount available for distribution under this section.

(4) Of the funds available for distribution under the program after the allocation of funds for the Utah Schools for the Deaf and the Blind and participating charter schools, the Superintendent shall distribute grant money to participating LEAs that are school districts as follows:

(a) the Superintendent shall distribute 10 percent of the total funding available for participating LEAs that are school districts to the participating LEAs as a base amount on an equal basis; and

(b) the Superintendent shall distribute the remaining 90% of the funds to the participating LEAs on a per-student basis, based on the October 1 headcount in the prior year.

(5)(a) If an LEA's plan is not approved during year one of the program, the advisory committee and the Digital Teaching and Learning Coordinator shall provide additional supports to help the LEA become a qualifying LEA.

(b) The Superintendent shall redistribute the funds an LEA would have been eligible to receive, in accordance with the distribution formulas described in this section, to other qualifying LEAs if the LEA's plan is not approved:

(i) after additional support described in Subsection (5)(a) is given; and

(ii) by no later than December 31 of the school year for which the grant is being awarded.

(6) A non-qualifying LEA may reapply for grant money in subsequent years based on the LEA's plan being approved by the Board.

R277-922-10. Prohibited Uses of Grant Money.

A participating LEA may not use grant money:

(1) to fund nontechnology programs;

(2) to purchase mobile telephones;

(3) to fund voice or data plans for mobile telephones; or

(4) to pay indirect costs charged by the LEA.

R277-922-11. Participating LEA Reporting Requirements.

Beginning with the school year after a participating LEA's first year implementation of an LEA plan, a participating LEA shall annually:

(1) review how the participating LEA:

(a) redirected funds through the participating LEA's implementation of the LEA plan; and

(b) made progress toward implementation; and

(2) on or before October 1, report the potential savings identified in Subsection (1) to the Superintendent.

R277-922-12. Evaluation of LEA Program Implementation.

(1) An evaluation conducted by the independent evaluator described in Section 53F-2-510 shall include a review of:

(a) a participating LEA's implementation of the program in accordance with the participating LEA's LEA plan;

(b) a participating LEA's progress toward meeting the school level outcomes in the participating LEA's LEA plan.

(2) After an evaluation described in Subsection (1), if the Superintendent determines that a participating LEA is not meeting the requirements of the participating LEA's LEA plan the Superintendent:

(a) shall:

(i) provide assistance to the participating LEA; and

(ii) recommend changes to the LEA's LEA plan; or

(b) after at least two findings of failure to meet the requirements of the participating LEA's LEA plan, may recommend that the Board terminate the participating LEA's grant money.

KEY: digital teaching and learning, grant programs
January 9, 2019 **Art X Sec 3**
53E-3-401(4)
53F-2-510

R307. Environmental Quality, Air Quality.
R307-110. General Requirements: State Implementation Plan.
R307-110-1. Incorporation by Reference.

To meet requirements of the Federal Clean Air Act, the Utah State Implementation Plan (SIP) must be incorporated by reference into these rules. Copies of the SIP are available on the division's website.

R307-110-2. Section I, Legal Authority.

The Utah State Implementation Plan, Section I, Legal Authority, as most recently amended by the Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-3. Section II, Review of New and Modified Air Pollution Sources.

The Utah State Implementation Plan, Section II, Review of New and Modified Air Pollution Sources, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-4. Section III, Source Surveillance.

The Utah State Implementation Plan, Section III, Source Surveillance, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-5. Section IV, Ambient Air Monitoring Program.

The Utah State Implementation Plan, Section IV, Ambient Air Monitoring Program, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-6. Section V, Resources.

The Utah State Implementation Plan, Section V, Resources, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-7. Section VI, Intergovernmental Cooperation.

The Utah State Implementation Plan, Section VI, Intergovernmental Cooperation, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-8. Section VII, Prevention of Air Pollution Emergency Episodes.

The Utah State Implementation Plan, Section VII, Prevention of Air Pollution Emergency Episodes, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-9. Section VIII, Prevention of Significant Deterioration.

The Utah State Implementation Plan, Section VIII, Prevention of Significant Deterioration, as most recently amended by the Utah Air Quality Board on March 8, 2006, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-10. Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter, as most recently amended by the Utah Air Quality Board on December 2, 2015, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-11. Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide, as most recently amended by the Utah Air Quality Board on January 5, 2005, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-12. Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide, as most recently amended by the Utah Air Quality Board on June 6, 2018, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-13. Section IX, Control Measures for Area and Point Sources, Part D, Ozone.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part D, Ozone, as most recently amended by the Utah Air Quality Board on January 3, 2007, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-14. Section IX, Control Measures for Area and Point Sources, Part E, Nitrogen Dioxide.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part E, Nitrogen Dioxide, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-15. Section IX, Control Measures for Area and Point Sources, Part F, Lead.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part F, Lead, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-16. (Reserved.)

Reserved.

R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits and Operating Practices, as most recently amended by the Utah Air Quality Board on January 2, 2019, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-18. Reserved.

Reserved.

R307-110-19. Section XI, Other Control Measures for Mobile Sources.

The Utah State Implementation Plan, Section XI, Other Control Measures for Mobile Sources, as most recently amended by the Utah Air Quality Board on February 9, 2000, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-20. Section XII, Transportation Conformity Consultation.

The Utah State Implementation Plan, Section XII, Transportation Conformity Consultation, as most recently amended by the Utah Air Quality Board on May 2, 2007, pursuant to 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-21. Section XIII, Analysis of Plan Impact.

The Utah State Implementation Plan, Section XIII, Analysis of Plan Impact, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-22. Section XIV, Comprehensive Emission Inventory.

The Utah State Implementation Plan, Section XIV, Comprehensive Emission Inventory, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-23. Section XV, Utah Code Title 19, Chapter 2, Air Conservation Act.

Section XV of the Utah State Implementation Plan contains Utah Code Title 19, Chapter 2, Air Conservation Act.

R307-110-24. Section XVI, Public Notification.

The Utah State Implementation Plan, Section XVI, Public Notification, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-25. Section XVII, Visibility Protection.

The Utah State Implementation Plan, Section XVII, Visibility Protection, as most recently amended by the Utah Air Quality Board on March 26, 1993, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-26. Section XVIII, Demonstration of GEP Stack Height.

The Utah State Implementation Plan, Section XVIII, Demonstration of GEP Stack Height, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-27. Section XIX, Small Business Assistance Program.

The Utah State Implementation Plan, Section XIX, Small Business Assistance Program, as most recently amended by the Utah Air Quality Board on December 18, 1992, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-28. Regional Haze.

The Utah State Implementation Plan, Section XX, Regional Haze, as most recently amended by the Utah Air Quality Board on December 2, 2015, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-29. Section XXI, Diesel Inspection and Maintenance Program.

The Utah State Implementation Plan, Section XXI, Diesel Inspection and Maintenance Program, as most recently amended by the Utah Air Quality Board on July 12, 1995, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-30. Section XXII, General Conformity.

The Utah State Implementation Plan, Section XXII, General Conformity, as adopted by the Utah Air Quality Board on October 4, 1995, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-31. Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, as most recently amended by the Utah Air Quality Board on December 5, 2012, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-32. Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County, as most recently amended by the Utah Air Quality Board on December 5, 2012, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-33. Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County, as most recently amended by the Utah Air Quality Board on October 6, 2004, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-34. Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County, as most recently amended by the Utah Air Quality Board on December 5, 2012, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-35. Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County, as most recently amended by the Utah Air Quality Board on December 5, 2012, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-36. Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County, as most recently adopted by the Utah Air Quality Board on November 6, 2013, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

R307-110-37. Section XXIII, Interstate Transport.

The Utah State Implementation Plan, Section XXIII, Interstate Transport, as most recently adopted by the Utah Air Quality Board on February 7, 2007, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone
January 3, 2019 19-2-104
Notice of Continuation January 27, 2017

R309. Environmental Quality, Drinking Water.
R309-100. Administration: Drinking Water Program.
R309-100-1. Purpose.

The purpose of this rule is to set forth the water quality and drinking water standards for public water systems.

R309-100-2 Authority.
R309-100-3 Definitions.
R309-100-4 General.
R309-100-5 Approval of Plans and Specifications for Public Water System Projects.
R309-100-6 Feasibility Studies.
R309-100-7 Sanitary Survey and Evaluation of Existing Facilities.
R309-100-8 Rating System.
R309-100-9 Orders and Emergency Actions.
R309-100-10 Variances.
R309-100-11 Exemptions.

R309-100-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63G-3 of the same, known as the Administrative Rulemaking Act.

R309-100-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-100-4. General.

These rules shall apply to all public drinking water systems within the State of Utah.

(1) A public drinking water system is a system, either publicly or privately owned, providing water for human consumption and other domestic uses, which:

(a) Has at least 15 service connections,

(i) Delivery of drinking water, such as by a single well, to a portion of a platted subdivision or a portion of a contiguous development, either of which is under the same ownership or control, shall be considered a single public drinking water system; and

(ii) A platted subdivision or other contiguous development of 15 or more lots, under the same ownership or control, is considered to have the corresponding number of connections as there are lots; or

(b) Serves an average of at least 25 individuals daily at least 60 days out of the year.

(i) A ratio of 3.13 persons per connection shall be used to calculate the individuals served unless, at the time of operation, more accurate information is available. The ratio is based on the statewide average persons per residence in the 2000 census.

(ii) Notwithstanding the threshold for the number of service connections set forth in (a), a drinking water system consisting of at least 8 service connections is considered to serve 25 people, based on the ratio in (b)(i), and consequently is classified as a public drinking water system, unless, at the time of operation, more accurate data can be used.

(iii) The ratio in (b)(i) is only be used to determine whether, prior to construction or modification, any particular water system is considered to be a public water system.

(c) Any person or entity may request a review of the designation of a public water system by submitting documentation to the Director showing that the drinking water system, upon complete build out, falls below both thresholds listed in (a) and (b) above. All decisions made by the Director under this provision may be challenged as provided in Section 19-1-301.5 and R305-7.

(2) Submetered Properties.

(a) Submetered Properties means a billing process by which a property owner (or association of property owners, in the case of co-ops or condominiums) bills tenants based on metered total water use; the property owner is then responsible for payment of a water bill from a public water system.

(b) A property owner who installs submeters to track usage of water by tenants on his or her property shall not be subject to these rules solely as a result of taking the administrative act of submetering and billing.

(c) Owners of submetered properties shall receive all their water from a regulated public water system to qualify under the terms of R309-105-5 for exemption from monitoring requirements, except as to the selling of water.

(d) This is not intended to exempt systems where the property in question has a large distribution system (piping in excess of 500 feet in length and sized larger than the normal service lateral based on a fixture unit analysis) serves a large population or serves a mixed (commercial/residential) population (e.g. many military installations/facilities or large mobile home parks or P.U.D's) from regulation as a public drinking water system as pertains to notifying the Division of the persons indicated below in (5) or plan review of modifications or changes to their systems (refer to R309-500).

(3) The term public drinking water system includes collection, treatment, storage or distribution facilities under control of the operator and used primarily in connection with the system. Additionally, the term includes collection, pretreatment or storage facilities used primarily in connection with the system but not under such control (see 19-4-102 of the Utah Code Annotated).

(4) Categories of Public Drinking Water Systems

Public drinking water systems are divided into three categories, as follows:

(a) "Community water system" (CWS) means a public drinking water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(b) "Non-transient, non-community water system" (NTNCWS) means a public water system that is not a community water system and that regularly serves at least 25 of the same nonresident persons over six months per year. Examples of such systems are those serving the same individuals (industrial workers, school children, church members) by means of a separate system.

(c) "Transient non-community water system" (TNCWS) means a non-community public water system that does not serve 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those, RV park, diner or convenience store where the permanent nonresident staff number less than 25, but the number of people served exceeds 25.

(d) The distinctions between "Community", "Non-transient, non-community", and "Transient Non-community" water systems are important with respect to monitoring and water quality requirements.

(5) Responsibility

(a) All public drinking water systems must have a person or organization designated as the owner of the system. The name, address and phone number of this person or organization shall be supplied, in writing, to the Director.

(b) The name of the person to be contacted on issues concerning the operation and maintenance of the system shall also be provided, in writing, to the Director.

R309-100-5. Approval of Plans and Specifications for Public Water Supply Projects.

(1) All engineering plans and specifications for public drinking water projects must be approved in writing prior to construction, in accordance with R309-105-6 and R309-500-6.

(2) A public water system shall obtain an Operating Permit

prior to placing any public drinking water facility into operation as required in R309-500-9.

R309-100-6. Sanitary Survey, Evaluation, and Corrective Action of Existing Facilities.

(1) The Director, after considering information gathered during sanitary surveys and facility evaluations, may make determinations of regulatory significance including: monitoring reductions or increases, treatment, variances and exemptions.

(2) CONDUCTING SANITARY SURVEYS

(a) The Director shall ensure a sanitary survey is conducted at least every three years on all public water systems. The Director may reduce this frequency to once every five years based on outstanding performance on prior sanitary surveys.

(b) Sanitary surveys conducted by the following individuals under the circumstances as listed, may be used by the Director for the above determinations:

(i) Division of Drinking Water personnel;

(ii) Utah Department of Environmental Quality District Engineers;

(iii) local health officials;

(iv) Forest Service engineers;

(v) Utah Rural Water Association staff;

(vi) consulting engineers; and

(vii) other qualified individuals authorized in writing by the Director.

(3) Public water systems must provide the Director, at the Director's request, any existing information that will enable the State to conduct a sanitary survey.

(4) For the purposes of this subpart, a "sanitary survey", as conducted by the Director, includes but is not limited to, an onsite review of the water source(s) (identifying sources of contamination by using results of source water assessments or other relevant information where available), facilities, equipment, operation, maintenance, and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

(5) The sanitary survey must include an evaluation of the applicable components listed in paragraphs (5)(a) through (h) of this section:

(a) Source,

(b) Treatment,

(c) Distribution system,

(d) Finished water storage,

(e) Pumps, pump facilities, and controls,

(f) Monitoring, reporting, and data verification,

(g) System management and operation, and

(h) Operator compliance with State requirements.

(6) CONDITIONS ON CONDUCT OF SANITARY SURVEYS

In order for the groups of individuals listed in R309-100-7(2)(b) to conduct sanitary surveys acceptable for consideration by the Director, the following criteria must be met:

(a) Surveys of all systems involving complete treatment plants must be performed by Division of Drinking Water staff or others authorized in writing by the Director;

(b) Local Health officials may conduct surveys of systems within their respective jurisdictions;

(c) U.S. Forest Service (USFS) engineers may conduct surveys of water systems if the system is owned and operated by the USFS or USFS concessionaires;

(d) Utah Rural Water Association staff may conduct surveys of water systems if the system's population is less than 10,000;

(e) Consulting Engineers under the direction of a Registered Professional Engineer;

(f) Other qualified individuals who are authorized in writing by the Director may conduct surveys.

(7) SANITARY SURVEY REPORT CONTENT

The Director will prescribe the form and content of sanitary survey reports and be empowered to reject all or part of unacceptable reports.

(8) ACCESS TO WATER FACILITIES

Department of Environmental Quality employees after reasonable notice and presentation of credentials, may enter any part of a public water system at reasonable times to inspect the facilities and water quality records, conduct sanitary surveys, take samples and otherwise evaluate compliance with Utah's drinking water rules. All others who have been authorized by the Director to conduct sanitary surveys must have the permission of the water system owner or designated representative before a sanitary survey may be conducted.

(9) CORRECTIVE ACTION

Public water systems must comply with requirements found in R309-215-16(3)(a)(iii), R309-215-16(3)(a)(iv), R309-215-16(3)(a)(v), R309-215-16(3)(a)(vi), and R309-215-16(3)(a)(vii).

(10) Refer to R309-100-8 and R309-105-6 for further requirements.

R309-100-7. Rating System.

The Director shall assign a rating to each public water supply in order to provide a concise indication of its condition and performance. The criteria to be used for determining a water system's rating shall be as set forth in R309-400.

R309-100-8. Orders and Emergency Actions.

(1) In situations in which a public water system fails to meet the requirements of these rules, the Director may issue an order to a water supplier to take appropriate protective or corrective measures.

(2) Failure to comply with these rules or with an order issued by the Director may result in the imposition of penalties as provided in the Utah Safe Drinking Water Act.

(3) The Director may respond to emergency situations involving public drinking water, including emergency situations as described in R309-105-18, in a manner appropriate to protect the public health. The Director's response may include the following:

(a) Issuing press releases to inform the public of any confirmed or possible hazards in their drinking water.

(b) Ordering water suppliers to take appropriate measures to protect public health, including issuance of orders pursuant to 63G-4-502, if warranted.

R309-100-9. Variances.

(1) Variances to the requirements of R309-200 of these rules may be granted by the Board to water systems which, because of characteristics of their raw water sources, cannot meet the required maximum contaminant levels despite the application of best technology and treatment techniques available as listed in Title 40 CFR Part 141, as published on July 1, 2018 (taking costs into consideration).

(2) The variance will be granted only if doing so will not result in an unreasonable risk to health.

(3) No variance from the maximum contaminant level for total coliforms are permitted.

(4) No variance from the minimum filtration and disinfection requirements of R309-525 and R309-530 will be permitted for sources classified by the Director as directly influenced by surface water.

(6) Within one year of the date any variance is granted, the Board shall prescribe a schedule by which the water system will come into compliance with the maximum contaminant level in question. The requirements of Section 1415 of the Federal Safe Drinking Water Act, PL 104-182, are hereby incorporated by reference. The Board shall provide notice and opportunity for public hearing prior to granting any variance or determining the

compliance schedule. Procedures for giving notice and opportunity for hearing will be as outlined in 40 CFR Section 142.44.

(7) Variances or exemptions from certain provisions of these regulations may be granted pursuant to Sections 1415 and 1416 of the Federal Safe Drinking Water Act and Subpart K of Part 142 (for small system variances) by the entity with primary enforcement responsibility, except that variances or exemptions from the MCLs for total coliforms and E. coli and variances from any of the treatment technique requirements of Subpart H of Part 141 may not be granted.

(a) As provided in 40 CFR 142.304(a), small system variances are not available for rules addressing microbial contaminants, which would include Subparts H, P, S, T, W, and Y of Part 141.

R309-100-10. Exemptions.

(1) The Board may grant an exemption from the requirements of R309-200 or from any required treatment technique if:

(a) Due to compelling factors (which may include economic factors), the public water system is unable to comply with contaminant level or treatment technique requirements, and

(b) The public water system was in operation on the effective date of such contaminant level or treatment technique requirement, and

(c) The granting of the exemption will not result in an unreasonable risk to health.

(2) No exemptions from the maximum contaminant level for total coliforms are permitted.

(3) No exemptions from the minimum disinfection requirements of R309-200-5(7) will be permitted for sources classified by the Director as directly influenced by surface water.

(4) Within one year of the granting of an exemption, the Board shall prescribe a schedule by which the water system will come into compliance with contaminant level or treatment technique requirement. The requirements of Section 1416 of the Federal Safe Drinking Water Act, PL 104-182, are hereby incorporated by reference.

(5) The Board shall provide notice and opportunity for an exemption hearing as provided in 40 CFR Section 142.54.

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R309. Environmental Quality, Drinking Water.
R309-105. Administration: General Responsibilities of Public Water Systems.
R309-105-1. Purpose.

The purpose of this rule is to set forth the general responsibilities of public water systems, water system owners and operators.

R309-105-2 Authority.
R309-105-3 Definitions.
R309-105-4 General.
R309-105-5 Exemptions from Monitoring Requirements.
R309-105-6 Construction of Public Drinking Water Facilities.
R309-105-7 Source Protection Plans.
R309-105-8 Existing Water System Facilities.
R309-105-9 Minimum Pressure.
R309-105-10 Operation and Maintenance Procedures.
R309-105-11 Operator Certification.
R309-105-12 Cross Connection Control.
R309-105-13 Finished Water Quality.
R309-105-14 Operational Reports.
R309-105-15 Annual Reports.
R309-105-16 Reporting Test Results.
R309-105-17 Record Maintenance.
R309-105-18 Emergencies.

R309-105-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63G-3 of the same, known as the Administrative Rulemaking Act.

R309-105-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-105-4. General.

(1) Water suppliers are responsible for the quality of water delivered to their customers. In order to give the public reasonable assurance that the water which they are consuming is satisfactory, the Board has established rules for the design, construction, water quality, water treatment, contaminant monitoring, source protection, operation and maintenance of public water supplies.

R309-105-5. Exemptions from Monitoring Requirements.

(1) The applicable requirements specified in R309-205, R309-210 and R309-215 for monitoring shall apply to each public water system, unless the public water system meets all of the following conditions:

(a) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(b) Obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(c) Does not sell water to any person; and

(d) Is not a carrier which conveys passengers in interstate commerce.

(2) When a public water system supplies water to one or more other public water systems, the Director may modify the monitoring requirements imposed by R309-205, R309-210 and R309-215 to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes.

(3) In no event shall the Director authorize modifications in the monitoring requirements which are less stringent than requirements established by the Federal Safe Drinking Water Act.

R309-105-6. Construction of Public Drinking Water Facilities.

The following requirements pertain to the construction of public water systems.

(1) Approval of Engineering Plans and Specifications

(a) Complete plans and specifications for all public drinking water projects, as described in R309-500-5, shall be approved in writing (Plan Approval) by the Director prior to the commencement of construction. The Director may also authorize the Engineering Manager for the Division to issue Plan Approvals. A minimum 30-day review time should be assumed.

(b) Appropriate engineering reports, supporting information and master plans may also be required by the Director as needed to evaluate the proposed project. A certificate of convenience and necessity or an exemption therefrom, issued by the Public Service Commission, shall be filed with the Director prior to approval of any plans or specifications for projects described in R309-500-4(1) as new or previously un-reviewed water system.

(2) Acceptable Design and Construction Methods

(a) The design and construction methods of all public drinking water facilities shall conform to the applicable standards contained in R309-500 through R309-550 of these rules. The Division may require modifications to plans and specifications before approval is granted.

(b) There may be times in which the requirements of the applicable standards contained in R309-500 through R309-550 are not appropriate. Thus, the Director may grant an "exception" to portions of these standards if it can be shown that the granting of such an exception will not jeopardize the public health. The Director may also authorize the Engineering Manager for the Division to grant exceptions to the separation requirements under R309-550-7 if the requirements of this rule are met. In order for the Division to consider such a request, the public drinking water system shall submit a written request directly from the management of the public drinking water system, preferably on system letterhead, that includes the following:

(i) citation of the specific rule for which the "exception" is being requested;

(ii) a detailed explanation, drawings may be included, of why the conditions of rule cannot be met;

(iii) what the system proposes, drawings may be included, in lieu of rule;

(iv) justification the proposed alternative will protect the public health to a similar or better degree than required by rule.

Physical conditions as well as cost may be justification for requesting an "exception-to-rule."

(c) Alternative or new treatment techniques may be developed which are not specifically addressed by the applicable standards contained in R309-500 through R309-550. These treatment techniques may be accepted by the Director if it can be shown that:

(i) They will result in a finished water meeting the requirements of R309-200 of these regulations.

(ii) The technique will produce finished water which will protect public health to the same extent provided by comparable treatment processes outlined in the applicable standards contained in R309-500 through R309-550.

(iii) The technique is as reliable as any comparable treatment process governed by the applicable standards contained in R309-500 through R309-550.

(3) Description of "Public Drinking Water Project"

Refer to R309-500-5 for the description of a public drinking water project and R309-500-6 for required items to be submitted for plan approval.

(4) Specifications for the drilling of a public water supply well may be prepared and submitted by a licensed well driller

holding a current Utah Well Driller's Permit if authorized by the Director.

(5) Drawing Quality and Size

Drawings which are submitted shall be compatible with Division of Drinking Water Document storage. Drawings which are illegible or of unusual size will not be accepted for review. Drawing size shall not exceed 30" x 42" nor be less than 8-1/2" x 11".

(6) Requirements After Approval of Plans for Construction

After the approval of plans for construction, and prior to operation of any facilities dealing with drinking water, the items required by R309-500-9 shall be submitted and an operating permit received.

R309-105-7. Source Protection.

(1) Public Water Systems are responsible for protecting their sources of drinking water from contamination. R309-600 and R309-605 sets forth minimum requirements to establish a uniform, statewide program for implementation by PWSs to protect their sources of drinking water. PWSs are encouraged to enact more stringent programs to protect their sources of drinking water if they decide they are necessary.

(2) R309-600 applies to ground-water sources and to ground-water sources which are under the direct influence of surface water which are used by PWSs to supply their systems with drinking water.

(3) R309-605 applies to PWSs which obtain surface water prior to treatment and distribution and to PWSs obtaining water from ground-water sources which are under the direct influence of surface water. However, compliance with this rule is voluntary for public transient non-community water systems to the extent that they are using existing surface water sources of drinking water.

R309-105-8. Existing Water System Facilities.

(1) All public water systems shall deliver water meeting the applicable requirements of R309-200 of these rules.

(2) Existing facilities shall be brought into compliance with R309-500 through R309-550 or shall be reliably capable of delivering water meeting the requirements of R309-200.

(3) In situations where a water system is providing water of unsatisfactory quality, or when the quality of the water or the public health is threatened by poor physical facilities, the water system management shall solve the problem(s).

R309-105-9. Minimum Water Pressure.

(1) Unless otherwise specifically approved by the Director, no water supplier shall allow any connection to the water system where the dynamic water pressure at the point of connection will fall below 20 psi during the normal operation of the water system. Water systems approved prior to January 1, 2007, are required to maintain the above minimum dynamic water pressure at all locations within their distribution system. Existing public drinking water systems, approved prior to January 1, 2007, which expand their service into new areas or supply new subdivisions shall meet the minimum dynamic water pressure requirements in R309-105-9(2) at any point of connection in the new service areas or new subdivisions.

(2) Unless otherwise specifically approved by the Director, new public drinking water systems constructed after January 1, 2007 shall be designed and shall meet the following minimum water pressures at points of connection:

(a) 20 psi during conditions of fire flow and fire demand experienced during peak day demand;

(b) 30 psi during peak instantaneous demand; and

(c) 40 psi during peak day demand.

(3) Individual home booster pumps are not allowed as indicated in R309-540-5(4)(c).

R309-105-10. Operation and Maintenance Procedures.

All routine operation and maintenance of public water supplies shall be carried out with due regard for public health and safety. The following sections describe procedures which shall be used in carrying out some common operation and maintenance procedures.

(1) Chemical Addition

(a) Water system operators shall determine that all chemicals added to water intended for human consumption are suitable for potable water use and comply with ANSI/NSF Standard 60.

(b) No chemicals or other substances shall be added to public water supplies unless the chemical addition facilities and chemical type have been reviewed and approved by the Director.

(c) Chlorine, when used in the distribution system, shall be added in sufficient quantity to achieve either "breakpoint" and yield a detectable free chlorine residual or a detectable combined chlorine residual in the distribution system at points to be determined by the Director. Residual checks shall be taken a minimum of three times each week by the operator of any system using disinfectants. The Director may, however, reduce the frequency of residual checks if he determines that this would be an unwarranted hardship on the water system operator and, furthermore, the disinfection equipment has a verified record of reliable operation. Suppliers, when checking for residuals, shall use test kits and methods which meet the requirements of the U.S. EPA. The "DPD" test method is recommended for free chlorine residuals. Information on the suppliers of this equipment is available from the Division of Drinking Water.

(2) New and Repaired Mains

(a) All new water mains shall meet the requirements of R309-550-6 with regard to materials of construction. All products in contact with culinary water shall comply with ANSI/NSF Standard 61.

(b) All new and repaired water mains or appurtenances shall be disinfected in accordance with AWWA Standard C651-92. The chlorine solution shall be flushed from the water main with potable water prior to the main being placed in use.

(c) All products used to recoat the interiors of storage structures and which may come in contact with culinary water shall comply with ANSI/NSF Standard 61.

(3) Reservoir Maintenance and Disinfection

After a reservoir has been entered for maintenance or re-coating, it shall be disinfected prior to being placed into service. Procedures given in AWWA Standard C651-92 shall be followed in this regard.

(4) Spring Collection Area Maintenance

(a) Spring collection areas shall be periodically cleared of deep rooted vegetation to prevent root growth from clogging collection lines. Frequent hand or mechanical clearing of spring collection areas is strongly recommended. It is advantageous to encourage the growth of grasses and other shallow rooted vegetation for erosion control and to inhibit the growth of more detrimental flora.

(b) No pesticide (e.g., herbicide) may be applied on a spring collection area without the prior written approval of the Director. Such approval shall be given 1) only when acceptable pesticides are proposed; 2) when the pesticide product manufacturer certifies that no harmful substance will be imparted to the water; and 3) only when spring development meets the requirements of these rules (see R309-515-7).

(5) Security

All water system facilities such as spring junction boxes, well houses, reservoirs, and treatment facilities shall be secure.

(6) Seasonal Operation

Water systems operated seasonally shall be disinfected and flushed according to the techniques given in AWWA Standard

C651-92 and C652-92 prior to each season's use. A satisfactory bacteriologic sample shall be achieved prior to use. During the non-use period, care shall be taken to close all openings into the system.

(7) Pump Lubricants

All oil lubricated pumps for culinary wells shall utilize mineral oils suitable for human consumption as determined by the Director. To assure proper performance, and to prevent the voiding of any warranties which may be in force, the water supplier should confirm with individual pump manufacturers that the oil which is selected will have the necessary properties to perform satisfactorily.

R309-105-11. Operator Certification.

All community and non-transient non-community water systems or any public system that employs treatment techniques for surface water or ground water under the direct influence of surface water shall have an appropriately certified operator in accordance with the requirements of these rules. Refer to R309-300, Certification Rules for Water Supply Operators, for specific requirements.

R309-105-12. Cross Connection Control.

(1) The water supplier shall not allow a connection to his system which may jeopardize its quality and integrity. Cross connections are not allowed unless controlled by an approved and properly operating backflow prevention assembly or device. The requirements of the International Plumbing Code and its amendments as adopted by the Department of Commerce shall be met with respect to cross connection control and backflow prevention.

(2) Each water system shall have a functioning cross connection control program. The program shall consist of five designated elements documented on an annual basis. The elements are:

(a) a legally adopted and functional local authority to enforce a cross connection control program (i.e., ordinance, bylaw or policy);

(b) providing public education or awareness material or presentations;

(c) an individual with adequate training in the area of cross connection control or backflow prevention;

(i) Community water systems serving a population of 500 or greater shall have a certified Cross Connection Control Program Administrator by December 31, 2020. Refer to R309-305 for specific requirements.

(ii) Community water systems serving a population less than 500 shall have a certified Cross Connection Control Program Administrator by December 31, 2022. Refer to R309-305 for specific requirements.

(iii) Non-transient non-community and transient non-community water systems may be required to have a certified Cross Connection Control Program Administrator at the Director's discretion.

(d) written records of cross connection control activities, such as, backflow assembly inventory; and

(e) test history and documentation of on-going enforcement (hazard assessments and enforcement actions) activities.

(3) Suppliers shall maintain, as proper documentation, an inventory of each pressure atmospheric vacuum breaker, spill resistant pressure vacuum breaker, double check valve, reduced pressure zone principle assembly, and high hazard air gap used by their customers, and a service record for each such assembly.

(4) Backflow prevention assemblies shall be in-line serviceable (repairable), in-line testable and have approval through third party approval agencies to be used within a public drinking water system. Third party approval shall consist of any combination of two approvals, laboratory or field, performed by a recognized testing organization which has demonstrated competency to perform such tests.

(5) Backflow prevention assemblies shall be inspected and tested at least once a year, by an individual certified for such work as specified in R309-305. Suppliers shall maintain, as proper documentation, records of these inspections. This testing responsibility may be borne by the water system or the water system management may require that the customer having the backflow prevention assembly be responsible for having the assembly tested.

(6) Suppliers serving areas also served by a pressurized irrigation system shall prevent cross connections between the two. Requirements for pressurized irrigation systems are outlined in Section 19-4-112 of the Utah Code.

R309-105-13. Finished Water Quality.

All public water systems are required to monitor their water according to the requirements of R309-205, R309-210 and R309-215 to determine if the water quality standards of R309-200 have been met. Water systems are also required to keep records and, under certain circumstances, give public notice as required in R309-220.

R309-105-14. Operational Reports.

(1) Written Operational Reports.

(a) If, in the opinion of the Director, a water system is not properly operated, the Director may require a public water system to submit a written operational report covering the operation of the whole or a part of the water system's infrastructure.

(b) The Director may require revisions to the submitted operational report to ensure satisfactory operation, and may order the water system to follow the operational report.

(c) If the water system fails to implement the provisions of the operational report, as evidenced by unsatisfactory delivery of a safe and/or reliable supply of drinking water, the Director may order further remedies as deemed necessary.

(2) Treatment techniques for acrylamide and epichlorohydrin.

(a) Each public water system shall certify annually in writing to the Director (using third party or manufacturer's certification) that when acrylamide and epichlorohydrin are used in drinking water systems, the combination (or product) of dose and monomer level does not exceed the levels specified in R309-215-8(2)(c).

(b) Certifications may rely on manufacturer's data.

(3)(a) All water systems using chemical addition or specialized equipment for the treatment of drinking water shall regularly complete operational reports. This information shall be evaluated to confirm that the treatment process is being done properly, resulting in successful treatment.

(b) The information to be provided, and the frequency at which it is to be gathered and reported, will be determined by the Director.

R309-105-15. Report Submittal.

(1) A public water system shall submit water use data if required by a state agency and shall verify the accuracy of the data by including a certification by a certified operator or a professional engineer performing the duties of a certified operator.

(2) A public water system shall comply with the report submittal requirements of the R309 rules.

R309-105-16. Reporting Test Results.

(1) If analyses are made by certified laboratories other than the state laboratory, these results shall be forwarded to the Division as follows:

(a) The supplier shall report to the Division the analysis of

water samples which fail to comply with the Primary Drinking Water Standards of R309-200. Except where a different reporting period is specified in R309-205, R309-210 or R309-215, this report shall be submitted within 48 hours after the supplier receives the report from his lab. The Division may be reached at (801)536-4200.

(b) Monthly summaries of bacteriologic results shall be submitted within ten days following the end of each month.

(c) All results of TTHM samples shall be reported to the Division within 10 days of receipt of analysis for systems monitoring pursuant to R309-210-9.

(d) For all samples other than samples showing unacceptable results, bacteriologic samples or TTHM samples, the time between the receipt of the analysis and the reporting of the results to the Division shall not exceed 40 days.

(e) Arsenic sampling results shall be reported to the nearest 0.001 mg/L.

(f) There are additional reporting requirements in other sections of the rules, see R309-215-16(5).

(2) Disinfection byproducts, maximum residual disinfectant levels and disinfection byproduct precursors and enhanced coagulation or enhanced softening. This section applies to the reporting requirements of R309-210-8, R309-215-12 and R309-215-13. For the reporting requirements of R309-210-9, R309-210-10 and R309-215-15 are contained within R309-210-9, R309-210-10 and R309-215-15, respectively.

(a) Systems required to sample quarterly or more frequently shall report to the State within 10 days after the end of each quarter in which samples were collected. Systems required to sample less frequently than quarterly shall report to the State within 10 days after the end of each monitoring period in which samples were collected. The Director may choose to perform calculations and determine whether the MCL was exceeded, in lieu of having the system report that information.

(b) Disinfection byproducts. Systems shall report the information specified.

(i) Systems monitoring for TTHMs and HAA5 under the requirements of R309-210-8(2) on a quarterly or more frequent basis shall report:

(A) The number of samples taken during the last quarter.

(B) The location, date, and result of each sample taken during the last quarter.

(C) The arithmetic average of all samples taken in the last quarter.

(D) The annual arithmetic average of the quarterly arithmetic averages of this section for the last four quarters.

(E) Whether, based on R309-210-8(6)(b)(i), the MCL was violated.

(ii) Systems monitoring for TTHMs and HAA5 under the requirements of R309-210-8(2) less frequently than quarterly (but at least annually) shall report:

(A) The number of samples taken during the last year.

(B) The location, date, and result of each sample taken during the last monitoring period.

(C) The arithmetic average of all samples taken over the last year.

(D) Whether, based on R309-210-8(6)(b)(i), the MCL was violated.

(iii) Systems monitoring for TTHMs and HAA5 under the requirements of R309-210-8(2) less frequently than annually shall report:

(A) The location, date, and result of the last sample taken.

(B) Whether, based on R309-210-8(6)(b)(i), the MCL was violated.

(iv) Systems monitoring for chlorite under the requirements of R309-210-8(2) shall report:

(A) The number of entry point samples taken each month for the last 3 months.

(B) The location, date, and result of each sample (both entry point and distribution system) taken during the last quarter.

(C) For each month in the reporting period, the arithmetic average of all samples taken in each three sample set taken in the distribution system.

(D) Whether, based on R309-210-8(6)(b)(ii), the MCL was violated.

(v) System monitoring for bromate under the requirements of R309-210-8(2) shall report:

(A) The number of samples taken during the last quarter.

(B) The location, date, and result of each sample taken during the last quarter.

(C) The arithmetic average of the monthly arithmetic averages of all samples taken in the last year.

(D) Whether, based on R309-210-8(6)(b)(iii), the MCL was violated.

(c) Disinfectants. Systems shall report the information specified to the Director within ten days after the end of each month the system serves water to the public, except as otherwise noted:

(i) Systems monitoring for chlorine or chloramines under the requirements of R309-210-8(3)(a) shall report and certify, by signing the report form provided by the Director, that all the information provided is accurate and correct and that any chemical introduced into the drinking water complies with ANSI/NSF Standard 60:

(A) The number of samples taken during each month of the last quarter.

(B) The monthly arithmetic average of all samples taken in each month for the last 12 months.

(C) The arithmetic average of all monthly averages for the last 12 months.

(D) The additional data required in R309-210-8(3)(a)(ii).

(E) Whether, based on R309-210-8(6)(c)(i), the MRDL was violated.

(ii) Systems monitoring for chlorine dioxide under the requirements of R309-210-8(3) shall report:

(A) The dates, results, and locations of samples taken during the last quarter.

(B) Whether, based on R309-210-8(6)(c)(ii), the MRDL was violated.

(C) Whether the MRDL was exceeded in any two consecutive daily samples and whether the resulting violation was acute or nonacute.

(d) Disinfection byproduct precursors and enhanced coagulation or enhanced softening. Systems shall report the information specified.

(i) Systems monitoring monthly or quarterly for TOC under the requirements of R309-215-12 and required to meet the enhanced coagulation or enhanced softening requirements in R309-215-13(2)(b) or (c) shall report:

(A) The number of paired (source water and treated water) samples taken during the last quarter.

(B) The location, date, and results of each paired sample and associated alkalinity taken during the last quarter.

(C) For each month in the reporting period that paired samples were taken, the arithmetic average of the percent reduction of TOC for each paired sample and the required TOC percent removal.

(D) Calculations for determining compliance with the TOC percent removal requirements, as provided in R309-215-13(3)(a).

(E) Whether the system is in compliance with the enhanced coagulation or enhanced softening percent removal requirements in R309-215-13(2) for the last four quarters.

(ii) Systems monitoring monthly or quarterly for TOC under the requirements of R309-215-12 and meeting one or more of the alternative compliance criteria in R309-215-13(1)(b) or (c) shall report:

(A) The alternative compliance criterion that the system is using.

(B) The number of paired samples taken during the last quarter.

(C) The location, date, and result of each paired sample and associated alkalinity taken during the last quarter.

(D) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water TOC for systems meeting a criterion in R309-215-13(1)(b)(i) or (iii) or of treated water TOC for systems meeting the criterion in R309-215-13(1)(b)(ii).

(E) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water SUVA for systems meeting the criterion in R309-215-13(1)(b)(v) or of treated water SUVA for systems meeting the criterion in R309-215-13(1)(b)(vi).

(F) The running annual average of source water alkalinity for systems meeting the criterion in R309-215-13(1)(b)(iii) and of treated water alkalinity for systems meeting the criterion in R309-215-13(1)(c)(i).

(G) The running annual average for both TTHM and HAA5 for systems meeting the criterion in R309-215-13(1)(b)(iii) or (iv).

(H) The running annual average of the amount of magnesium hardness removal (as $CaCO_3$, in mg/L) for systems meeting the criterion in R309-215-13(1)(c)(ii).

(I) Whether the system is in compliance with the particular alternative compliance criterion in R309-215-13(1)(b) or (c).

(3) The public water system, within 10 days of completing the public notification requirements under R309-220 for the initial public notice and any repeat notices, shall submit to the Division a certification that it has fully complied with the public notification regulations. The public water system shall include with this certification a representative copy of each type of notice distributed, published, posted, and made available to the persons served by the system and to the media.

(4) All samples taken in accordance with R309-215-6 shall be submitted within 10 days following the end of the operational period specified for that particular treatment. Finished water samples results for the contaminant of concern that exceed the Primary Drinking Water Standards of R309-200, shall be reported to the Division within 48 hours after the supplier receives the report. The Division may be reached at (801) 536-4000.

(5) Documentation of operation and maintenance for point-of-use or point-of-entry treatment units shall be provided to the Division annually. The Division shall receive the documentation by January 31 annually.

R309-105-17. Record Maintenance.

All public water systems shall retain on their premises or at convenient location near their premises the following records:

(1) Records of microbiological analyses and turbidity analyses made pursuant to this Section shall be kept for not less than five years. Records of chemical analyses made pursuant to this Section shall be kept for not less than ten years. Actual laboratory reports may be kept, or data may be transferred to tabular summaries, provided that the following information is included:

(a) The date, place and time of sampling, and the name of the person who collected the sample;

(b) Identification of the sample as to whether it was a routine distribution system sample, check sample, raw or process water sample or other special purpose sample.

(c) Date of analysis;

(d) Laboratory and person responsible for performing analysis;

(e) The analytical technique/method used; and

(f) The results of the analysis.

(2) Lead and copper recordkeeping requirements.

(a) Any water system subject to the requirements of R309-210-6 shall retain on its premises original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, Director determinations, and any other information required by R309-210-6.

(b) Each water system shall retain the records required by this section for no fewer than 12 years.

(3) Records of action taken by the system to correct violations of primary drinking water regulations shall be kept for a period not less than three years after the last action taken with respect to the particular violation involved.

(4) Copies of any written reports, summaries or communications relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by any local, State or Federal agency, shall be kept for a period not less than ten years after completion of the sanitary survey involved.

(5) Records concerning a variance or exemption granted to the system shall be kept for a period ending not less than five years following the expiration of such variance or exemption.

(6) Records that concern the tests of a backflow prevention assembly and location shall be kept by the system for a minimum of not less than five years from the date of the test.

(7) Copies of public notices issued pursuant to R309-220 and certifications made to the Director pursuant to R309-105-16 shall be kept for three years after issuance.

(8) Copies of monitoring plans developed pursuant to these rules shall be kept for the same period of time as the records of analyses taken under the plan are required to be kept under R309-105-17(1), except as otherwise specified. In all cases the monitoring plans shall be kept as long as the any associated report.

(9) A water system must retain a complete copy of your IDSE report submitted under this section for 10 years after the date that you submitted your IDSE report. If the Director modifies the R309-210-10 monitoring requirements that you recommended in your IDSE report or if the Director approves alternative monitoring locations, you must keep a copy of the Director's notification on file for 10 years after the date of the Director's notification. You must make the IDSE report and any Director notification available for review by the Director or the public.

(10) A water system must retain a complete copy of its 40/30 certification submitted under this R309-210-9 for 10 years after the date that you submitted your certification. You must make the certification, all data upon which the certification is based, and any Director notification available for review by the Director or the public.

(11) A water subject to the disinfection profiling requirements of R309-215-14 shall keep must keep results of profile (raw data and analysis) indefinitely.

(12) A water system subject to the disinfection benchmarking requirements of R309-215-14 shall keep must keep results of profile (raw data and analysis) indefinitely.

R309-105-18. Emergencies.

(1) The Director or the local health department shall be informed by telephone by a water supplier of any "emergency situation". The term "emergency situation" includes the following:

(a) The malfunction of any disinfection facility such that a detectable residual cannot be maintained at all points in the distribution system.

(b) The malfunction of any "complete" treatment plant such that a clearwell effluent turbidity greater than 5 NTU is maintained longer than fifteen minutes.

(c) Muddy or discolored water (which cannot be explained by air entrainment or re-suspension of sediments normally

deposited within the distribution system) is experienced by a significant number of individuals on a system.

(d) An accident has occurred which has, or could have, permitted the entry of untreated surface water and/or other contamination into the system (e.g. break in an unpressurized transmission line, flooded spring area, chemical spill, etc.)

(e) A threat of sabotage has been received by the water supplier or there is evidence of vandalism or sabotage to any public drinking water supply facility which may affect the quality of the delivered water.

(f) Any instance where a consumer reports becoming sick by drinking from a public water supply and the illness is substantiated by a doctor's diagnosis (unsubstantiated claims should also be reported to the Division of Drinking Water, but this is not required).

(2) If an emergency situation exists, the water supplier shall then contact the Division in Salt Lake City within eight hours. Division personnel may be reached at all times through 801-536-4123.

(3) All suppliers are advised to develop contingency plans to cope with possible emergency situations. In many areas of the state the possibility of earthquake damage shall be realistically considered.

KEY: drinking water, watershed management
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Notice of Continuation March 13, 2015

R309. Environmental Quality, Drinking Water.
R309-110. Administration: Definitions.
R309-110-1. Purpose.

The purpose of this rule is to define certain terms and expressions that are utilized throughout all rules under R309. Collectively, those rules govern the administration, monitoring, operation and maintenance of public drinking water systems as well as the design and construction of facilities within said systems.

R309-110-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63G-3 of the same, known as the Administrative Rulemaking Act.

R309-110-3. Acronyms.

As used in R309:

"AF" means Acre Foot.

"AWOP" means Area Wide Optimization Program.

"AWWA" means American Water Works Association.

"BAT" means Best Available Technology.

"C" means Residual Disinfectant Concentration.

"CCP" means Composite Correction Program.

"CCR" means Consumer Confidence Report.

"CEU" means Continuing Education Unit.

"CFE" means Combined Filter Effluent.

"CFR" means Code of Federal Regulations.

"cfs" means Cubic Feet Per Second.

"CPE" means Comprehensive Performance Evaluation.

"CT" means Residual Concentration multiplied by Contact Time.

"CTA" means Comprehensive Technical Assistance.

"CWS" means Community Water System.

"DBPs" means Disinfection Byproducts.

"DE" means Diatomaceous Earth.

"DTF" means Data Transfer Format.

"DWSP" means Drinking Water Source Protection.

"EP" means Entry Point.

"EPA" means Environmental Protection Agency.

"ERC" means Equivalent Residential Connection.

"FBRR" means Filter Backwash Recycling Rule.

"fps" means Feet Per Second

"FR" means Federal Register.

"gpd" means Gallons Per Day.

"gpm" means Gallons Per Minute.

"gpm/sf" means Gallons Per Minute Per Square Foot.

"GWR" means Ground Water Rule.

"GWUDI" means Ground Water Under Direct Influence of Surface Water.

"HAA5s" means Haloacetic Acids (Five).

"HPC" means Heterotrophic Plate Count.

"ICR" means Information Collection Rule of 40 CRF 141 subpart M.

"IESWTR" means Interim Enhanced Surface Water Treatment Rule.

"IFE" means Individual Filter Effluent.

"LT1ESWTR" means Long Term 1 Enhanced Surface Water Treatment Rule.

"LT2ESWTR" means Long Term 2 Enhanced Surface Water Treatment Rule.

"MCL" means Maximum Contaminant Level.

"MCLG" means Maximum Contaminant Level Goal.

"M and R" means Monitoring and Reporting.

"MDBP" means Microbial-Disinfection Byproducts.

"M/DBP Cluster" means Microbial-Disinfectants/Disinfection Byproducts Cluster.

"MG" means Million Gallons.

"MGD" means Million Gallons Per Day.

"mg/L" means Milligrams Per Liter

"MRDL" means Maximum Residual Disinfectant Level.

"MRDLG" means Maximum Residual Disinfectant Level Goal.

"NCWS" means Non-Community Water System.

"NTNC" means Non-Transient Non-Community.

"NTU" means Nephelometric Turbidity Unit.

"PN" means Public Notification.

"POE" means Point-of-Entry.

"POU" means Point-of-Use.

"PWS" means Public Water System.

"PWS-ID" means Public Water System Identification Number.

"RTC" means Return to Compliance.

"SDWA" means Safe Drinking Water Act.

"SDWIS/FED" means Safe Drinking Water Information System/Federal Version.

"SDWIS/STATE" means Safe Drinking Water Information System/State Version.

"SNC" means Significant Non-Compliance.

"Stage 1 DBPR" means Stage 1 Disinfectants and Disinfection Byproducts Rule.

"Stage 2 DBPR" means Stage 2 Disinfectants and Disinfection Byproducts Rule.

"Subpart H" means A PWS using SW or GWUDI.

"Subpart P" means A PWS using SW or GWUDI and serving at least 10,000 people.

"Subpart S" means Provisions of 40 CRF 141 subpart S commonly referred to as the Information Collection Rule.

"Subpart T" means A PWS using SW or GWUDI and serving less than 10,000 people.

"SUVA" means Specific Ultraviolet Absorption.

"SW" means Surface Water.

"SWAP" means Source Water Assessment Program.

"SWTR" means Surface Water Treatment Rule.

"T" means Contact Time.

"TA" means Technical Assistance.

"TCR" means Total Coliform Rule.

"TNCWS" means Transient Non-Community Water System.

"TNTC" means Too Numerous To Count.

"TOC" means Total Organic Carbon.

"TT" means Treatment Technique.

"TTHM" means Total Trihalomethanes.

"UAC" means Utah Administrative Code.

"UPDWR" means Utah Public Drinking Water Rules (R309 of the UAC).

"WCP" means Watershed Control Program.

"WHP" means Wellhead Protection.

R309-110-4. Definitions.

As used in R309:

"Action Level" means the concentration of lead or copper in drinking water tap samples (0.015 mg/l for lead and 1.3 mg/l for copper) which determines, in some cases, the corrosion treatment, public education and lead line replacement requirements that a water system is required to complete.

"AF" means acre foot and is the volume of water required to cover an acre to a depth of one foot (one AF is equivalent to 325,851 gallons).

"Air gap" The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, catch basin, plumbing fixture or other device and the flood level rim of the receptacle. This distance shall be two times the diameter of the effective opening for openings greater than one inch in diameter where walls or obstructions are spaced from the nearest inside edge of the pipe opening a distance greater than three times the diameter of the

effective openings for a single wall, or a distance greater than four times the diameter of the effective opening for two intersecting walls. This distance shall be three times the diameter of the effective opening where walls or obstructions are closer than the distances indicated above.

"ANSI/NSF" refers to the American National Standards Institute and NSF International. NSF International has prepared at least two health effect standards dealing with treatment chemicals added to drinking water and system components that will come into contact with drinking water, these being Standard 60 and Standard 61. The American National Standards Institute acts as a certifying agency, and determines which laboratories may certify to these standards.

"Approval" unless indicated otherwise, shall be taken to mean a written statement of acceptance from the Director.

"Approved" refers to a rating placed on a system by the Division and means that the public water system is operating in substantial compliance with all the Rules of R309.

"Average Yearly Demand" means the amount of water delivered to consumers by a public water system during a typical year, generally expressed in MG or AF.

"AWWA" refers to the American Water Works Association located at 6666 West Quincy Avenue, Denver, Colorado 80235. Reference within these rules is generally to a particular Standard prepared by AWWA and which has completed the ANSI approval process such as ANSI/AWWA Standard C651-92 (AWWA Standard for Disinfecting Water Mains).

"Backflow" means the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the potable water supply from any source. Also see backsiphonage, backpressure and cross-connection.

"Backpressure" means the phenomena that occurs when the customer's pressure is higher than the supply pressure, This could be caused by an unprotected cross connection between a drinking water supply and a pressurized irrigation system, a boiler, a pressurized industrial process, elevation differences, air or steam pressure, use of booster pumps or any other source of pressure. Also see backflow, backsiphonage and cross connection.

"Backsiphonage" means a form of backflow due to a reduction in system pressure which causes a subatmospheric or negative pressure to exist at a site or point in the water system. Also see backflow and cross-connection.

"Bag Filters" are pressure-driven separation devices that remove particle matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to outside.

"Bank Filtration" is a water treatment process that uses a well to recover surface water that has naturally infiltrated into ground water through a river bed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well(s).

"Best Available Technology" (BAT) means the best technology, treatment techniques, or other means which the Director finds, after examination under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purposes of setting MCLs for synthetic organic chemicals, any BAT must be at least as effective as granular activated carbon for all these chemicals except vinyl chloride. Central treatment using packed tower aeration is also identified as BAT for synthetic organic chemicals.

"Board" means the Drinking Water Board.

"Body Politic" means the State or its agencies or any political subdivision of the State to include a county, city, town, improvement district, taxing district or any other governmental subdivision or public corporation fo the State.

"Breakpoint Chlorination" means addition of chlorine to water until the chlorine demand has been satisfied. At this point, further addition of chlorine will result in a free residual chlorine that is directly proportional to the amount of chlorine added beyond the breakpoint.

"C" is short for "Residual Disinfectant Concentration."

"Capacity Development" means technical, managerial, and financial capabilities of the water system to plan for, achieve, and maintain compliance with applicable drinking water standards.

"Cartridge filters" are pressure-driven separation devices that remove particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

"cfs" means cubic feet per second and is one way of expressing flowrate (one cfs is equivalent to 448.8 gpm).

"Class" means the level of certification of Backflow Prevention Technician (Class I, II or III).

"Coagulation" is the process of destabilization of the charge (predominantly negative) on particulates and colloids suspended in water. Destabilization lessens the repelling character of particulates and colloids and allows them to become attached to other particles so that they may be removed in subsequent processes. The particulates in raw waters (which contribute to color and turbidity) are mainly clays, silt, viruses, bacteria, fulvic and humic acids, minerals (including asbestos, silicates, silica, and radioactive particles), and organic particulate.

"Collection area" means the area surrounding a ground-water source which is underlain by collection pipes, tile, tunnels, infiltration boxes, or other ground-water collection devices.

"Combined distribution system" is the interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water.

"Commission" means the Operator Certification Commission.

"Community Water System" (CWS) means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Compliance cycle" means the nine-year calendar year cycle during which public water systems must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle began January 1, 1993 and ends December 31, 2001; the second begins January 1, 2002 and ends December 31, 2010; the third begins January 1, 2011 and ends December 31, 2019.

"Compliance period" means a three-year calendar year period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period ran from January 1, 1993 to December 31, 1995; the second from January 1, 1996 to December 31, 1998; and the third is from January 1, 1999 to December 31, 2001.

"Comprehensive Performance Evaluation" (CPE) is a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. For purposes of compliance with these rules, the comprehensive performance evaluation must consist of at least the following components: Assessment of plant performance; evaluation of

major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

"Confirmed SOC contamination area" means an area surrounding and including a plume of SOC contamination of the soil or water which previous monitoring results have confirmed. The area boundaries may be determined by measuring 3,000 feet horizontally from the outermost edges of the confirmed plume. The area includes deeper aquifers even though only the shallow aquifer is the one contaminated.

"Confluent growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion of the filtration area in which discrete bacterial colonies can not be distinguished.

"Consecutive system" is a public water system that receives some or all of its finished water from one or more wholesale systems. Delivery may be through a direct connection or through the distribution system or one or more consecutive systems.

"Contaminant" means any physical, chemical biological, or radiological substance or matter in water.

"Continuing Education Unit" (CEU) means ten contact hours of participation in, and successful completion of, an organized and approved continuing education experience under responsible sponsorship, capable direction, and qualified instruction. College credit in approved courses may be substituted for CEUs on an equivalency basis.

"Conventional Surface Water Treatment" means a series of processes including coagulation, flocculation, sedimentation, filtration and disinfection resulting in substantial particulate removal and inactivation of pathogens.

"Controls" means any codes, ordinances, rules, and regulations that a public water system can cite as currently in effect to regulate potential contamination sources; any physical conditions which may prevent contaminants from migrating off of a site and into surface or ground water; and any site with negligible quantities of contaminants.

"Corrective Action" refers to a rating placed on a system by the Division and means a provisional rating for a public water system not in compliance with the Rules of R309, but making all the necessary changes outlined by the Director to bring them into compliance.

"Corrosion inhibitor" means a substance capable of reducing the corrosiveness of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials.

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to improve the security for and marketability of drinking water project obligations.

"Criteria" means the conceptual standards that form the basis for DWSP area delineation to include distance, ground-water time of travel, aquifer boundaries, and ground-water divides.

"Criteria threshold" means a value or set of values selected to represent the limits above or below which a given criterion will cease to provide the desired degree of protection.

"Cross-Connection" means any actual or potential connection between a drinking (potable) water system and any other source or system through which it is possible to introduce into the public drinking water system any used water, industrial fluid, gas or substance other than the intended potable water. For example, if you have a pump moving non-potable water and hook into the drinking water system to supply water for the pump seal, a cross-connection or mixing may lead to contamination of the drinking water. Also see backsiphonage, backpressure and backflow.

"Cross Connection Control Program" means the program administered by the public water system in which cross connections are either eliminated or controlled.

"Cross Connection Control Commission" means the duly constituted advisory subcommittee appointed by the Board to advise the Board on Backflow Technician Certification and the Cross Connection Control Program of Utah.

"CT" or "CT_{calc}" is the product of "residual disinfectant concentration" (C) in mg/l determined before or at the first customer, and the corresponding "disinfectant contact time" (T) in minutes, i.e., "C" x "T." If a public water system applies disinfectant at more than one point prior to the first customer, the summation of each CT value for each disinfectant sequence before or at the first customer determines the total percent inactivation or "Total Inactivation Ratio." In determining the Total Inactivation Ratio, the public water system must determine the residual disinfectant concentration of each disinfection sequence and corresponding contact time before any subsequent disinfection application point(s).

"$CT_{req'd}$" is the CT value required when the log reduction credit given the filter is subtracted from the (3-log) inactivation requirement for Giardia lamblia or the (4-log) inactivation requirement for viruses.

"$CT_{99.9}$" is the CT value required for 99.9 percent (3-log) inactivation of Giardia lamblia cysts. $CT_{99.9}$ for a variety of disinfectants and conditions appear in Tables 1.1-1.6, 2.1, and 3.1 of Section 141.74(b)(3) in the code of Federal Regulations (also available from the Division).

"Designated person" means the person appointed by a public water system to ensure that the requirements of their Drinking Water Source Protection Plan(s) for ground water sources and/or surface water sources are met.

"Desired Design Discharge Rate" means the discharge rate selected for the permanent pump installed in a public drinking water well source. This pumping rate is selected by the water system owner or engineer and can match or be the same rate utilized during the constant rate pump test required by R309-515 and R309-600 to determine delineated protection zones. For consideration of the number of permanent residential connections or ERC's that a well source can support (see Safe Yield) the Director will consider 2/3 of the test pumping rate as the safe yield.

"Detectable residual" means the minimum level of free chlorine in the water that the analysis method is capable of detecting and indicating positive confirmation.

"Direct Employment" means that the operator is directly compensated by the drinking water system to operate that drinking water system.

"Direct Filtration" means a series of processes including coagulation and filtration, but excluding sedimentation, resulting in substantial particulate removal.

"Direct Responsible Charge" means active on-site control and management of routine maintenance and operation duties. A person in direct responsible charge is generally an operator of a water treatment plant or distribution system who independently makes decisions during normal operation which can affect the sanitary quality, safety, and adequacy of water delivered to customers. In cases where only one operator is employed by the system, this operator shall be considered to be in direct responsible charge.

"Director" means the Director of the Division of Drinking Water.

"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax commission from federal individual income tax returns excluding zero exemptions returns.

"Discipline" means type of certification (Distribution or

Treatment).

"Disinfectant Contact Time" ("T" in CT calculations) means the time in minutes that it takes water to move from the point of disinfectant application or the previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration ("C") is measured. Where only one "C" is measured, "T" is the time in minutes that it takes water to move from the point of disinfectant application to a point before or at where residual disinfectant concentration ("C") is measured. Where more than one "C" is measured, "T" is (a) for the first measurement of "C," the time in minutes that it takes water to move from the first or only point of disinfectant application to a point before or at the point where the first "C" is measured and (b) for subsequent measurements of "C," the time in minutes that it takes for water to move from the previous "C" measurement point to the "C" measurement point for which the particular "T" is being calculated. Disinfectant contact time in pipelines must be calculated by dividing the internal volume of the pipe by the maximum hourly flow rate through that pipe. Disinfectant contact time within mixing basins and storage reservoirs must be determined by tracer studies or an equivalent demonstration.

"Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents (see also Primary Disinfection and Secondary Disinfection).

"Disinfection profile" is a summary of daily Giardia lamblia inactivation through the treatment plant.

"Distribution System" means the use of any spring or well source, distribution pipelines, appurtenances, and facilities which carry water for potable use to consumers through a public water supply. Systems which chlorinate groundwater are in this discipline.

"Distribution System Manager" means the individual responsible for all operations of a distribution system.

"Division" means the Utah Division of Drinking Water, who acts as staff to the Director and is also part of the Utah Department of Environmental Quality.

"Dose-monitoring Strategy" is the method by which a UV reactor maintains the required dose at or near some specified value by monitoring UV dose delivery. Such strategies must include, at a minimum, flow rate and UV intensity (measured via duty UV sensor) and lamp status. They sometimes include UVT and lamp power. Two common Dose-monitoring Strategies are the UV Intensity Setpoint Approach and the Calculated Dose Approach.

(1) The "UV Intensity Setpoint Approach" relies on one or more "setpoints" for UV intensity that are established during validation testing to determine UV dose. During operations, the UV intensity as measured by the UV sensors must meet or exceed the setpoint(s) to ensure delivery of the required dose. Reactors must also be operated within validated operation conditions for flow rates and lamp status. In the UV Intensity Setpoint Approach, UVT does not need to be monitored separately. Instead, the intensity readings by the sensors account for changes in UVT. The operating strategy can be with either a single setpoint (one UV intensity setpoint is used for all validated flow rates) or a variable setpoint (the UV intensity setpoint is determined using a lookup table or equation for a range of flow rates).

(2) The "Calculated Dose Approach" uses a dose-monitoring equation to estimate the UV dose based on operating conditions (typically flow rate, UV intensity, and UVT). The dose-monitoring equation may be developed by the UV manufacturers using numerical methods; or the systems use an empirical dose-monitoring equation developed through validation testing. During reactor operations, the UV reactor control system inputs the measured parameters into the dose-monitoring equation to produce a calculated dose. The system operator divides the calculated dose by the Validation Factor (see the 2006 Final UV Guidance Manual Chapter 5 for more details on the Validation Factor) and compares the resulting value to the required dose for the target pathogen and log inactivation level.

"Dose Equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission of Radiological Units and Measurements (ICRU).

"Drinking Water" means water that is fit for human consumption and meets the quality standards of R309-200. Common usage of terms such as culinary water, potable water or finished water are synonymous with drinking water.

"Drinking Water Project" means any work or facility necessary or desirable to provide water for human consumption and other domestic uses which has at least fifteen service connections or serves an average of twenty-five individuals daily for at least sixty days of the year and includes collection, treatment, storage, and distribution facilities under the control of the operator and used primarily with the system and collection, pretreatment or storage facilities used primarily in connection with the system but not under such control.

"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading or improving a drinking water project.

"Drinking Water Regional Planning" means a county wide water plan, administered locally by a coordinator, who facilitates the input of representatives of each public water system in the county with a selected consultant, to determine how each public water system will either collectively or individually comply with source protection, operator certification, monitoring (including consumer confidence reports), capacity development (including technical, financial and managerial aspects), environmental issues, available funding and related studies.

"Dual sample set" is a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an IDSE under R309-210-9 and determining compliance with the TTHM and HAA5 MCLs under R309-210-10.

"Duty UV Sensors (or Duty Sensors)" are on-line sensors installed in the UV reactor and continuously monitor UV intensity during UV equipment operations.

"DWSP Program" means the program to protect drinking water source protection zones and management areas from contaminants that may have an adverse effect on the health of persons.

"DWSP Zone" means the surface and subsurface area surrounding a ground-water or surface water source of drinking water supplying a PWS, over which or through which contaminants are reasonably likely to move toward and reach such water source.

"Emergency Storage" means that storage tank volume which provides water during emergency situations, such as pipeline failures, major trunk main failures, equipment failures, electrical power outages, water treatment facility failures, source water supply contamination, or natural disasters.

"Engineer" means a person licensed under the Professional Engineers and Land Surveyors Licensing Act, 58-22 of the Utah Code, as a "professional engineer" as defined therein.

"Enhanced coagulation" means the addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment.

"Enhanced softening" means the improved removal of disinfection byproduct precursors by precipitative softening.

"Equalization Storage" means that storage tank volume which stores water during periods of low demand and releases the water under periods of high demand. Equalization storage provides a buffer between the sources and distribution for the varying daily water demands. Typically, water demands are high in the early morning or evening and relatively low in the middle of the night. A rule-of-thumb for equalization storage volume is that it should be equal to one average day's use.

"Equivalent Residential Connection" (ERC) is a term used to evaluate service connections to consumers other than the typical residential domicile. Public water system management is expected to review annual metered drinking water volumes delivered to non-residential connections and estimate the equivalent number of residential connections that these represent based upon the average of annual metered drinking water volumes delivered to true single family residential connections. This information is utilized in evaluation of the system's source and storage capacities (refer to R309-510).

"Existing ground-water source of drinking water" means a public supply ground-water source for which plans and specifications were submitted to the Division on or before July 26, 1993.

"Existing surface water source of drinking water" means a public supply surface water source for which plans and specifications were submitted to the Division on or before June 12, 2000.

"Filtration" means a process for removing particulate matter from water by passage through porous media.

"Filter profile" is a graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts verus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

"Financial Assistance" means a drinking water project loan, credit enhancement agreement, interest buy-down agreement or hardship grant.

"Finished water" is water that is introduced into the distribution system of a public water system and is intended for distribution and consumption without further treatment, except as treatment necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals).

"Fire Suppression Storage" means that storage tank volume allocated to fire suppression activities. It is generally determined by the requirements of the local fire marshal, expressed in gallons, and determined by the product of a minimum flowrate in gpm and required time expressed in minutes.

"First draw sample" means a one-liter sample of tap water, collected in accordance with an approved lead and copper sampling site plan, that has been standing in plumbing pipes at least 6 hours and is collected without flushing the tap.

"Flash Mix" is the physical process of blending or dispersing a chemical additive into an unblended stream. Flash Mixing is used where an additive needs to be dispersed rapidly (within a period of one to ten seconds). Common usage of terms such as "rapid mix" or "initial mix" are synonymous with flash mix.

"Floc" means flocculated particles or agglomerated particles formed during the flocculation process. Flocculation enhances the agglomeration of destabilized particles and colloids toward settleable (or filterable) particles (flocs). Flocculated particles may be small (less than 0.1 mm diameter) micro flocs or large, visible flocs (0.1 to 3.0 mm diameter).

"Flocculation" means a process to enhance agglomeration of destabilized particles and colloids toward settleable (or filterable) particles (flocs). Flocculation begins immediately after destabilization in the zone of decaying mixing energy (downstream from the mixer) or as a result of the turbulence of transporting flow. Such incidental flocculation may be an adequate flocculation process in some instances. Normally flocculation involves an intentional and defined process of gentle stirring to enhance contact of destabilized particles and to build floc particles of optimum size, density, and strength to be subsequently removed by settling or filtration.

"Flowing stream" is a course of running water flowing in a definite channel.

"fps" means feet per second and is one way of expressing the velocity of water.

"G" is used to express the energy required for mixing and for flocculation. It is a term which is used to compare velocity gradients or the relative number of contacts per unit volume per second made by suspended particles during the flocculation process. Velocity gradients G may be calculated from the following equation: G = square root of the value(550 times P divided by u times V). Where: P = applied horsepower, u = viscosity, and V = effective volume.

"GAC10" means granular activated carbon filter beds with an empty-bed contact time of 10 minutes based on average daily flow and a carbon reactivation frequency of every 180 days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with R309-210-10 MCLs under R309-200-5(3)(i)(A) shall be 120 days.

"GAC20" means granular activated carbon filter beds with an empty-bed contact time of 20 minutes based on average daily flow and a carbon reactivation frequency of every 240 days.

"Geologist" means a person licensed under the Professional Geologist Licensing Act, 58-76 of the Utah Code, as a "professional geologist" as defined therein.

"Geometric Mean" the geometric mean of a set of N numbers X_1, X_2, X_3,...., X_N is the Nth root of the product of the numbers.

"gpd" means gallons per day and is one way of expressing average daily water demands experienced by public water systems.

"gpm" means gallons per minute and is one way of expressing flowrate.

"gpm/sf" means gallons per minute per square foot and is one way of expressing flowrate through a surface area.

"Grade" means any one of four possible steps within a certification discipline of either water distribution or water treatment. Grade I indicates knowledge and experience requirements for the smallest type of public water supply. Grade IV indicates knowledge and experience levels appropriate for the largest, most complex type of public water supply.

"Gross Alpha Particle Activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross Beta Particle Activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"ground water of high quality" means a well or spring producing water deemed by the Director to be of sufficiently high quality that no treatment is required. Such sources shall have been designed and constructed in conformance with these rules, have been tested to establish that all applicable drinking water quality standards (as given in rule R309-200) are reliably and consistently met, have been deemed not vulnerable to natural or man-caused contamination, and the public water system management have established adequate protection zones and management policies in accordance with rule R309-600.

"ground water of low quality" means a well or spring which, as determined by the Director, cannot reliably and consistently meet the drinking water quality standards described in R309-200. Such sources shall be deemed to be a low quality ground water source if any of the conditions outlined in subsection R309-505-8(1) exist. Ground water that is classified "UDI" is a subset of this definition and requires "conventional

surface water treatment" or an acceptable alternative.

"Ground Water Source" means any well, spring, tunnel, adit, or other underground opening from or through which ground water flows or is pumped from subsurface water-bearing formations.

"Ground Water Under the Direct Influence of Surface Water" or "UDI" or "GWUDI" means any water beneath the surface of the ground with significant occurrence of insects or other macro organisms, algae, or large-diameter pathogens such as Giardia lamblia, or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence will be determined for individual sources in accordance with criteria established by the Director. The determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well or spring construction and geology with field evaluation.

"Haloacetic acids"(five) (HAA5) mean the sum of the concentrations in mg/L of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid), rounded to two significant figures after addition.

"Hardship Grant" means a grant of monies to a political subdivision that meets the drinking water project loan considerations whose project is determined by the Board to not be economically feasible unless grant assistance is provided. A hardship grant may be authorized in the following forms:

(1) a Planning Advance which will be required to be repaid at a later date, to help meet project costs incident to planning to determine the economic, engineering and financial feasibility of a proposed project;

(2) a Design Advance which will be required to be repaid at a later date, to help meet project costs incident to design including, but not limited to, surveys, preparation of plans, working drawings, specifications, investigations and studies; or

(3) a Project Grant which will not be required to be repaid.

"Hardship Grant Assessment" means an assessment applied to loan recipients. The assessment shall be calculated as a percentage of principal. Hardship grant assessment funds shall be subject to the requirements of UAC R309-700 for hardship grants.

"Hotel, Motel or Resort" shall include tourist courts, motor hotels, resort camps, hostels, lodges, dormitories and similar facilities, and shall mean every building, or structure with all buildings and facilities in connection, kept, used, maintained as, advertised as, or held out to the public to be, a place where living accommodations are furnished to transient guests or to groups normally occupying such facilities on a seasonal or short term basis.

"Hydrogeologic methods" means the techniques used to translate selected criteria and criteria thresholds into mappable delineation boundaries. These methods include, but are not limited to, arbitrary fixed radii, analytical calculations and models, hydrogeologic mapping, and numerical flow models.

"Inactivation" means, in the context of UV disinfection, a process by which a microorganism is rendered unable to reproduce, thereby rendering it unable to infect a host.

"Initial compliance period" means the first full three-year compliance period which begins at least 18 months after promulgation, except for contaminants listed in R309-200-5(3)(a), Table 200-2 numbers 19 to 33; R309-200-5(3)(b), Table 200-3 numbers 19 to 21; and R309-200-5(1)(c), Table 200-1 numbers 1, 5, 8, 11 and 18, initial compliance period means the first full three-year compliance after promulgation for systems with 150 or more service connections (January 1993-December 1995), and first full three-year compliance period after the effective date of the regulation (January 1996-December 1998) for systems having fewer than 150 service connections.

"Intake", for the purposes of surface water drinking water source protection, means the device used to divert surface water and also the conveyance to the point immediately preceding treatment, or, if no treatment is provided, at the entry point to the distribution system.

"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and a political subdivision, for the purpose of reducing the cost of financing incurred by a political subdivision on bonds issued by the subdivision for drinking water project costs.

"Labor Camp" shall mean one or more buildings, structures, or grounds set aside for use as living quarters for groups of migrant laborers or temporary housing facilities intended to accommodate construction, industrial, mining or demolition workers.

"Lake / reservoir" refers to a natural or man made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

"Land management strategies" means zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, ground water monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.

"Land use agreement" means a written agreement, memoranda or contract wherein the owner(s) agrees not to locate or allow the location of uncontrolled potential contamination sources or pollution sources within zone one of new wells in protected aquifers or zone one of surface water sources. The owner(s) must also agree not to locate or allow the location of pollution sources within zone two of new wells in unprotected aquifers and new springs unless the pollution source agrees to install design standards which prevent contaminated discharges to ground water. This restriction must be binding on all heirs, successors, and assigns. Land use agreements must be recorded with the property description in the local county recorder's office. Refer to R309-600-13(2)(d).

Land use agreements for protection areas on publicly owned lands need not be recorded in the local county recorder office. However, a letter must be obtained from the Administrator of the land in question and meet the requirements described above.

"Large water system" for the purposes of R309-210-6 only, means a water system that serves more than 50,000 persons.

"Lead free" means, for the purposes of R309-210-6, when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead; when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead; and when used with respect to plumbing fittings and fixtures intended by the manufacturer to dispense water for human ingestion refers to fittings and fixtures that are in compliance with standards established in accordance with 42 U.S.C. 300 g-6(e).

"Lead service line" means a service line made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck or other fitting which is connected to such lead line.

"Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires Disease.

"Level 1 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. It is conducted by the system operator or owner. Minimum elements include review and identification of atypical events that could

affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any State directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

"Level 2 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. It is conducted by an individual approved by the State, which may include the system operator. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any State directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system. The system must comply with any expedited actions or additional actions required by the State in the case of an E. coli MCL violation.

"Locational running annual average (LRAA)" is the average of sample analytical results for samples taken at a particular monitoring location during the previous four calendar quarters.

"Major Bacteriological Routine Monitoring Violation" means that no routine bacteriological sample was taken as required by R309-210-5(1).

"Major Bacteriological Repeat Monitoring Violation" - means that no repeat bacteriological sample was taken as required by R309-210-5(2).

"Major Chemical Monitoring Violation" - means that no initial background chemical sample was taken as required in R309-515-4(5).

"Management area" means the area outside of zone one and within a two-mile radius where the Optional Two-mile Radius Delineation Procedure has been used to identify a protection area.

For wells, land may be excluded from the DWSP management area at locations where it is more than 100 feet lower in elevation than the total drilled depth of the well.

For springs and tunnels, the DWSP management area is all land at elevation equal to or higher than, and within a two-mile radius, of the spring or tunnel collection area. The DWSP management area also includes all land lower in elevation than, and within 100 horizontal feet, of the spring or tunnel collection area. The elevation datum to be used is the point of water collection. Land may also be excluded from the DWSP management area at locations where it is separated from the ground water source by a surface drainage which is lower in elevation than the spring or tunnel collection area.

"Man-Made Beta Particle and Photon Emitters" means all radionuclides emitting beta particles and/or photons listed in Maximum Permissible Body Burdens and maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, "NBS Handbook 69," except the daughter products of thorium-232, uranium-235 and uranium-238.

"Master Plan" (or "System Capacity and Expansion Report") means a organized plan addressing the present and future demands that will be placed on a public drinking water system by expanding into undeveloped areas or accepting additional service contracts. As a minimum a satisfactory master plan must contain the following elements:

(a) A listing of sources including: the source name, the source type (i.e., well, spring, reservoir, stream etc.) for both existing sources and additional sources identified as needed for system expansion, the minimum reliable flow of the source in gallons per minute, the status of the water right and the flow capacity of the water right.

(b) A listing of storage facilities including: the storage tank name, the type of material (i.e., steel, concrete etc.), the diameter, the total volume in gallons, and the elevation of the overflow, the lowest level (elevation) of the equalization volume, the fire suppression volume, and the emergency volume or the outlet.

(c) A listing of pump stations including: the pump station name and the pumping capacity in gallons per minute. Under this requirement one does not need to list well pump stations as they are provided in requirement (a) above.

(d) A listing of the various pipeline sizes within the distribution system with their associated pipe materials and, if readily available, the approximate length of pipe in each size and material category. A schematic of the distribution piping showing node points, elevations, length and size of lines, pressure zones, demands, and coefficients used for the hydraulic analysis required by (h) below will suffice.

(e) A listing by customer type (i.e., single family residence, 40 unit condominium complex, elementary school, junior high school, high school, hospital, post office, industry, commercial etc.) along with an assessment of their associated number of ERC'S.

(f) The number of connections along with their associated ERC value that the public drinking water system is committed to serve, but has not yet physically connected to the infrastructure.

(g) A description of the nature and extent of the area currently served by the water system and a plan of action to control addition of new service connections or expansion of the public drinking water system to serve new development(s). The plan shall include current number of service connections and water usage as well as land use projections and forecasts of future water usage.

(h) A hydraulic analysis of the existing distribution system along with any proposed distribution system expansion identified in (g) above.

(i) A description of potential alternatives to manage system growth, including interconnections with other existing public drinking water systems, developer responsibilities and requirements, water rights issues, source and storage capacity issues and distribution issues.

"Maximum Contaminant Level" (MCL) means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"Maximum residual disinfectant level" (MRDL) means a level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a PWS is in compliance with the MRDL when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or

equal to the MRDL. For chlorine dioxide, a PWS is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as MCLs pursuant to UT Code S 19-4-104. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in R309-200-5(3), operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused by circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections.

"Maximum residual disinfectant level goal" (MRDLG) means the maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are non-enforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants.

"Medium-size water system" for the purposes of R309-210-6 only, means a water system that serves greater than 3,300 and less than or equal to 50,000 persons.

"Membrane filtration" is a pressure or vacuum driven separation process in which particulate matter larger than 1 micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes that common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis.

"Metropolitan area sources" means all sources within a metropolitan area. A metropolitan area is further defined to contain at least 3,300 year round residents. A small water system which has sources within a metropolitan system's service area, may have those sources classified as a metropolitan area source.

"MG" means million gallons and is one way of expressing a volume of water.

"MGD" means million gallons per day and is one way of expressing average daily water demands experienced by public water systems or the capacity of a water treatment plant.

"mg/L" means milligrams per liter and is one way of expressing the concentration of a chemical in water. At small concentrations, mg/L is synonymous with "ppm" (parts per million).

"Minor Bacteriological Routine Monitoring Violation" means that not all of the routine bacteriological samples were taken as required by R309-210-5(1).

"Minor Bacteriological Repeat Monitoring Violation" means that not all of the repeat bacteriological samples were taken as required by R309-210-5(2).

"Minor Chemical Monitoring Violation" means that the required chemical sample(s) was not taken in accordance with R309-205 and R309-210.

"Modern Recreation Camp" means a campground accessible by any type of vehicular traffic. The camp is used wholly or in part for recreation, training or instruction, social, religious, or physical education activities or whose primary purpose is to provide an outdoor group living experience. The site is equipped with permanent buildings for the purpose of sleeping, a drinking water supply under pressure, food service facilities, and may be operated on a seasonal or short term basis. These types of camps shall include but are not limited to privately owned campgrounds such as youth camps, church camps, boy or girl scout camps, mixed age groups, family group camps, etc.

"Near the first service connection" means one of the service connections within the first 20 percent of all service connections that are nearest to the treatment facilities.

"Negative Interest" means a loan having loan terms with an interest rate at less than zero percent. The repayment schedule for loans having a negative interest rate will be prepared by the Board.

"New ground water source of drinking water" means a public supply ground water source of drinking water for which plans and specifications are submitted to the Division after July 26, 1993.

"New surface water source of drinking water" means a public supply surface water source of drinking water for which plans and specifications are submitted to the Division after June 12, 2000.

"New Water System" means a system that will become a community water system or non-transient, non-community water system on or after October 1, 1999.

"Non-Community Water System" (NCWS) means a public water system that is not a community water system. There are two types of NCWS's: transient and non-transient.

"Non-distribution system plumbing problem" means a coliform contamination problem in a public water system with more than one service connection that is limited to the specific service connection from which a coliform-positive sample was taken.

"Nonpoint source" means any diffuse source of contaminants or pollutants not otherwise defined as a point source.

"Non-Transient Non-Community Water System" (NTNCWS) means a public water system that regularly serves at least 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those serving the same individuals (industrial workers, school children, church members) by means of a separate system.

"Not Approved" refers to a rating placed on a system by the Division and means the water system does not fully comply with all the Rules of R309 as measured by R309-400.

"NTU" means Nephelometric Turbidity Units and is an acceptable method for measuring the clarity of water utilizing an electronic nephelometer (see "Standard Methods for Examination of Water and Wastewater").

"Off-specification" means a UV facility is operating outside of the validated operating conditions, for example, at a flow rate higher than the validated range or a UVT below the validated range).

"Operator" means a person who operates, repairs, maintains, and is directly employed by a public drinking water system.

"Operator Certification Commission" means the Commission appointed by the Board as an advisory Commission on public water system operator certification.

"Operating Permit" means written authorization from the Director to actually start utilizing a facility constructed as part of a public water system.

"Optimal corrosion control treatment" for the purposes of R309-210-6 only, means the corrosion control treatment that minimizes the lead and copper concentrations at users' taps while insuring that the treatment does not cause the water system to violate any national primary drinking water regulations.

"Package Plants" refers to water treatment plants manufactured and supplied generally by one company which are reportedly complete and ready to hook to a raw water supply line. Caution, some plants do not completely comply with all requirements of these rules and will generally require additional equipment.

"PCBs" means a group of chemicals that contain polychlorinated biphenyl.

"Peak Day Demand" means the amount of water delivered to consumers by a public water system on the day of highest consumption, generally expressed in gpd or MGD. This peak day will likely occur during a particularly hot spell in the summer. In contrast, some systems associated with the skiing industry may experience their "Peak Day Demand" in the winter.

"Peak Hourly Flow" means the maximum hourly flow rate from a water treatment plant and utilized when the plant is preparing disinfection profiling as called for in R309-215-14(2).

"Peak Instantaneous Demand" means calculated or estimated highest flowrate that can be expected through any water mains of the distribution network of a public water system at any instant in time, generally expressed in gpm or cfs (refer to section R309-510-9).

"Person" means an individual, corporation, company, association, partnership; municipality; or State, Federal, or tribal agency.

"Picocurie" (pCi) means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Plan Approval" means written approval of contract plans and specifications for any public drinking water project which have been submitted for review prior to the start of construction pursuant to R309-105-6 and R309-500-6.

"Plant intake" refers to the works or structures at the head of a conduit through which water is diverted from a source (e.g., river or lake) into the treatment plant.

"Plug Flow" is a term to describe when water flowing through a tank, basin or reactors moves as a plug of water without ever dispersing or mixing with the rest of the water flowing through the tank.

"Point of Disinfectant Application" is the point where the disinfectant is applied and water downstream of that point is not subject to re-contamination by surface water runoff.

"Point of Diversion"(POD) is the point at which water from a surface source enters a piped conveyance, storage tank, or is otherwise removed from open exposure prior to treatment.

"Point-of-Entry Treatment Device" means a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

"Point-of-Use Treatment Device" means a treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap.

"Point source" means any discernible, confined, and discrete source of pollutants or contaminants, including but not limited to any site, pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, animal feeding operation with more than ten animal units, landfill, or vessel or other floating craft, from which pollutants are or may be discharged.

"Political Subdivision" means any county, city, town, improvement district, metropolitan water district, water conservancy district, special service district, drainage district, irrigation district, separate legal or administrative entity created under Title 11, Chapter 13, Interlocal Cooperation Act, or any other entity constituting a political subdivision under the laws of Utah.

"Pollution source" means point source discharges of contaminants to ground or surface water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies, drain lines, and animal feeding operations with more than ten animal units.

The following definitions are part of R309-600 and clarify the meaning of "pollution source:"

(1) "Animal feeding operation" means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

(2) "Animal unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers; the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(3) "Extremely hazardous substances" means those substances which are identified in the Sec. 302(EHS) column of the "TITLE III LIST OF LISTS - Consolidated List of Chemicals Subject to Reporting Under SARA Title III," (EPA 550-B-96-015). A copy of this document may be obtained from: NCEPI, PO Box 42419, Cincinnati, OH 45202. Online ordering is also available at http://www.epa.gov/ncepihom/orderpub.html.

"Potential contamination source" means any facility or site which employs an activity or procedure which may potentially contaminate ground or surface water. A pollution source is also a potential contamination source.

"ppm" means parts per million and is one way of expressing the concentration of a chemical in water. At small concentrations generally used, ppm is synonymous with "mg/l" (milligrams per liter).

"Practical Quantitation Level" (PQL) means the required analysis standard for laboratory certification to perform lead and copper analyses. The PQL for lead is .005 milligrams per liter and the PQL for copper is 0.050 milligrams per liter.

"Presedimentation" is a preliminary treatment process used to remove gravel, sand and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

"Primary Disinfection" means the adding of an acceptable primary disinfectant or ultraviolet light irradiation during the treatment process to provide adequate levels of inactivation of bacteria and pathogens. The effectiveness is measured through "CT" values, and the "Total Inactivation Ratio," and the ultraviolet light dose. Acceptable primary disinfectants are, chlorine, ozone, ultraviolet light, and chlorine dioxide (see also "CT" and "$CT_{99.9}$").

"Principal Forgiveness" means a loan wherein a portion of the loan amount is "forgiven" upon closing the loan. The terms for principal forgiveness will be as directed by R309-705-8, and by the Board.

"Project Costs" include the cost of acquiring and constructing any drinking water project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary property, easement or right of way; engineering or architectural fees, legal fees, fiscal agent's and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; interest accruing on loans made under this program during acquisition and construction of the project; and any other

cost incurred by the political subdivision, the Board or the Department of Environmental Quality, in connection with the issuance of obligation of the political subdivision to evidence any loan made to it under the law.

"Protected aquifer" means a producing aquifer in which the following conditions are met:

(1) A naturally protective layer of clay, at least 30 feet in thickness, is present above the aquifer;

(2) the PWS provides data to indicate the lateral continuity of the clay layer to the extent of zone two; and

(3) the public supply well is grouted with a grout seal that extends from the ground surface down to at least 100 feet below the surface, and for a thickness of at least 30 feet through the protective clay layer.

"Public Drinking Water Project" means construction, addition to, or modification of any facility of a public water system which may affect the quality or quantity of the drinking water (see also section R309-500-6).

"Public Water System" (PWS) means a system, either publicly or privately owned, providing water through constructed conveyances for human consumption and other domestic uses, which has at least 15 service connections or serves an average of at least 25 individuals daily at least 60 days out of the year and includes collection, treatment, storage, or distribution facilities under the control of the operator and used primarily in connection with the system, or collection, pretreatment or storage facilities used primarily in connection with the system but not under his control (see 19-4-102 of the Utah Code Annotated). All public water systems are further categorized into three different types, community (CWS), non-transient non-community (NTNCWS), and transient non-community (TNCWS). These categories are important with respect to required monitoring and water quality testing found in R309-205 and R309-210 (see also definition of "water system").

"Raw Water" means water that is destined for some treatment process that will make it acceptable as drinking water. Common usage of terms such as lake or stream water, surface water or irrigation water are synonymous with raw water.

"Recreational Home Developments" are subdivision type developments wherein the dwellings are not intended as permanent domiciles.

"Recreational Vehicle Park" means any site, tract or parcel of land on which facilities have been developed to provide temporary living quarters for individuals utilizing recreational vehicles. Such a park may be developed or owned by a private, public or non-profit organization catering to the general public or restricted to the organizational or institutional member and their guests only.

"Reference UV Sensors (or Reference Sensors)" are off-line calibrated UV sensors that are used to assess the duty UV sensors' performance and to determine UV sensor uncertainty.

"Regional Operator" means a certified operator who is in direct responsible charge of more than one public drinking water system.

"Regionalized Water System" means any combination of water systems which are physically connected or operated or managed as a single unit.

"Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem" (mrem) is 1/1000 of a rem.

"Renewal Course" means a course of instruction, approved by the Subcommittee, which is a prerequisite to the renewal of a Backflow Technician's Certificate.

"Repeat compliance period" means any subsequent compliance period after the initial compliance period.

"Replacement well" means a public supply well drilled for the sole purpose of replacing an existing public supply well which is impaired or made useless by structural difficulties and in which the following conditions are met:

(1) the proposed well location shall be within a radius of 150 feet from an existing ground water supply well; and

(2) the PWS provides a copy of the replacement application approved by the State Engineer (refer to Section 73-3-28 of the Utah Code).

"Required Dose" is the UV dose required for a certain level of log inactivation. Required doses are set forth by the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) and R309-215-15(19)(d)(i) Table 215-5 the UV Dose Table.

"Required reserve" means funds set aside to meet requirements set forth in a loan covenant/bond indenture.

"Residual Disinfectant Concentration" ("C" in CT calculations) means the concentration of disinfectant, measured in mg/L, in a representative sample of water.

"Restricted Certificate" means that the operator has qualified by passing an examination but is in a restricted certification status due to lack of experience as an operator.

"Roadway Rest Stop" shall mean any building, or buildings, or grounds, parking areas, including the necessary toilet, hand washing, water supply and wastewater facilities intended for the accommodation of people using such facilities while traveling on public roadways. It does not include scenic view or roadside picnic areas or other parking areas if these are properly identified

"Routine Chemical Monitoring Violation" means no routine chemical sample(s) was taken as required in R309-205, R309-210 and R309-215.

"Safe Yield" means the annual quantity of water that can be taken from a source of supply over a period of years without depleting the source beyond its ability to be replenished naturally in "wet years".

"Sanitary defect" means a defect that could provide a pathway of entry for microbial contamination into the distribution system or that is indicative of a failure or imminent failure in a barrier that is already in place.

"Sanitary Seal" means a cap that prevents contaminants from entering a well through the top of the casing.

"scfm/sf" means standard cubic foot per minute per square foot and is one way of expressing flowrate of air at standard density through a filter or duct area.

"Seasonal system" means a non-community water system that is not operated as a public water system on a year-round basis and starts up and shuts down at the beginning and end of each operating season. "Secondary Disinfection" means the adding of an acceptable secondary disinfectant to assure that the quality of the water is maintained throughout the distribution system. The effectiveness is measured by maintaining detectable disinfectant residuals throughout the distribution system. Acceptable secondary disinfectants are chlorine, chloramine, and chlorine dioxide.

"Secondary Maximum Contaminant Level" means the advisable maximum level of contaminant in water which is delivered to any user of a public water system.

"Secretary to the Subcommittee" means that individual appointed by the Director to conduct the business of the Subcommittee.

"Sedimentation" means a process for removal of solids before filtration by gravity or separation.

"Semi-Developed Camp" means a campground accessible by any type of vehicular traffic. Facilities are provided for both protection of site and comfort of users. Roads, trails and campsites are defined and basic facilities (water, flush toilets and/or vault toilets, tables, fireplaces or tent pads) are provided. These camps include but are not limited to National Forest campgrounds, Bureau of Reclamation campgrounds, and youth camps.

"Service Connection" means the constructed conveyance by which a dwelling, commercial or industrial establishment, or

other water user obtains water from the supplier's distribution system. Multiple dwelling units such as condominiums or apartments, shall be considered to have a single service connection, if fed by a single line, for the purpose of microbiological repeat sampling; but shall be evaluated by the supplier as multiple "equivalent residential connections" for the purpose of source and storage capacities.

"Service Factor" means a rating on a motor to indicate an increased horsepower capacity beyond nominal nameplate capacity for occasional overload conditions.

"Service line sample" means a one-liter sample of water collected in accordance with R309-210-6(3)(b)(iii), that has been standing for at least 6 hours in a service line.

"Significant deficiencies" means defects in design, operation, or maintenance, or a failure or defects in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the Director determines to be causing, or have potential for causing, the introduction of contamination into the water delivered to consumers.

"Single family structure" for the purposes of R309-210-6 only, means a building constructed as a single-family residence that is currently used as either a residence or a place of business.

"Small water system" means a public water system that serves 3,300 persons or fewer.

"Specialist" means a person who has successfully passed the written certification exam and meets the required experience, but who is not in direct employment with a Utah public drinking water system.

"Stabilized drawdown" means that there is less than 0.5 foot of change in water level measurements in a pumped well for a minimum period of six hours.

"Standard sample" means the aliquot of finished drinking water that is examined for the presence of coliform bacteria.

"SOCs" means synthetic organic chemicals.

"Stabilized Drawdown" means the drawdown measurements taken during a constant-rate yield and drawdown test as outlined in subsection R309-515-14(10)(b) are constant (no change).

"Stock Tight" means a type of fence that can prevent the passage of grazing livestock through its boundary. An example of such fencing is provided by design drawing 02838-3 titled "Cattle Exclosure" designed by the U.S. Department of the Interior, Bureau of Land Management, Division of Technical Services (copies available from the Division).

"Subcommittee" means the Cross Connection Control Subcommittee.

"Supplier of water" means any person who owns or operates a public water system.

"Surface Water" means all water which is open to the atmosphere and subject to surface runoff (see also section R309-515-5(1)). This includes conveyances such as ditches, canals and aqueducts, as well as natural features.

"Surface Water Systems" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection (Federal SWTR subpart H) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Surface Water Systems (Large)" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection and serve a population of 10,000 or greater (Federal SWTR subpart P and L) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Surface Water Systems (Small)" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection and serve a population less than 10,000 (Federal SWTR subpart L, T and P (sanitary survey requirements)) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Susceptibility" means the potential for a PWS (as determined at the point immediately preceding treatment, or if no treatment is provided, at the entry point to the distribution system) to draw water contaminated above a demonstrated background water quality concentration through any overland or subsurface pathway. Such pathways may include cracks or fissures in or open areas of the surface water intake, and/or the wellhead, and/or the pipe/conveyance between the intake and the water distribution system or treatment.

"SUVA" means Specific Ultraviolet Absorption at 254 nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of 254 nm (UV_{254}) (in m^{-1}) by its concentration of dissolved organic carbon (DOC) (in mg/L).

"System with a single service connection" means a system which supplies drinking water to consumers via a single service line.

"T" is short for "Contact Time" and is generally used in conjunction with either the residual disinfectant concentration (C) in determining CT or the velocity gradient (G) in determining mixing energy GT.

"Target Log Inactivation" means the specific log inactivation the PWS wants to achieve for the target pathogen using UV disinfection. The target log inactivation is driven by requirements of the Surface Water Treatment Rule (SWTR), Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR), Interim Enhanced Surface Water Treatment Rule (IESWTR), Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR), and the log removal/inactivation requirements in R309-215-15, and the Groundwater Rule.

"Ten State Standards" refers to the Recommended Standards For Water Works, 1997 by the Great Lakes Upper Mississippi River Board of State Public Health and Environmental Managers available from Health Education Services, A Division of Health Research Inc., P.O. Box 7126, Albany, New York 12224, (518)439-7286.

"Time of travel" means the time required for a particle of water to move in the producing aquifer from a specific point to a ground water source of drinking water. It also means the time required for a particle of water to travel from a specific point along a surface water body to an intake.

"Total Inactivation Ratio" is the sum of all the inactivation ratios calculated for a series of disinfection sequences, and is indicated or shown as: "Summation sign $(CT_{calc})/(CT_{req'd})$." A total inactivation ratio equal to or greater than 1.0 is assumed to provide the required inactivation of Giardia lamblia cysts. $CT_{calc}/CT_{99.9}$ equal to 1.0 provides 99.9 percent (3-log) inactivation, whereas CT_{calc}/CT_{90} equal to 1.0 only provides 90 percent (1-log) inactivation.

"Too numerous to count" (TNTC) means that the total number of bacterial colonies exceeds 200 on a 47 mm diameter membrane filter used for coliform detection.

"Total Organic Carbon" (TOC) means total organic carbon in mg/L measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two significant figures.

"Total Trihalomethanes" (TTHM) means the MCL for trihalomethanes. This is the sum of four of ten possible isomers of chlorine/bromine/methane compounds, all known as trihalomethanes (THM). TTHM is defined as the arithmetic sum of the concentrations in micro grams per liter of only four of these (chloroform, bromodichloromethane, dibromochloromethane, and bromoform) rounded to two

significant figures. This measurement is made by samples which are "quenched," meaning that a chlorine neutralizing agent has been added, preventing further THM formation in the samples.

"Training Coordinating Committee" means the voluntary association of individuals responsible for environmental training in the state of Utah.

"Transient Non-Community Water System" (TNCWS) means a non-community public water system that does not serve 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those, RV park, diner or convenience store where the permanent nonresident staff number less than 25, but the number of people served exceeds 25.

"Treatment Plant" means those facilities capable of providing any treatment to any waterserving a public drinking water system. (Examples would include but not be limited to disinfection, conventional surface water treatment, alternative surface water treatment methods, corrosion control methods, aeration, softening, etc.).

"Treatment Plant Manager" means the individual responsible for all operations of a treatment plant.

"Trihalomethanes" (THM) means any one or all members of this class of organic compounds.

"Trihalomethane Formation Potential" (THMFP) - these samples are collected just following disinfection and measure the highest possible TTHM value to be expected in the water distribution system. The formation potential is measured by not neutralizing the disinfecting agent at the time of collection, but storing the sample seven days at 25 degrees C prior to analysis. A chlorine residual must be present in these samples at the end of the seven day period prior to analysis for the samples to be considered valid for this test. Samples without a residual at the end of this period must be resampled if this test is desired.

"Turbidity Unit" refers to NTU or Nephelometric Turbidity Unit.

"Two-stage lime softening" is a process in which chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

"UDI" means under direct influence (see also "Ground Water Under the Direct Influence of Surface Water").

"Uncovered finished water storage facility" is a tank, reservoir, or other facility used to store water that will undergo no further treatment to reduce microbial pathogens except residual disinfection and is directly open to the atmosphere.

"Unprotected aquifer" means any aquifer that does not meet the definition of a protected aquifer.

"Unregulated Contaminant" means a known or suspected disease causing contaminant for which no maximum contaminant level has been established.

"Unrestricted Certificate" means that a certificate of competency issued by the Director when the operator has passed the appropriate level written examination and has met all certification requirements at the discipline and grade stated on the certificate.

"UV Dose" means the UV energy per unit area incident on a surface, typically reported in units of mJ/cm^2 or J/m^2. The UV dose received by a waterborne microorganism in a reactor vessel accounts for the effects on UV intensity of the absorbance of the water, absorbance of the quartz sleeves, reflection and refraction of light from the water surface and reactor walls, and the germicidal effectiveness of the UV wavelengths transmitted. The following terms are related to UV dose:

(1) "Reduction Equivalent Dose (RED)" means the UV dose derived by entering the log inactivation measured during full-scale reactor testing into the UV dose-response curve that was derived through collimated beam testing. RED values are always specific to the challenge microorganism used during experimental testing and the validation test conditions for full-scale reactor testing.

(2) "Required Dose" means the UV dose in units of mJ/cm^2 needed to achieve the target log inactivation for the target pathogen. The required dose is specified in the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR).

(3) "Validated Dose" means the UV dose in units of mJ/cm^2 delivered by the UV reactor as determined through validation testing. The validated dose is compared to the Required Dose to determine log inactivation credit.

(4) "Calculated Dose" - the RED calculated using the dose-monitoring equation that was developed through validation testing.

"UV Facility" means all of the components of the UV disinfection process, including (but not limited to) UV reactors, control systems, piping, valves, and building (if applicable).

"UV Intensity" means the UV power passing through a unit area perpendicular to the direction of propagation. UV intensity is used to describe the magnitude of UV light measured by UV sensors in a reactor or with a radiometer in bench-scale UV experiments.

"UV Reactor" means the vessel or chamber where exposure to UV light takes place, consisting of UV lamps, quartz sleeves, UV sensors, quartz sleeve cleaning systems, and baffles or other hydraulic controls. The UV reactor also includes additional hardware for monitoring UV dose delivery; typically comprised of (but not limited to): UV sensors and UVT monitors.

"UV Reactor Validation" is experimental testing to determine the operating conditions under which a UV reactor delivers the dose required for inactivation credit of Cryptosporidium, Giardia lamblia, and viruses.

"UV Transmittance (UVT)" is a measure of the fraction of incident light transmitted through a material (e.g., water sample or quartz). The UVT is usually reported for a wavelength of 254 nm and a pathlength of 1-cm. If an alternate pathlength is used, it should be specified or converted to units of cm^{-1}.

"Validation Factor" - an uncertainty term that accounts for the bias and uncertainty associated with UV validation testing.

"Validated Operating Conditions" - the operating conditions under which the UV reactor is confirmed as delivering the dose required for LT2ESWTR inactivation credit. These operating conditions must include flow rate, UV intensity as measured by a UV sensor, and UV lamp status. The term "Validated Operating Conditions" is also commonly referred to as the "validated range" or the "validated limits."

"Virus" means a virus of fecal origin which is infectious to humans.

"Waterborne Disease Outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system, as determined by the appropriate local or State agency.

"Watershed" means the topographic boundary that is the perimeter of the catchment basin that contributes water through a surface source to the intake structure. For the purposes of surface water DWSP, if the topographic boundary intersects the state boundary, the state boundary becomes the boundary of the watershed.

"Water Supplier" means a person who owns or operates a public drinking water system.

"Water System" means all lands, property, rights, rights-of-way, easements and related facilities owned by a single entity, which are deemed necessary or convenient to deliver drinking water from source to the service connection of a consumer(s). This includes all water rights acquired in connection with the system, all means of conserving, controlling and distributing drinking water, including, but not limited to, diversion or collection works, springs, wells, treatment plants, pumps, lift stations, service meters, mains, hydrants, reservoirs, tanks and associated appurtenances within the property or easement boundaries under the control of or controlled by the entity

owning the system.

In accordance with R309, certain water systems may be exempted from monitoring requirements, but such exemption does not extend to submittal of plans and specifications for any modifications considered a public drinking water project.

"Wellhead" means the physical structure, facility, or device at the land surface from or through which ground water flows or is pumped from subsurface, water-bearing formations.

"Wholesale system" is a public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

"Zone of Influence" corresponds to area of the upper portion of the cone of depression as described in "Groundwater and Wells," second edition, by Fletcher G. Driscoll, Ph.D., and published by Johnson Division, St. Paul, Minnesota.

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R309. Environmental Quality, Drinking Water.
R309-200. Monitoring and Water Quality: Drinking Water Standards.
R309-200-1. Purpose.

The purpose of this rule is to set forth the water quality and drinking water standards for public water systems.

R309-200-2 Authority.
R309-200-3 Definitions.
R309-200-4 General.
R309-200-5 Primary Drinking Water Standards
(1) Inorganic Contaminants
(2) Lead and Copper
(3) Organic Monitoring.
(4) Radiological Chemicals.
(5) Turbidity.
(6) Microbiological quality
(7) Disinfection
R309-200-6 Secondary Drinking Water Standards.
R309-200-7 Treatment Techniques and Unregulated Contamiants.
R309-200-8 Approved Laboratories.

R309-200-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63G-3 of the same, known as the Administrative Rulemaking Act.

R309-200-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-200-4. General.

(1) Maximum contaminant levels (MCLs) and treatment techniques are herein established for those routinely measurable substances which may be found in water supplies. "Primary" standards and treatment techniques are established for the protection of human health. "Secondary" regulations are established to provide guidance in evaluating the aesthetic qualities of drinking water.

(2) The applicable "Primary" standards and treatment techniques shall be met by all public drinking water systems. The "Secondary" standards are recommended levels which should be met in order to avoid consumer complaint.

(3) The methods used to determine compliance with these maximum contaminant levels and treatment techniques are given in R309-205 through R309-215. Utah Division of Drinking Water adopts by reference the analytical methods incorporated in 40 CFR Parts 141, 142, and 143 as published on July 1, 2018.

(4) If the water fails to meet these minimum standards, then certain public notification procedures shall be carried out, as outlined in R309-220. Water suppliers shall also keep analytical records in their possession, for a required length of time, as outlined in R309-105-17.

R309-200-5. Primary Drinking Water Standards.

(1) Inorganic Contaminants.

(a) The maximum contaminant levels (MCLs) for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sodium, thallium and total dissolved solids are applicable to community and non-transient non-community water systems.

(b) The MCLs for nitrate, nitrite, and total nitrate, nitrite and sulfate are applicable to community, non-transient non-community, and transient non-community water systems.

(c) The maximum contaminant levels for inorganic chemicals are listed in Table 200-1.

TABLE 200-1
PRIMARY INORGANIC CONTAMINANTS

Contaminant	Maximum Contaminant Level
1. Antimony	0.006 mg/L
2. Arsenic	0.010 mg/L (see Note 5 below)
3. Asbestos	7 Million Fibers/liter (longer than 10 um)
4. Barium	2 mg/L
5. Beryllium	0.004 mg/L
6. Cadmium	0.005 mg/L
7. Chromium	0.1 mg/L
8. Cyanide (as free Cyanide)	0.2 mg/L
9. Fluoride	4.0 mg/L
10. Mercury	0.002 mg/L
11. Nickel	--- (see Note 1 below)
12. Nitrate	10 mg/l (as Nitrogen) (see Note 4 below)
13. Nitrite	1 mg/L (as Nitrogen)
14. Total Nitrate and Nitrite	10 mg/L (as Nitrogen)
15. Selenium	0.05 mg/L
16. Sodium	--- (see Note 1 below)
17. Sulfate	1000 mg/L (see Note 2 below)
18. Thallium	0.002 mg/L
19. Total Dissolved Solids	2000 mg/L (see Note 3 below)

NOTE:
(1) No maximum contaminant level has been established for nickel and sodium. However, these contaminant shall be monitored and reported in accordance with the requirements of R309-205-5(3).
(2) If the sulfate level of a public (community, NTNC and non-community) water system is greater than 500 mg/L, the supplier shall satisfactorily demonstrate that:
(a) No better quality water is available, and
(b) The water shall not be available for human consumption from commercial establishments.
In no case shall the Director allow the use of water having a sulfate level greater than 1000 mg/L.
(3) If TDS is greater than 1000 mg/L, the supplier shall satisfactorily demonstrate to the Director that no better water is available. The Director shall not allow the use of an inferior source of water if a better source of water (i.e. lower in TDS) is available.
(4) In the case of a non-community water systems which exceed the MCL for nitrate, the Director may allow, on a case-by-case basis, a nitrate level not to exceed 20 mg/L if the supplier can adequately demonstrate that:
(a) such water will not be available to children under 6 months of age as may be the case in hospitals, schools and day care centers; and
(b) there will be continuous posting of the fact that nitrate levels exceed 10 mg/L and the potential health effect of exposure in accordance with R309-220-12; and
(c) the water is analyzed in conformance to R309-205-5(4); and
(d) that no adverse health effects will result.
(5) The maximum contaminant level for arsenic is 0.05 mg/L until January 23, 2006. The MCL of 0.010 mg/L is effective for the purposes of compliance on January 23, 2006.

(2) Lead and copper.

(a) The lead action level is exceeded if the concentration of lead in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with R309-210-6(3) is greater than 0.015 mg/L (i.e., if the "90th percentile" lead level is greater than 0.015 mg/L).

(b) The copper action level is exceeded if the concentration of copper in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with R309-210-6(3) is greater than 1.3 mg/L (i.e., if the "90th percentile" copper level is greater than 1.3 mg/L).

(c) The 90th percentile lead and copper levels shall be computed as follows:

(i) The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number 1 for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken.

(ii) The number of samples taken during the monitoring

period shall be multiplied by 0.9.

(iii) The contaminant concentration in the numbered sample yielded by the calculation in paragraph (c)(ii) above is the 90th percentile contaminant level.

(iv) For water systems serving fewer than 100 people that collect 5 samples per monitoring period, the 90th percentile is computed by taking the average of the highest and second highest concentrations.

(v) For a public water system that has been allowed by the Director to collect fewer than five samples in accordance with R309-210-6(3)(c), the sample result with the highest concentration is considered the 90th percentile value.

(3) Organic Contaminants.

The following are the maximum contaminant levels for organic chemicals. For the purposes of R309-100 through R309-R309-605, organic chemicals are divided into three categories: Pesticides/PCBs/SOCs, volatile organic contaminants (VOCs) and total trihalomethanes.

(a) Pesticides/PCBs/SOCs - The MCLs for organic contaminants listed in Table 200-2 are applicable to community water systems and non-transient, non-community water systems.

TABLE 200-2
PESTICIDE/PCB/SOC CONTAMINANTS

Contaminant	Maximum Contaminant Level
1. Alachlor	0.002 mg/L
2. Aldicarb	(see Note 1 below)
3. Aldicarb sulfoxide	(see Note 1 below)
4. Aldicarb sulfone	(see Note 1 below)
5. Atrazine	0.003 mg/L
6. Carbofuran	0.04 mg/L
7. Chlordane	0.002 mg/L
8. Dibromochloropropane	0.0002 mg/L
9. 2,4-D	0.07 mg/L
10. Ethylene dibromide	0.00005 mg/L
11. Heptachlor	0.0004 mg/L
12. Heptachlor epoxide	0.0002 mg/L
13. Lindane	0.0002 mg/L
14. Methoxychlor	0.04 mg/L
15. Polychlorinated biphenyls	0.0005 mg/L
16. Pentachlorophenol	0.001 mg/L
17. Toxaphene	0.003 mg/L
18. 2,4,5-TP	0.05 mg/L
19. Benzo(a)pyrene	0.0002 mg/L
20. Dalapon	0.2 mg/L
21. Di(2-ethylhexyl)adipate	0.4 mg/L
22. Di(2-ethylhexyl)phthalate	0.006 mg/L
23. Dinoseb	0.007 mg/L
24. Diquat	0.02 mg/L
25. Endothall	0.1 mg/L
26. Endrin	0.002 mg/L
27. Glyphosate	0.7 mg/L
28. Hexachlorobenzene	0.001 mg/L
29. Hexachlorocyclopentadiene	0.05 mg/L
30. Oxamyl (Vydate)	0.2 mg/L
31. Picloram	0.5 mg/L
32. Simazine	0.004 mg/L
33. 2,3,7,8-TCDD (Dioxin)	0.00000003 mg/L

Note 1: The MCL for this contaminant is under further review, however, this contaminant shall be monitored in accordance with R309-205-6(1).

(b) Volatile organic contaminants - The maximum contaminant levels for organic contaminants listed in Table 200-3 apply to community and non-transient non-community water systems.

TABLE 200-3
VOLATILE ORGANIC CONTAMINANTS

Contaminant	Maximum Contaminant Level
1. Vinyl chloride	0.002 mg/L
2. Benzene	0.005 mg/L
3. Carbon tetrachloride	0.005 mg/L
4. 1,2-Dichloroethane	0.005 mg/L
5. Trichloroethylene	0.005 mg/L
6. para-Dichlorobenzene	0.075 mg/L
7. 1,1-Dichloroethylene	0.007 mg/L
8. 1,1,1-Trichloroethane	0.2 mg/L
9. cis-1,2-Dichloroethylene	0.07 mg/L
10. 1,2-Dichloropropane	0.005 mg/L
11. Ethylbenzene	0.7 mg/L
12. Monochlorobenzene	0.1 mg/L
13. o-Dichlorobenzene	0.6 mg/L
14. Styrene	0.1 mg/L
15. Tetrachloroethylene	0.005 mg/L
16. Toluene	1 mg/L
17. trans-1,2-Dichloroethylene	0.1 mg/L
18. Xylenes (total)	10 mg/L
19. Dichloromethane	0.005 mg/L
20. 1,2,4-Trichlorobenzene	0.07 mg/L
21. 1,1,2-Trichloroethane	0.005 mg/L

(c) Disinfection Byproducts and Disinfectant Residuals:

(i) Community and Non-transient non-community water systems. Surface Water systems serving 10,000 or more persons shall comply with this section beginning January 1, 2002. Surface water systems serving fewer than 10,000 persons and systems using only ground water not under the direct influence of surface water shall comply with this section beginning January 1, 2004.

(A) Compliance with the disinfection byproduct MCLs listed in Table 200-4 shall be determined by the procedures listed in R309-210-8(6) until the date specified by system size listed in R309-210-10(1)(c) at which time compliance shall be determined utilizing LRAA as specified in R309-210-10(1)(d).

(ii) Transient non-community water systems. Surface water systems serving 10,000 or more persons and using chlorine dioxide as a disinfectant or oxidant shall comply with the chlorine dioxide MRDL beginning January 1, 2002. Surface water systems serving fewer than 10,000 persons and using chlorine dioxide as a disinfectant or oxidant and systems using only ground water not under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant shall comply with the chlorine dioxide MRDL beginning January 1, 2004.

(iii) The maximum contaminant levels (MCLs) for disinfection byproducts are listed in Table 200-4.

TABLE 200-4
DISINFECTION BYPRODUCTS

DISINFECTION BYPRODUCT	MCL (mg/L)
Total trihalomethanes (TTHM)	0.080
Haloacetic acids (five) (HAA5)	0.060
Bromate	0.010
Chlorite	1.0

(iv) The maximum residual disinfectant levels (MRDLs) are listed in Table 200-5.

TABLE 200-5
MAXIMUM RESIDUAL DISINFECTANT LEVELS

DISINFECTANT RESIDUAL	MRDL (mg/L)
Chlorine	4.0 (as Cl_2)
Chloramines	4.0 (as Cl_2)
Chlorine dioxide	0.8 (as ClO_2)

(v) Control of Disinfectant Residuals. Notwithstanding the MRDLs listed in Table 200-5, systems may increase residual disinfectant levels in the distribution system of chlorine or chloramines (but not chlorine dioxide) to a level and for a time necessary to protect public health, to address specific microbiological contamination problems caused by circumstances such as, but not limited to, distribution line breaks, storm run-off events, source water contamination events, or cross-connection events.

(vi) A system that is installing GAC or membrane technology to comply with this section may apply to the Director for an extension of up to 24 months past the dates in paragraph (c)(i) of this section, but not beyond December 31, 2003. In granting the extension, the Director shall set a schedule for compliance and may specify any interim measures that the system shall take. Failure to meet the schedule or

interim treatment requirements constitutes a violation of Utah Public Drinking Water Rules.

(4) Radiologic Chemicals.

(a) Compliance dates. Compliance dates for combined radium-226 and -228, gross alpha particle activity, gross beta particle and photon radioactivity, and uranium: Community water systems shall comply with the MCLs listed in paragraphs (b), (c), (d), and (e) of this section beginning December 8, 2003 and compliance shall be determined in accordance with the requirements of this sub-section (4) and R309-205-7. Compliance with reporting requirements for the radionuclides under R309-220 and R309-225 is required on December 8, 2003.

(b) Combined radium-226 and -228. The maximum contaminant level for combined radium-226 and radium-228 is 5 pCi/L. The combined radium-226 and radium-228 value is determined by the addition of the results of the analysis for radium-226 and the analysis for radium-228.

(c) Gross alpha particle activity (excluding radon and uranium). The maximum contaminant level for gross alpha particle activity (including radium-226 but excluding radon and uranium) is 15 pCi/L.

(d) The MCL for beta particle and photon radioactivity.

(i) The average annual concentration of beta particle and photon radioactivity from man-made radionuclides in drinking water shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year (mrem/year).

(ii) Except for the radionuclides listed in Table 200-6, the concentration of man-made radionuclides causing 4 mrem total body or organ dose equivalents shall be calculated on the basis of 2 liters per day drinking water intake using the 168 hour data list in "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure," NBS (National Bureau of Standards) Handbook 69 as amended August 1963, U.S. Department of Commerce. Copies of this document are available from the National Technical Information Service, NTIS ADA 280 282, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800-553-6847. Copies may be inspected at the Division of Drinking Water offices. If two or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed 4 mrem/year.

TABLE 200-6
MAN-MADE RADIONUCLIDE CONTAMINANTS

Average Annual Concentrations Assumed to Produce:
A Total Body or Organ Dose of 4 mrem/yr

Radionuclide	Critical organ	pCi per liter
Tritium	Total body	20,000
Strontium-90	Bone Marrow	8

(e) The MCL for uranium. The maximum contaminant level for uranium is 30 ug/L.

(5) TURBIDITY

(a) All public water systems using surface water or ground water under the direct influence of surface water shall provide treatment consisting of both disinfection, as specified in R309-200-5(7)(a), and filtration treatment which complies with the requirements of paragraph (i), (ii) or (iii) of this section.

(i) Conventional filtration treatment or direct filtration.

(A) For systems using conventional filtration or direct filtration, the turbidity level of representative samples of a system's combined filtered effluent water shall be less than or equal to 0.3 NTU in at least 95 percent of the measurements taken each month, measured as specified in R309-200-4(3) and R309-215-9.

(B) The turbidity level of representative samples of a system's combined filtered effluent water shall at no time exceed 1 NTU, measured as specified in R309-200-4(3) and R309-215-9.

(C) A system that uses lime softening may acidify representative samples prior to analysis using a protocol approved by the Director.

(ii) Filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration. A public water system may use a filtration technology not listed in paragraph (i) or (iii) of this section if it demonstrates to the Director, using pilot plant studies or other means, that the alternative filtration technology, in combination with disinfection treatment that meets the requirements of R309-200-7, consistently achieves 99.9 percent removal and/or inactivation of Giardia lamblia cysts and 99.99 percent removal and/or inactivation of viruses, and 99 percent removal of Cryptosporidium oocysts, and the Director approves the use of the filtration technology. For each approval, the Director will set turbidity performance requirements that the system shall meet at least 95 percent of the time and that the system may not exceed at any time at a level that consistently achieves 99.9 percent removal and/or inactivation of Giardia lamblia cysts, 99.99 percent removal and/or inactivation of viruses, and 99 percent removal of Cryptosporidium oocysts. The turbidity level of representative samples shall at no time exceed 5.0 NTU for any treatment technique, measured as specified in R309-215-9(1)(c) and (d)

(iii) The turbidity limit for slow sand filtration and diatomaceous earth filtration shall be less than or equal to 1.0 NTU in at least 95 percent of the measurements taken each month, measured as specified in R309-215-9(1)(c) and (d). For slow sand filtration only, if the Director determines that the system is capable of achieving 99.9 percent removal and inactivation of Giardia lamblia cysts at some turbidity level higher than 1.0 NTU in at least 95 percent of the measurements, the Director may substitute this higher turbidity limit for that system. The turbidity level of representative samples shall at no time exceed 5.0 NTU for any treatment technique, measured as specified in R309-215-9(1)(c) and (d).

(c) Ground water sources not under the direct influence of surface water:

(i) The following turbidity limit applies to community water systems only.

(ii) The limit for turbidity in drinking water from ground water sources not under the direct influence of surface sources is 5.0 NTU based on an average for two consecutive days pursuant to R309-205-8(3).

(6) MICROBIOLOGICAL QUALITY

(a) The maximum contaminant level (MCL) for microbiological contaminants for all public water systems is:

(i) For a system that collects at least 40 samples per month, if no more than 5.0 percent of the samples collected during a month are total coliform-positive, the system is in compliance with the MCL for total coliforms.

(ii) For a system that collects fewer than 40 samples per month, if no more than one sample collected during a month is total coliform-positive, the system is in compliance with the MCL for total coliforms.

(b) A system is in compliance with the MCL for E. coli for samples taken under the provisions of R309-211 unless any of the conditions identified in paragraphs (b)(i) through (b)(iv) of this section occur. For purposes of the public notification requirements in R309-220, violation of the MCL may pose an acute risk to health.

(i) The system has an E. coli-positive repeat sample following a total coliform-positive routine sample.

(ii) The system has a total coliform-positive repeat sample following an E. coli-positive routine sample.

(iii) The system fails to take all required repeat samples

following an E. coli-positive routine sample.

(iv) The system fails to test for E. coli when any repeat sample tests positive for total coliform.

(c) A public water system must determine compliance with the MCL for E. coli in paragraph (b) of this section for each month in which it is required to monitor for total coliforms.

(7) DISINFECTION

Continuous disinfection is recommended for all water sources. It shall be required of all ground water sources which do not consistently meet standards of bacteriologic quality. Surface water sources or ground water sources under direct influence of surface water shall be disinfected and continuously monitored for disinfection residual during the course of required conventional complete treatment for systems serving greater than 3,300 people. Disinfection shall not be considered a substitute for inadequate collection or filtration facilities.

Successful disinfection assures 99.9 percent inactivation of Giardia lamblia cysts and 99.99 percent inactivation of enteric viruses. Both filtration and disinfection are considered treatment techniques to protect against the potential adverse health effects of exposure to Giardia lamblia, viruses, Legionella, and heterotrophic bacteria in water. Minimum disinfection levels are set by "CT" values as defined in R309-110.

(a) Each public water system that provides filtration treatment shall provide disinfection treatment as follows:

(i) The disinfection treatment shall be sufficient to ensure that the total treatment processes of the system achieve at least 99.9 percent (3-log) inactivation and/or removal of Giardia lamblia cysts and at least 99.99 percent (4-log) inactivation and/or removal of viruses, as determined by the Director.

(ii) The residual disinfectant concentration in the water entering the distribution system cannot be less than 0.2 mg/L for more than 4 hours.

(iii) The residual disinfectant concentration in the distribution system, measured as combined chlorine or chlorine dioxide, cannot be undetectable in more than 5 percent of the samples each month, for any two consecutive months that the system serves water to the public. Water in the distribution system with a heterotrophic bacteria concentration less than or equal to 500/ml, measured as heterotrophic plate count (HPC) is deemed to have a detectable disinfectant residual for purposes of determining compliance with this requirement. Thus, the value "V" in the following formula cannot exceed 5 percent in one month, for any two consecutive months.

$V = ((c + d + e) / (a + b)) \times 100$ where:

a = number of instances where the residual disinfectant concentration is measured;

b = number of instances where the residual disinfectant concentration is not measured but heterotrophic bacteria plate count (HPC) is measured;

c = number of instances where the residual disinfectant concentration is measured but not detected and no HPC is measured;

d = number of instances where no residual disinfectant concentration is detected and where HPC is greater than 500/ml;

e = number of instances where the residual disinfectant concentration is not measured and HPC is greater than 500/ml.

(b) If the Director determines, based on site-specific considerations, that a system has no means for having a sample transported and analyzed for HPC by a certified laboratory under the requisite time and temperature conditions specified in R309-200-4(3) and that the system is providing adequate disinfection in the distribution system, the requirements of R309-200-5(7)(a)(iii) do not apply.

(c) If a system utilizes a combination of sources, some surface water influenced (requiring filtration and disinfection treatment) and others deemed ground water (not requiring any treatment, even disinfection), the Director may, based on site-specific considerations, allow sampling for residual disinfectant or HPC at locations other than those specified by total coliform monitoring required by R309-211.

R309-200-6. Secondary Drinking Water Standards for Community, Non-Transient Non-Community and Transient Non-Community Water.

The Secondary Maximum Contaminant Levels for public water systems deals with substances which affect the aesthetic quality of drinking water. They are presented here as recommended limits or ranges and are not grounds for rejection. The taste of water may be unpleasant and the usefulness of the water may be impaired if these standards are significantly exceeded.

TABLE 200-7
SECONDARY INORGANIC CONTAMINANTS

Contaminant	Level
Aluminum	0.05 to 0.2 mg/L
Chloride	250 mg/L
Color	15 Color Units
Copper	1 mg/L
Corrosivity	Non-corrosive
Fluoride	2.0 mg/L (see Note below)
Foaming Agents	0.5 mg/L
Iron	0.3 mg/L
Manganese	0.05 mg/L
Odor	3 Threshold Odor Number
pH	6.5-8.5
Silver	0.1 mg/L
Sulfate	250 mg/L (see Note below)
TDS	500 mg/L (see Note below)
Zinc	5 mg/L

Note: Maximum allowable Fluoride, TDS and Sulfate levels are given in the Primary Drinking Water Standards, R309-200-5(1). They are listed as secondary standards because levels in excess of these recommended levels will likely cause consumer complaint.

R309-200-7. Treatment Techniques and Unregulated Contaminants.

(1) The Board has determined that the minimum level of treatment as described in R309-525 and R309-530 herein or its equivalent is required for surface water sources and ground water contaminated by surface sources.

(2) For all public water systems which use surface water or ground water under the direct influence of surface water, R309-200, 215, 505, 510, 520, 525 and 530 establish or extend treatment technique requirements in lieu of maximum contaminant levels for the following contaminants: Giardia lamblia, viruses, heterotrophic plate count bacteria, Legionella, Cryptosporidium, and turbidity. The treatment technique requirements consist of installing and properly operating water treatment processes which reliably achieve:

(a) at least 99.9 percent (3-log) removal and/or inactivation of Giardia lamblia cysts between a point where the raw water is not subject to re-contamination by surface water runoff and a point downstream before or at the first customer;

(b) at least 99.99 percent (4-log) removal and/or inactivation of viruses between a point where the raw water is not subject to re-contamination by surface water runoff and a point downstream before or at the first customer.

(c) At least 99 percent (2-log) removal of Cryptosporidium between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer.

(d) Compliance with the profiling and benchmark requirements under the provisions of R309-215-14.

(3) No MCLs are established herein for unregulated contaminants; viruses, protozoans and other chemical and biological substances. Some unregulated contaminants shall be monitored for in accordance with 40 CFR 141.40.

R309-200-8. Approved Laboratories.

(1) For the purpose of determining compliance, samples may be considered only if they have been analyzed by the State of Utah primacy laboratory or a laboratory certified by the Utah State Health Laboratory. However, measurements for pH, temperature, turbidity and disinfectant residual, daily chlorite, TOC, UV254, DOC and SUVA may, under the direction of the direct responsible charge operator, be performed by any water supplier or their representative.

(2) All samples shall be marked either: routine, repeat, check or investigative before submission of such samples to a certified lab. Routine, repeat, and check samples shall be considered compliance purposes samples.

(3) All public water systems shall either: contract with a certified laboratory to have the laboratory send all compliance purposes sample results, with the exception of Lead/Copper data, to the Division of Drinking Water, or shall inform the Division of Drinking Water that they intend to forward all compliance purposes samples to the Division. Each public water system shall furnish the Division of Drinking Water a copy of the contract with their certified laboratory or inform the Division in writing of the public water system's intent to forward the data to the Division.

(4) All sample results can be sent either electronically or in hard copy form.

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R309. Environmental Quality, Drinking Water.
R309-210. Monitoring and Water Quality: Distribution System Monitoring Requirements.
R309-210-1. Purpose.

The purpose of this rule is to outline the monitoring requirements for public water systems with regard to their distribution systems.

R309-210-2. Authority.
R309-210-3. Definitions.
R309-210-4. General distribution system monitoring requirements.
R309-210-5. Microbiological Monitoring.
R309-210-6. Lead and Copper Monitoring.
R309-210-7. Asbestos Distribution System Monitoring.
R309-210-8. Disinfection Byproducts - Stage 1 Requirements.
R309-210-9. Disinfection Byproducts - Initial Distribution System Evaluations (IDSE).
R309-210-10. Disinfection Byproducts - Stage 2 Requirements.

R309-210-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63G-3 of the same, known as the Administrative Rulemaking Act.

R309-210-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-210-4. General.

(1) All public water systems are required to monitor their water to determine if they comply with the requirements for water quality stated in R309-200. In exceptional circumstances the Director may modify the monitoring requirements given herein as is deemed appropriate.

(2) The Director may determine compliance or initiate compliance actions based upon analytical results and other information compiled by authorized representatives.

(3) If the water fails to meet minimum standards, then certain public notification procedures must be carried out, as outlined in R309-220. Water suppliers must also keep analytical records in their possession, for a required length of time, as outlined in R309-105-17.

(4) All samples shall be taken at representative sites as specified herein for each contaminant or group of contaminants.

(5) For the purpose of determining compliance, samples may only be considered if they have been analyzed by the State of Utah primacy laboratory or a laboratory certified by the Utah State Health Laboratory.

(6) Measurements for pH, temperature, turbidity and disinfectant residual may, under the direction of the direct responsible operator, be performed by any water supplier or their representative.

(7) All samples must be marked either: routine, repeat, check or investigative before submission of such samples to a certified laboratory. Routine, repeat, and check samples shall be considered compliance purpose samples.

(8) All sample results can be sent to the Division of Drinking Water either electronically or in hard copy form.

(9) Unless otherwise required by the Director, the effective dates on which required monitoring shall be initiated are identical to the dates published in 40 CFR 141 on July 1, 2001 by the Office of the Federal Register.

(10) Exemptions from monitoring requirements shall only be granted in accordance with R309-105-5.

R309-210-6. Lead and Copper Monitoring.

(1) General requirements.

(a) Applicability and effective dates

(i) The requirements of R309-210-6. unless otherwise indicated, apply to community water systems and non-transient non-community water systems (hereinafter referred to as water systems or systems).

(b) R309-210-6 establishes a treatment technique that includes requirements for corrosion control treatment, source water treatment, lead service line replacement, and public education. These requirements are triggered, in some cases, by lead and copper action levels measured in samples collected at consumers' taps.

(c) Corrosion control treatment requirements

(i) All water systems shall install and operate optimal corrosion control treatment. However, any water system that complies with the applicable corrosion control treatment requirements specified by the Director under R309-210-6(2) and R309-210-6(4)(a) shall be deemed in compliance with this treatment requirement.

(d) Source water treatment requirements

Any system exceeding the lead or copper action level shall implement all applicable source water treatment requirements specified by the Director under R309-210-6(4)(b).

(e) Lead service line replacement requirements

Any system exceeding the lead action level after implementation of applicable corrosion control and source water treatment requirements shall complete the lead service line replacement requirements contained in R309-210-6(4)(c).

(f) Public education requirements

Pursuant to R309-210-6(7), all water systems must provide a consumer notice of lead tap water monitoring results to persons served at the sites (taps) that are tested. Any system exceeding the lead action level shall implement the public education requirements.

(g) Monitoring and analytical requirements

Tap water monitoring for lead and copper, monitoring for water quality parameters, source water monitoring for lead and copper, and analyses of the monitoring results shall be completed in compliance with R309-210-6(3), R309-210-6(5), R309-210-6(6) and R309-200-8.

(h) Reporting requirements

Systems shall report to the Director any information required by the treatment provisions of this subpart and R309-210-6(8).

(i) Recordkeeping requirements

Systems shall maintain records in accordance with R309-105-17(2).

(j) Violation of primary drinking water rules

Failure to comply with the applicable requirements of R309-210-6., including requirements established by the Director pursuant to these provisions, shall constitute a violation of the primary drinking water regulations for lead and/or copper.

(2) Applicability of corrosion control treatment steps to small, medium-size and large water systems.

(a) Systems shall complete the applicable corrosion control treatment requirements described in R309-210-6(4)(a) by the deadlines established in this section.

(i) A large system (serving greater than 50,000 persons) shall complete the corrosion control treatment steps specified in R309-210-6(2)(d), unless it is deemed to have optimized corrosion control under R309-210-6(2)(b)(ii) or (b)(iii).

(ii) A small system (serving less than 3300 persons) and a medium-size system (serving greater than 3,300 and less than 50,000 persons) shall complete the corrosion control treatment steps specified in R309-210-6(2)(e), unless it is deemed to have optimized corrosion control under R309-210-6(2)(b)(i), (b)(ii), or (b)(iii).

(b) A system is deemed to have optimized corrosion

control and is not required to complete the applicable corrosion control treatment steps identified in this section if the system satisfies one of the criteria in paragraphs (b)(i) through (b)(iii) of this section. Any such system deemed to have optimized corrosion control under this paragraph, and which has treatment in place, shall continue to operate and maintain optimal corrosion control treatment and meet any requirements that the Director determines appropriate to ensure optimal corrosion control treatment is maintained.

(i) A small or medium-size water system is deemed to have optimized corrosion control if the system meets the lead and copper action levels during each of two consecutive six-month monitoring periods conducted in accordance with R309-210-6(3).

(ii) Any water system may be deemed by the Director to have optimized corrosion control treatment if the system demonstrates to the satisfaction of the Director that it has conducted activities equivalent to the corrosion control steps applicable to such system under this section. If the Director makes this determination, it shall provide the system with written notice explaining the basis for its decision and shall specify the water quality control parameters representing optimal corrosion control in accordance with R309-210-6(4)(a)(vi). Water systems deemed to have optimized corrosion control under this paragraph shall operate in compliance with the Director designated optimal water quality control parameters in accordance with R309-210-6(4)(a)(vii) and continue to conduct lead and copper tap and water quality parameter sampling in accordance with R309-210-6(3)(d)(iii) and R309-210-6(5)(d), respectively. A system shall provide the Director with the following information in order to support a determination under this paragraph:

(A) the results of all test samples collected for each of the water quality parameters in R309-210-6(4)(a)(iii)(C).

(B) a report explaining the test methods used by the water system to evaluate the corrosion control treatments listed in R309-210-6(4)(a)(iii)(A), the results of all tests conducted, and the basis for the system's selection of optimal corrosion control treatment;

(C) a report explaining how corrosion control has been installed and how it is being maintained to insure minimal lead and copper concentrations at consumers' taps; and

(D) the results of tap water samples collected in accordance with R309-210-6(3) at least once every six months for one year after corrosion control has been installed.

(iii) Any water system is deemed to have optimized corrosion control if it submits results of tap water monitoring conducted in accordance with R309-210-6(3) and source water monitoring conducted in accordance with R309-210-6(6) that demonstrates for two consecutive six-month monitoring periods that the difference between the 90th percentile tap water lead level computed under R309-200-5(2)(c), and the highest source water lead concentration, is less than the Practical Quantitation Level (PQL) for lead as specified in R309-104-8.

(A) Those systems whose highest source water lead level is below the Method Detection Limit may also be deemed to have optimized corrosion control under this paragraph if the 90th percentile tap water lead level is less than or equal to the Practical Quantitation Level for lead for two consecutive 6-month monitoring periods.

(B) Any water system deemed to have optimized corrosion control in accordance with this paragraph shall continue monitoring for lead and copper at the tap no less frequently than once every three calendar years using the reduced number of sites specified in R309-210-6(3)(c) and collecting the samples at times and locations specified in R309-210-6(3)(d)(iv)(D). Any such system that has not conducted a round of monitoring pursuant to R309-210-6(3)(d) since September 30, 1997, shall complete a round of monitoring pursuant to this paragraph no later than September 30, 2000.

(C) Any water system deemed to have optimized corrosion control pursuant to this paragraph shall notify the Director in writing pursuant to R309-210-6(8)(a)(iii) of any upcoming long-term change in treatment or addition of a new source as described in that section. The Director must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Director may require any such system to conduct additional monitoring or to take other action the Director deems appropriate to ensure that such systems maintain minimal levels of corrosion in the distribution system.

(D) As of July 12, 2001, a system is not deemed to have optimized corrosion control under this paragraph, and shall implement corrosion control treatment pursuant to paragraph (b)(iii)(E) of this section unless it meets the copper action level.

(E) Any system triggered into corrosion control because it is no longer deemed to have optimized corrosion control under this paragraph shall implement corrosion control treatment in accordance with the deadlines in paragraph (e) of this section. Any such large system shall adhere to the schedule specified in that paragraph for medium-size systems, with the time periods for completing each step being triggered by the date the system is no longer deemed to have optimized corrosion control under this paragraph.

(c) Any small or medium-size water system that is required to complete the corrosion control steps due to its exceedance of the lead or copper action level may cease completing the treatment steps whenever the system meets both action levels during each of two consecutive monitoring periods conducted pursuant to R309-210-6(3) and submits the results to the Director. If any such water system thereafter exceeds the lead or copper action level during any monitoring period, the system (or the Director, as the case may be) shall recommence completion of the applicable treatment steps, beginning with the first treatment step which was not previously completed in its entirety. The Director may require a system to repeat treatment steps previously completed by the system where the Director determines that this is necessary to implement properly the treatment requirements of this section. The Director shall notify the system in writing of such a determination and explain the basis for its decision. The requirement for any small or medium size system to implement corrosion control treatment steps in accordance with paragraph (e) of this section (including systems deemed to have optimized corrosion control under paragraph (b)(i) of this section) is triggered whenever any small or medium size system exceeds the lead or copper action level.

(d) Treatment steps and deadlines for large systems

Except as provided in R309-210-6(2)(b)(ii) and (b)(iii), large systems shall complete the following corrosion control treatment steps by the indicated dates.

(i) Step 1: The system shall conduct initial monitoring (R309-210-6(3)(d)(i) and R309-210-6(5)(b)) during two consecutive six-month monitoring periods by January 1, 1993.

(ii) Step 2: The system shall complete corrosion control studies (R309-210-6(4)(a)(iii)) by July 1, 1994.

(iii) Step 3: The Director shall designate optimal corrosion control treatment (R309-210-6(4)(a)(iv)) by January 1, 1995.

(iv) Step 4: The system shall install optimal corrosion control treatment (R309-210-6(4)(a)(v)) by January 1, 1997.

(v) Step 5: The system shall complete follow-up sampling (R309-210-6(3)(d)(ii) and R309-210-6(5)(c)) by January 1, 1998.

(vi) Step 6: The Director shall review installation of treatment and designate optimal water quality control parameters (R309-210-6(4)(a)(vi)) by July 1, 1998.

(vii) Step 7: The system shall operate in compliance with the Director specified optimal water quality control parameters

(R309-210-6(4)(a)(vii)) and continue to conduct tap sampling (R309-210-6(3)(d)(iii) and R309-210-6(5)(d)).

(e) Treatment steps and deadlines for small and medium-size systems

Except as provided in R309-210-6(2)(b), small and medium-size systems shall complete the following corrosion control treatment steps by the indicated time periods.

(i) Step 1: The system shall conduct initial tap sampling (R309-210-6(3)(d)(i) and R309-210-6(5)(b) until the system either exceeds the lead or copper action level or becomes eligible for reduced monitoring under R309-210-6(3)(d)(iv). A system exceeding the lead or copper action level shall recommend optimal corrosion control treatment (R309-210-6(4)(a)) within six months after the end of the monitoring period during which it exceeds one of the action levels.

(ii) Step 2: Within 12 months after the end of the monitoring period during which a system exceeds the lead or copper action level, the Director may require the system to perform corrosion control studies (R309-210-6(4)(b)). If the Director does not require the system to perform such studies, the Director shall specify optimal corrosion control treatment (R309-210-6(4)(a)(iv)) within the following time-frames:

(A) for medium-size systems, within 18 months after the end of the monitoring period during which such system exceeds the lead or copper action level,

(B) for small systems, within 24 months after the end of the monitoring period during which such system exceeds the lead or copper action level.

(iii) Step 3: If the Director requires a system to perform corrosion control studies under step 2, the system shall complete the studies (R309-210-6(4)(a)(iii)) within 18 months after the Director requires that such studies be conducted.

(iv) Step 4: If the system has performed corrosion control studies under step 2, the Director shall designate optimal corrosion control treatment (R309-210-6(4)(a)(iv)) within 6 months after completion of step 3.

(v) Step 5: The system shall install optimal corrosion control treatment (R309-210-6(4)(a)(v)) within 24 months after the Director designates such treatment.

(vi) Step 6: The system shall complete follow-up sampling (R309-210-6(3)(d)(ii) and R309-210-6(5)(c)) within 36 months after the Director designates optimal corrosion control treatment.

(vii) Step 7: The Director shall review the system's installation of treatment and designate optimal water quality control parameters (R309-210-6(4)(a)(vi)) within 6 months after completion of step 6.

(viii) Step 8: The system shall operate in compliance with the Director-designated optimal water quality control parameters (R309-210-6(4)(a)(vii)) and continue to conduct tap sampling (R309-210-6(3)(d)(iii) and R309-210-6(5)(d)).

(3) Monitoring requirements for lead and copper in tap water.

(a) Sample site location

(i) By the applicable date for commencement of monitoring under R309-210-6(3)(d)(i), each water system shall complete a materials evaluation of its distribution system in order to identify a pool of targeted sampling sites that meets the requirements of this section, and which is sufficiently large to ensure that the water system can collect the number of lead and copper tap samples required in R309-210-6(3)(c). All sites from which first draw samples are collected shall be selected from this pool of targeted sampling sites. Sampling sites may not include faucets that have point-of-use or point-of-entry treatment devices designed to remove inorganic contaminants.

(ii) A water system shall use the information on lead, copper, and galvanized steel when conducting a materials evaluation. When an evaluation of this information is insufficient to locate the requisite number of lead and copper sampling sites that meet the targeting criteria in R309-210-6(3)(a), the water system shall review the sources of information listed below in order to identify a sufficient number of sampling sites. In addition, the system shall seek to collect such information where possible in the course of its normal operations (e.g., checking service line materials when reading water meters or performing maintenance activities):

(A) all plumbing codes, permits, and records in the files of the building department(s) which indicate the plumbing materials that are installed within publicly and privately owned structures connected to the distribution system;

(B) all inspections and records of the distribution system that indicate the material composition of the service connections that connect a structure to the distribution system; and

(C) all existing water quality information, which includes the results of all prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead or copper concentrations.

(iii) The sampling sites selected for a community water system's sampling pool ("tier 1 sampling sites") shall consist of single family structures that:

(A) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or

(B) are served by a lead service line.

When multiple-family residences comprise at least 20 percent of the structures served by a water system, the system may include these types of structures in its sampling pool.

(iv) Any community water system with insufficient tier 1 sampling sites shall complete its sampling pool with "tier 2 sampling sites", consisting of buildings, including multiple-family residences that:

(A) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or

(B) are served by a lead service line.

(v) Any community water system with insufficient tier 1 and tier 2 sampling sites shall complete its sampling pool with "tier 3 sampling sites", consisting of single family structures that contain copper pipes with lead solder installed before 1983. A community water system with insufficient tier 1, tier 2 and tier 3 sampling sites shall complete its sampling pool with representative sites throughout the distribution system. For the purpose of this paragraph, a representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

(vi) The sampling sites selected for a non-transient non-community water system ("tier 1 sampling sites") shall consist of buildings that:

(A) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or

(B) are served by a lead service line.

(vii) A non-transient non-community water system with insufficient tier 1 sites that meet the targeting criteria in R309-210-6(3)(a)(vi) shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983. If additional sites are needed to complete its sampling pool, the non-transient non-community water system shall use representative sites throughout the distribution system. For the purpose of this paragraph, a representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

(viii) Any water system whose distribution system contains lead service lines shall draw 50 percent of the samples it collects during each monitoring period from sites that contain lead pipes, or copper pipes with lead solder, and 50 percent of the samples from sites served by a lead service line. A water system that cannot identify a sufficient number of sampling sites served by a lead service line shall collect first draw samples from all of the sites identified as being served by such lines.

(b) Sample collection methods

(i) All tap samples for lead and copper collected in accordance with this section, with the exception of lead service line samples collected under R309-210-6(4)(c)(iii) and samples collected under (b)(v) of this section, shall be first draw samples.

(ii) Each first-draw tap sample for lead and copper shall be one liter in volume and have stood motionless in the plumbing system of each sampling site for at least six hours. First draw samples from residential housing shall be collected from the cold water kitchen tap or bathroom sink tap. First-draw samples from a nonresidential building shall be one liter in volume and shall be collected at an interior tap from which water is typically drawn for consumption. Non-first-draw samples collected in lieu of first-draw samples pursuant to paragraph (b)(v) of this section shall be one liter in volume and shall be collected at an interior tap from which water is typically drawn for consumption. First draw samples may be collected by the system or the system may allow residents to collect first draw samples after instructing the residents of the sampling procedures specified in this paragraph. To avoid problems with residents handling nitric acid, acidification of first draw samples may be done up to fourteen days after the sample is collected. After acidification to resolubilize the metals, the sample must stand in the original container for the time specified in R309-200-4(3). If a system allows residents to perform sampling, the system may not challenge, based on alleged errors in sample collection, the accuracy of sampling results.

(iii) Each service line sample shall be one liter in volume and have stood motionless in the lead service line for at least six hours. Lead service line samples shall be collected in one of the following three ways:

(A) at the tap after flushing the volume of water between the tap and the lead service line. The volume of water shall be calculated based on the interior diameter and length of the pipe between the tap and the lead service line;

(B) tapping directly into the lead service line; or

(C) if the sampling site is a building constructed as a single-family residence, allowing the water to run until there is a significant change in temperature which would be indicative of water that has been standing in the lead service line.

(iv) A water system shall collect each first draw tap sample from the same sampling site from which it collected a previous sample. If, for any reason, the water system cannot gain entry to a sampling site in order to collect a follow-up tap sample, the system may collect the follow-up tap sample from another sampling site in its sampling pool as long as the new site meets the same targeting criteria, and is within reasonable proximity of the original site.

(v) A non-transient non-community water system, or a community water system that meets the criteria for R309-210-6(7)(b)(vii), that does not have enough taps that can supply first draw samples, as defined in R309-110, may apply to the Director in writing to substitute non-first-draw samples. Such systems must collect as many first draw samples from appropriate taps as possible and identify sampling times and locations that would likely result in the longest standing time for the remaining sites. The Director herein waives the requirement for prior Director approval of non-first draw samples sites selected by the system.

(c) Number of samples

Water systems shall collect at least one sample during each monitoring period specified in R309-210-6(3)(d) from the number of sites listed in the first column (standard monitoring) in Table 210-3. A system conducting reduced monitoring under R309-210-6(3)(d)(iv) may collect one sample from the number of sites specified in the second column (reduced monitoring) in Table 210-3 during each monitoring period specified in R309-210-6(3)(d)(iv). Such reduced monitoring sites shall be representative of the sites required for standard monitoring. A public water system that has fewer than five drinking water taps, that can be used for human consumption meeting the sample site criteria of R309-210-6(6)(a) to reach the required number of sample sites listed in paragraph (c) of this section, must collect at least one sample from each tap and then must collect additional samples from those taps on different days during the monitoring period to meet the required number of sites. Alternatively the Director may allow these public water systems to collect a number of samples less than the number of sites specified in paragraph (c) of this section, provided that 100 percent of all taps that can be used for human consumption are sampled. The Director must approve this reduction of the minimum number of samples in writing based on a request from the system or onsite verification by the Director. The Director may specify sampling locations when a system is conducting reduced monitoring to ensure that fewer number of sampling sites are representative of the risk to public health as outlined in R309-210-6(3)(a).

TABLE 210-3
NUMBER OF LEAD AND COPPER SAMPLING SITES

System Size (# People Served)	# of sites (Standard Monitoring)	# of sites (Reduced Monitoring)
Greater than 100,000	100	50
10,001 to 100,000	60	30
3,301 to 10,000	40	20
501 to 3,300	20	10
101 to 500	10	5
100 or less	5	5

(d) Timing of monitoring

(i) Initial tap sampling

The first six-month monitoring period for small, medium-size and large systems shall begin on the following dates in Table 210-4:

TABLE 210-4
INITIAL LEAD AND COPPER MONITORING PERIODS

System Size (# People Served)	First six-month Monitoring Period Begins On
Greater than 50,000	January 1, 1992
3,301 to 50,000	July 1, 1992
3,300 or less	July 1, 1993

(A) All large systems shall monitor during two consecutive six-month periods.

(B) All small and medium-size systems shall monitor during each six-month monitoring period until:

(I) the system exceeds the lead or copper action level and is therefore required to implement the corrosion control treatment requirements under R309-210-6(2), in which case the system shall continue monitoring in accordance with R309-210-6(3)(d)(ii), or

(II) the system meets the lead and copper action levels during two consecutive six-month monitoring periods, in which case the system may reduce monitoring in accordance with R309-210-6(3)(d)(iv).

(ii) Monitoring after installation of corrosion control and source water treatment

(A) Any large system which installs optimal corrosion control treatment pursuant to R309-210-6(2)(d)(iv) shall monitor during two consecutive six-month monitoring periods by the date specified in R309-210-6(2)(d)(v).

(B) Any small or medium-size system which installs optimal corrosion control treatment pursuant to R309-210-6(2)(e)(v) shall monitor during two consecutive six-month monitoring periods by the date specified in R309-210-6(2)(e)(vi).

(C) Any system which installs source water treatment

pursuant to R309-210-6(4)(b)(i)(C) shall monitor during two consecutive six-month monitoring periods by the date specified in R309-210-6(4)(b)(i)(D).

(iii) Monitoring after Director specifies water quality parameter values for optimal corrosion control

After the Director specifies the values for water quality control parameters under R309-210-6(4)(a)(vi), the system shall monitor during each subsequent six-month monitoring period, with the first monitoring period to begin on the date the Director specifies the optimal values under R309-210-6(4)(a)(vi).

(iv) Reduced monitoring

(A) A small or medium-size water system that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of samples in accordance with R309-210-6(3)(c), Table 210-3, and reduce the frequency of sampling to once per year. A small or medium water system collecting fewer than five samples as specified in paragraph (c) of this section, that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the frequency of sampling to once per year. In no case can the system reduce the number of samples required below the minimum of one sample per available tap. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

(B) Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Director under R309-210-6(4)(a)(vi) during each of two consecutive six-month monitoring periods may reduce the frequency of monitoring to once per year and reduce the number of lead and copper samples in accordance with paragraph (c) of this section if it receives written approval from the Director. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. The Director shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with R309-210-6(8), and shall notify the system in writing when it determines the system is eligible to commence reduced monitoring pursuant to this paragraph. The Director shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(C) A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Director under R309-210-6(4)(f) during three consecutive years of monitoring may reduce the frequency of monitoring from annually to once every three years if it receives written approval from the Director. Samples collected once every three years shall be collected no later than every third calendar year. The Director shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with R309-210-6(8), and shall notify the system in writing when it determines the system is eligible to reduce the frequency of monitoring to once every three years. The Director shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(D) A water system that reduces the number and frequency of sampling shall collect these samples from representative sites included in the pool of targeted sampling sites identified in R309-210-6(3)(a). Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of June, July, August or September unless the Director has approved a different sampling period in accordance with paragraph (d)(iv)(D)(I) of this section.

(I) The Director, at its discretion, may approve a different period for conducting the lead and copper tap sampling for systems collecting a reduced number of samples. Such a period shall be no longer than four consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. For a non-transient non-community water system that does not operate during the months of June through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known, the Director shall designate a period that represents a time of normal operation for the system. This sampling shall begin during the period approved or designated by the State in the calendar year immediately following the end of the second consecutive six-month monitoring period for systems initiating annual monitoring and during the three-year period following the end of the third consecutive calendar year of annual monitoring for systems initiating triennial monitoring.

(II) Systems monitoring annually, that have been collecting samples during the months of June through September and that receive Director approval to alter their sample collection period under paragraph (d)(iv)(D)(I) of this section, must collect their next round of samples during a time period that ends no later than 21 months after the previous round of sampling. Systems monitoring triennially that have been collecting samples during the months of June through September, and receive Director approval to alter the sampling collection period as per (d)(iv)(D)(I) of this section, must collect their next round of samples during a time period that ends no later than 45 months after the previous round of sampling. Subsequent rounds of sampling must be collected annually or triennially, as required by this section. Small systems with waivers, granted pursuant to paragraph (g) of this section, that have been collecting samples during the months of June through September and receive Director approval to alter their sample collection period under paragraph (d)(iv)(D)(I) of this section must collect their next round of samples before the end of the 9 year period.

(E) Any water system that demonstrates for two consecutive 6 month monitoring periods that the tap water lead level computed under R309-200-5(2)(c) is less than or equal to 0.005 mg/L and the tap water copper level computed under R309-200-5(2)(c) is less than or equal to 0.65 mg/L may reduce the number of samples in accordance paragraph (c) of this section and reduce the frequency of sampling to once every three calendar years.

(F)(I) A small or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling in accordance R309-210-6(3)(d)(iii) and collect the number of samples specified for standard monitoring under R309-210-6(3)(c), Table 210-3. Such system shall also conduct water quality parameter monitoring in accordance with R309-210-6(5)(b), (c) or (d) (as appropriate) during the monitoring period in which it exceeded the action level. Any such system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in paragraph (c) of this section after it has completed two subsequent consecutive six month rounds of monitoring that meet the criteria of paragraph (d)(iv)(A) of this section or may resume triennial monitoring for lead and copper at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either paragraph (d)(vi)(C) or (d)(iv)(D) of this section.

(II) Any water system subject to the reduced monitoring frequency that fails to meet the lead action level during any four-month monitoring period or that fails to operate at or above

the minimum value or within the range of values for the water quality parameters specified by the Director under R309-210-6(4)(a)(vi) for more than nine days in any six-month period specified in R309-210-6(5)(d) shall conduct tap water sampling for lead and copper at the frequency specified in paragraph (d)(iii) of this section, collect the number of samples specified for standard monitoring under paragraph (c) of this section, and shall resume monitoring for water quality parameters within the distribution system in accordance with R309-210-6(5)(d). This standard tap water sampling shall begin no later than the six-month period beginning January 1 of the calendar year following the lead action level exceedance or water quality parameter excursion. Such a system may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions:

(aa) The system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in paragraph (c) of this section after it has completed two subsequent six month rounds of monitoring that meet the criteria of paragraph (d)(iv)(B) of this section and the system has received written approval from the Director that it is appropriate to resume reduced monitoring on an annual frequency. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

(bb) The system may resume triennial monitoring for lead and copper at the tap at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either paragraph (d)(iv)(C) or (d)(iv)(E) of this section and the system has received written approval from the Director that it is appropriate to resume triennial monitoring.

(cc) The system may reduce the number of water quality parameter tap water samples required in accordance with R309-210-6(5)(e)(i) and the frequency with which it collects such samples in accordance with R309-210-6(5)(e)(ii). Such a system may not resume triennial monitoring for water quality parameters at the tap until it demonstrates, in accordance with the requirements of R309-210-6(5)(e)(ii), that it has requalified for triennial monitoring.

(G) Any water system subject to a reduced monitoring frequency under paragraph (d)(iv) of this section shall notify the Director in writing in accordance with R309-210-6(8)(a)(iii) of any upcoming long-term change in treatment or addition of a new source as described in that section. The Director must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Director may require the system to resume sampling in accordance with paragraph (d)(iii) of this section and collect the number of samples specified for standard monitoring under paragraph (c) of this section or take other appropriate steps such as increased water quality parameter monitoring or re-evaluation of its corrosion control treatment given the potentially different water quality considerations.

(e) Additional monitoring by systems

The results of any monitoring conducted in addition to the minimum requirements of this section shall be considered by the system and the Director in making any determinations (i.e., calculating the 90th percentile lead or copper level).

(f) Invalidation of lead or copper tap water samples. A sample invalidated under this paragraph does not count toward determining lead or copper 90th percentile levels under Sec. 141.80 (c) (3) or toward meeting the minimum monitoring requirements of paragraph (c) of this section.

(i) The Director may invalidate a lead or copper tap water sample at least if one of the following conditions is met.

(A) The laboratory establishes that improper sample analysis caused erroneous results.

(B) The Director determines that the sample was taken from a site that did not meet the site selection criteria of this section.

(C) The sample container was damaged in transit.

(D) There is substantial reason to believe that the sample was subject to tampering.

(ii) The system must report the results of all samples to the Director and all supporting documentation for samples the system believes should be invalidated.

(iii) To invalidate a sample under paragraph (f)(i) of this section, the decision and the rationale for the decision must be documented in writing. The Director may not invalidate a sample solely on the grounds that a follow-up sample result is higher or lower than that of the original sample.

(iv) The water system must collect replacement samples for any samples invalidated under this section if, after the invalidation of one or more samples, the system has too few samples to meet the minimum requirements of paragraph (c) of this section. Any such replacement samples must be taken as soon as possible, but no later than 20 days after the date the Director invalidates the sample or by the end of the applicable monitoring period, whichever occurs later. Replacement samples taken after the end of the applicable monitoring period shall not also be used to meet the monitoring requirements of a subsequent monitoring period. The replacement samples shall be taken at the same locations as the invalidated samples or, if that is not possible, at locations other than those already used for sampling during the monitoring period.

(g) Monitoring waivers for small systems. Any small system that meets the criteria of this paragraph may apply to the Director to reduce the frequency of monitoring for lead and copper under this section to once every nine years (i.e., a full waiver) if it meets all of the materials criteria specified in paragraph (g)(i) of this section and all of the monitoring criteria specified in paragraph (g) (ii) of this section. Any small system that meets the criteria in paragraphs (g) (i) and (ii) of this section only for lead, or only for copper, may apply to the Director for a waiver to reduce the frequency of tap water monitoring to once ever nine years for that contaminant only (i.e., a partial waiver).

(i) Materials criteria. The system must demonstrate that its distribution system and service lines and all drinking water supply plumbing, including plumbing conveying drinking water within all residences and buildings connected to the system, are free of lead-containing materials and/or copper-containing materials, as those terms are defined in this paragraph, as follows:

(A) Lead. To qualify for a full waiver, or a waiver of the tap water monitoring requirements for lead (i.e., a lead waiver), the water system must provide certification and supporting documentation to the Director that the system is free of all lead-containing materials, as follows:

(I) It contains no plastic pipes which contain lead plasticizers, or plastic service lines which contain lead plasticizers; and

(II) It is free of lead service lines, lead pipes, lead soldered pipe joints, and leaded brass or bronze alloy fittings and fixtures, unless such fittings and fixtures meet the specifications of any standard established pursuant to 42 U.S.C. 300g-6(e) (SDWA section 1417 (e)).

(B) Copper. To qualify for a full waiver, or waiver of the tap water monitoring requirements for copper (i.e., a copper waiver), the water system must provide certification and supporting documentation to the Director that the system contains no copper pipes or copper service lines.

(ii) Monitoring criteria for waiver issuance. The system must have completed at least one 6-month round of standard tap water monitoring for lead and copper at sites approved by the Director and from the number of sites required by paragraph (c) of this section and demonstrate that the 90th percentile levels

for any and all rounds of monitoring conducted since the system became free of all lead-containing and/or copper-containing materials, as appropriate, meet the following criteria.

(A) Lead levels. To qualify for a full waiver, or a lead waiver, the system must demonstrate that the 90th percentile lead level does not exceed 0.005 mg/L.

(B) Copper levels. To qualify for a full waiver, or a copper waiver, the system must demonstrate that the 90th percentile lead level does not exceed 0.65 mg/L.

(iii) Director approval of waiver application. The Director shall notify the system of its waiver determination, in writing, setting forth the basis of its decision and any condition of the waiver. As a condition of the waiver, the Director may require the system to perform specific activities (e.g., limited monitoring, periodic outreach to customers to remind them to avoid installation of materials that might void the waiver) to avoid the risk of lead or copper concentration of concern in tap water. The small system must continue monitoring for lead and copper at the tap as required by paragraphs (d) (i) through (d) (iv) of this section, as appropriate, until it receives written notification from the Director the waiver has been approved.

(iv) Monitoring frequency for systems with waivers.

(A) A system with a full waiver must conduct tap water monitoring for lead and copper in accordance with paragraph (d)(iv)(D) of this section at the reduced number of sampling sites identified in paragraph (c) of this section at least once every nine years and provide the materials certification specified in paragraph (g)(i) of this section for both lead and copper to the Director along with the monitoring results. Samples collected every nine years shall be collected no later than every ninth calendar year.

(B) A system with a partial waiver must conduct tap water monitoring for the waived contaminant in accordance with paragraph (d)(iv)(D) of this section at the reduced number of sampling sites specified in paragraph (c) of this section at least once every nine years and provide the materials certification specified in paragraph (g)(i) of this section pertaining to the waived contaminant along with the monitoring results. Such a system also must continue to monitor for the non-waived contaminant in accordance with requirements of paragraph (d)(i) through (d)(iv) of this section, as appropriate.

(C) Any water system with a full or partial waiver shall notify the Director in writing in accordance with R309-210-6(8)(a)(iii) of any upcoming long-term change in treatment or addition of a new source, as described in that section. The Director must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Director has the authority to require the system to add or modify waiver conditions (e.g., require recertification that the system is free of lead-containing and/or copper-containing materials, require additional round(s) of monitoring), if it deems such modifications are necessary to address treatment or source water changes at the system.

(D) If a system with a full or partial waiver because aware that it is no longer free of lead-containing or copper-containing materials, as appropriate, (e.g., as a result of new construction or repairs), the system shall notify the Director in writing no later than 60 days after becoming aware of such a change.

(v) Continued eligibility. If the system continues to satisfy the requirements of paragraph (g) (iv) of this section, the waiver will be renewed automatically, unless any of the conditions listed in paragraph (g)(v)(A) through (g)(v)(C) of this section occurs. A system whose waiver has been revoked may re-apply for a waiver at such time as it again meets the appropriate materials and monitoring criteria of paragraphs (g)(i) and (g)(ii) of this section.

(A) A system with a full waiver or lead waiver no longer satisfies the materials criteria of paragraph (g)(i)(A) of this section or has a 90th percentile lead level greater than 0.005 mg/L.

(B) A system with a full waiver or a copper waiver no longer satisfies the materials criteria of paragraph (g)(i)(B) of this section or has a 90th percentile copper level greater than 0.65 mg/L.

(C) The Director notifies the system, in writing, that the waiver has been revoked, setting forth the basis of its decision.

(vi) Requirements following waiver revocation. A system whose full or partial waiver has been revoked by the Director is subject to the corrosion control treatment and lead and copper tap water monitoring requirements, as follows:

(A) If the system exceeds the lead and/or copper action level, the system must implement corrosion control treatment in accordance with the deadlines specified in R309-210-6(2)(e), and any other applicable requirements of this subpart.

(B) If the system meets both the lead and the copper action level, the system must monitor for lead and copper at the tap no less frequently than once every three years using the reduced number of sample sites specified in paragraph (c) of this section.

(vii) Pre-existing waivers. Small system waivers approved by the Director in writing prior to April 11, 2000 shall remain in effect under the following conditions:

(A) If the system has demonstrated that it is both free of lead-containing and copper- containing materials, as required by paragraph (g)(i) of this section and that its 90th percentile lead levels and 90th percentile copper levels meet the criteria of paragraph (g)(ii) of this section, the waiver remains in effect so long as the system continues to meet the waiver eligibility criteria of paragraph (g)(v) of this section. The first round of tap water monitoring conducted pursuant to paragraph (g)(iv) of this section shall be completed no later than nine years after the last time the system has monitored for lead and copper at the tap.

(B) If the system has met the materials criteria of paragraph (g)(i) of this section but has not met the monitoring criteria of paragraph (g)(ii) of this section, the system shall conduct a round of monitoring for lead and copper at the tap demonstrating that it meets the criteria of paragraph (g)(ii) of this section no later than September 30, 2000. Thereafter, the waiver shall remain in effect as long as the system meets the continued eligibility criteria of paragraph (g)(v) of this section. The first round of tap water monitoring conducted pursuant to paragraph (g)(iv) of this section shall be completed no later than nine years after the round of monitoring conducted pursuant to paragraph (g)(ii) of this section.

(4) Corrosion Control for Control of Lead and Copper

(a) Description of corrosion control treatment requirements.

Each system shall complete the corrosion control treatment requirements described below which are applicable to such system under R309-210-6(2).

(i) System recommendation regarding corrosion control treatment

Based upon the results of lead and copper tap monitoring and water quality parameter monitoring, small and medium-size water systems exceeding the lead or copper action level shall recommend installation of one or more of the corrosion control treatments listed in R309-210-6(4)(a)(iii)(A) which the system believes constitutes optimal corrosion control for that system. The Director may require the system to conduct additional water quality parameter monitoring in accordance with R309-210-6(5)(b) to assist the Director in reviewing the system's recommendation.

(ii) Studies of corrosion control treatment required for small and medium-size systems.

The Director may require any small or medium-size system that exceeds the lead or copper action level to perform corrosion control studies under R309-210-6(4)(a)(iii) to identify optimal corrosion control treatment for the system.

(iii) Performance of corrosion control studies

(A) Any public water system performing corrosion control studies shall evaluate the effectiveness of each of the following treatments, and, if appropriate, combinations of the following treatments to identify the optimal corrosion control treatment for that system:

(I) alkalinity and pH adjustment;

(II) calcium hardness adjustment; and

(III) the addition of a phosphate or silicate based corrosion inhibitor at a concentration sufficient to maintain an effective residual concentration in all test tap samples.

(B) The water system shall evaluate each of the corrosion control treatments using either pipe rig/loop tests, metal coupon tests, partial-system tests, or analyses based on documented analogous treatments with other systems of similar size, water chemistry and distribution system configuration.

(C) The water system shall measure the following water quality parameters in any tests conducted under this paragraph before and after evaluating the corrosion control treatments listed above:

(I) lead;

(II) copper;

(III) pH;

(IV) alkalinity;

(V) calcium;

(VI) conductivity;

(VII) orthophosphate (when an inhibitor containing a phosphate compound is used);

(VIII) silicate (when an inhibitor containing a silicate compound is used);

(IX) water temperature.

(D) The water system shall identify all chemical or physical constraints that limit or prohibit the use of a particular corrosion control treatment and document such constraints with at least one of the following:

(I) data and documentation showing that a particular corrosion control treatment has adversely affected other water treatment processes when used by another water system with comparable water quality characteristics; and/or

(II) data and documentation demonstrating that the water system has previously attempted to evaluate a particular corrosion control treatment and has found that the treatment is ineffective or adversely affects other water quality treatment processes.

(E) The water system shall evaluate the effect of the chemicals used for corrosion control treatment on other water quality treatment processes.

(F) On the basis of an analysis of the data generated during each evaluation, the water system shall recommend to the Director in writing the treatment option that the corrosion control studies indicate constitutes optimal corrosion control treatment for that system. The water system shall provide a rationale for its recommendation along with all supporting documentation specified in R309-210-6(4)(a)(iii)(A) through R309-210-6(4)(a)(iii)(E).

(iv) Designation of optimal corrosion control treatment

(A) Based upon consideration of available information including, where applicable, studies performed under R309-210-6(4)(a)(iii) and a system's recommended treatment alternative, the Director shall either approve the corrosion control treatment option recommended by the system, or designate alternative corrosion control treatment(s) from among those listed in R309-210-6(4)(a)(iii)(A). When designating optimal treatment the Director shall consider the effects that additional corrosion control treatment will have on water quality parameters and on other water quality treatment processes.

(B) The Director shall notify the system of its decision on optimal corrosion control treatment in writing and explain the basis for this determination. If the Director requests additional information to aid its review, the water system shall provide the information.

(v) Installation of optimal corrosion control

Each system shall properly install and operate throughout its distribution system the optimal corrosion control treatment designated by the Director under R309-210-6(4)(a)(iv).

(vi) Review of treatment and specification of optimal water quality control parameters

The Director shall evaluate the results of all lead and copper tap samples and water quality parameter samples submitted by the water system and determine whether the system has properly installed and operated the optimal corrosion control treatment designated by the Director in R309-210-6(4)(a)(iv). Upon reviewing the results of tap water and water quality parameter monitoring by the system, both before and after the system installs optimal corrosion control treatment, the Director shall designate:

(A) A minimum value or a range of values for pH measured at each entry point to the distribution system;

(B) A minimum pH value, measured in all tap samples. Such value shall be equal to or greater than 7.0, unless the Director determines that meeting a pH level of 7.0 is not technologically feasible or is not necessary for the system to optimize corrosion control;

(C) If a corrosion inhibitor is used, a minimum concentration or a range of concentrations for the inhibitor, measured at each entry point to the distribution system and in all tap samples, that the Director determines is necessary to form a passivating film on the interior walls of the pipes of the distribution system;

(D) If alkalinity is adjusted as part of optimal corrosion control treatment, a minimum concentration or a range of concentrations for alkalinity, measured at each entry point to the distribution system and in all tap samples;

(E) If calcium carbonate stabilization is used as part of corrosion control, a minimum concentration or a range of concentrations for calcium, measured in all tap samples.

The values for the applicable water quality control parameters listed above shall be those that the Director determines to reflect optimal corrosion control treatment for the system. The Director may designate values for additional water quality control parameters determined by the Director to reflect optimal corrosion control for the system. The Director shall notify the system in writing of these determinations and explain the basis for the decisions.

(vii) Continued operation and monitoring. All systems optimizing corrosion control shall continue to operate and maintain optimal corrosion control treatment, including maintaining water quality parameters at or above minimum values or within ranges designated by the Director under paragraph (vi) of this section, in accordance with this paragraph for all samples collected under R309-210-6(5)(d) through (f). Compliance with the requirements of this paragraph shall be determined every six months, as specified under R309-210-6(5)(d). A water system is out of compliance with the requirements of this paragraph for a six-month period of it has excursions for any Director specified parameter on more than nine days during the period. An excursion occurs whenever the daily value for one or more of the water quality parameters measured at a sampling location is below the minimum value or outside the range designated by the Director. Daily values are calculated as follows. The Director has discretion to delete results of obvious sampling errors from this calculation.

(A) On days when more than one measurement for the water quality parameter is collected at the sampling location, the daily value shall be the average of all results collected during the day regardless of whether they are collected through continuous monitoring, grab sampling, or combination of both.

(B) On days when only one measurement for the water

quality parameter is collected at the sampling location, the daily value shall be the result of that measurement.

(C) On days when no measurement is collected for the water quality parameter at the sampling location, the daily value shall be the daily value calculated on the most recent day on which the water quality parameter was measured at the sample site.

(viii) Modification of treatment decisions

Upon its own initiative or in response to a request by a water system or other interested party, the Director may modify its determination of the optimal corrosion control treatment under R309-210-6(4)(a)(iv) or optimal water quality control parameters under R309-210-6(4)(a)(vi). A request for modification by a system or other interested party shall: be in writing, explain why the modification is appropriate, and provide supporting documentation. The Director may modify its determination where it concludes that such change is necessary to ensure that the system continues to optimize corrosion control treatment. A revised determination shall: be made in writing, set forth the new treatment requirements, explain the basis for the Director's decision, and provide an implementation schedule for completing the treatment modifications.

(b) Source water treatment requirements.

Systems shall complete the applicable source water monitoring and treatment requirements (described in the referenced portions of R309-210-6(4)(b)(ii), and in R309-210-6(3), and R309-210-6(6)) by the following deadlines.

(i) Deadlines for Completing Source Water Treatment Steps

(A) Step 1: A system exceeding the lead or copper action level shall complete lead and copper source water monitoring (R309-210-6(6)(b)) and make a treatment recommendation to the Director (R309-210-6(4)(b)(i)) no later than 180 days after the end of the monitoring period during which the lead or copper action level was exceeded.

(B) Step 2: The Director shall make a determination regarding source water treatment (R309-210-6(4)(b)(ii)(B)) within 6 months after submission of monitoring results under step 1.

(C) Step 3: If the Director requires installation of source water treatment, the system shall install the treatment (R309-210-6(4)(b)(ii)(C)) within 24 months after completion of step 2.

(D) Step 4: The system shall complete follow-up tap water monitoring (R309-210-6(3)(d)(ii)) and source water monitoring (R309-210-6(6)(c)) within 36 months after completion of step 2.

(E) Step 5: The Director shall review the system's installation and operation of source water treatment and specify maximum permissible source water levels (R309-210-6(4)(b)(ii)(D)) within 6 months after completion of step 4.

(F) Step 6: The system shall operate in compliance with the Director specified maximum permissible lead and copper source water levels (R309-210-6(4)(b)(ii)(D)) and continue source water monitoring (R309-210-6(6)(d)).

(ii) Description of Source Water Treatment Requirements

(A) System treatment recommendation

Any system which exceeds the lead or copper action level shall recommend in writing to the Director the installation and operation of one of the source water treatments listed in R309-210-6(4)(b)(ii)(B). A system may recommend that no treatment be installed based upon a demonstration that source water treatment is not necessary to minimize lead and copper levels at users' taps.

(B) Determination regarding source water treatment

The Director shall complete an evaluation of the results of all source water samples submitted by the water system to determine whether source water treatment is necessary to minimize lead or copper levels in water delivered to users' taps. If the Director determines that treatment is needed, the Director shall either require installation and operation of the source water treatment recommended by the system (if any) or require the installation and operation of another source water treatment from among the following: ion exchange, reverse osmosis, lime softening or coagulation/filtration. If the Director requests additional information to aid in its review, the water system shall provide the information by the date specified by the Director in its request. The Director shall notify the system in writing of the determination and set forth the basis for the decision.

(C) Installation of source water treatment

Each system shall properly install and operate the source water treatment designated by the Director under R309-210-6(4)(b)(ii)(B).

(D) Review of source water treatment and specification of maximum permissible source water levels

The Director shall review the source water samples taken by the water system both before and after the system installs source water treatment, and determine whether the system has properly installed and operated the source water treatment designated by the Director. Based upon its review, the Director shall designate the maximum permissible lead and copper concentrations for finished water entering the distribution system. Such levels shall reflect the contaminant removal capability of the treatment properly operated and maintained. The Director shall notify the system in writing and explain the basis for the decision.

(E) Continued operation and maintenance

Each water system shall maintain lead and copper levels below the maximum permissible concentrations designated by the Director at each sampling point monitored in accordance with R309-210-6(6). The system is out of compliance with this paragraph if the level of lead or copper at any sampling point is greater than the maximum permissible concentration designated by the Director.

(F) Modification of treatment decisions

Upon its own initiative or in response to a request by a water system or other interested party, the Director may modify its determination of the source water treatment under R309-210-6(4)(b)(ii)(B), or maximum permissible lead and copper concentrations for finished water entering the distribution system under R309-210-6(4)(b)(ii)(D). A request for modification by a system or other interested party shall: be in writing, explain why the modification is appropriate, and provide supporting documentation. The Director may modify the determination where it concludes that such change is necessary to ensure that the system continues to minimize lead and copper concentrations in source water. A revised determination shall: be made in writing, set forth the new treatment requirements, explain the basis for the decision, and provide an implementation schedule for completing the treatment modifications.

(c) Lead service line replacement requirements.

(i)(A) Systems that fail to meet the lead action level in tap samples taken pursuant to R309-210-6(3)(d)(ii), after installing corrosion control and/or source water treatment (whichever sampling occurs later), shall replace lead service lines in accordance with the requirements of this section. If a system is in violation of R309-210-6(2) or R309-210-6(4)(b) for failure to install source water or corrosion control treatment, the Director may require the system to commence lead service line replacement under this section after the date by which the system was required to conduct monitoring under R309-104-4.2.3.d.2. has passed. The first year of lead service line replacement shall begin on the first day following the end of the monitoring period in which the action level was exceeded under paragraph (a) of this section. If monitoring is required annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs. If the

Director has established an alternate monitoring period, then the end of the monitoring period will be the last day of that period.

(B) Any water system resuming a lead service line replacement program after the cessation of its lead service line replacement program as allowed by paragraph (f) of this section shall update its inventory of lead service lines to include those sites that were previously determined not to require replacement through the sampling provision under paragraph (c) of this section. The system will then divide the updated number of remaining lead service lines by the number of remaining years in the program to determine the number of lines that must be replaced per year (7 percent lead service line replacement is based on a 15-year replacement program, so, for example, systems resuming lead service line replacement after previously conducting two years of replacement would divide the updated inventory by 13). For those systems that have completed a 15-year lead service line replacement program, the Director will determine a schedule for replacing or retesting lines that were previously tested out under the replacement program when the system re-exceeds the action level.

(ii) A system shall replace annually at least 7 percent of the initial number of lead service lines in its distribution system. The initial number of lead service lines is the number of lead lines in place at the time the replacement program begins. The system shall identify the initial number of lead service lines in its distribution system, including an identification of the portion(s) owned by the system, based upon a materials evaluation, including the evaluation required under R309-210-6(3)(a) and relevant legal authorities (e.g., contracts, local ordinances) regarding the portion owned by the system. The first year of lead service line replacement shall begin on the date the action level was exceeded in tap sampling referenced in R309-210-6(4)(c)(i).

(iii) A system is not required to replace an individual lead service line if the lead concentration in all service line samples from that line, taken pursuant to R309-210-6(3)(b)(iii), is less than or equal to 0.015 mg/L.

(iv) A water system shall replace that portion of the lead service line that it owns. In cases where the system does not own the entire lead service line, the system shall notify the owner of the line, or the owner's authorized agent, that the system will replace the portion of the service line that it owns and shall offer to replace the owner's portion of the line. A system is not required to bear the cost of replacing the privately-owned portion of the line, nor is it required to replace the privately-owned portion where the owner chooses not to pay the cost of replacing the privately owned portion of the line, or where replacing the privately-owned portion would be precluded by State, local or common law. A water system that does not replace the entire length of the service line also shall complete the following tasks.

(A) At least 45 days prior to commencing with the partial replacement of a lead service line, the water system shall provide notice to the resident(s) of all buildings served by the line explaining that they may experience a temporary increase of lead levels in their drinking water, along with guidance on measures consumers can take to minimize their exposure to lead. The Director may allow the water system to provide notice under the previous sentence less than 45 days prior to commencing partial lead service line replacement where such replacement is in conjunction with emergency repairs. In addition, the water system shall inform the resident(s) served by the line that the system will, at the system's expense, collect a sample from each partially-replaced lead service line that is representative of the water in the service line for analysis of lead content, as prescribed under R309-210-6(3)(b)(iii), within 72 hours after the completion of the partial replacement of the service line. The system shall collect the sample and report the results of the analysis to the owner and the resident(s) served by the line within three business days of receiving the results. Mailed notices post-marked within three business days of receiving the results shall be considered on time.

(B) The water system shall provide the information required by paragraph (c)(iv)(A) of this section to the residents of individual dwellings by mail or by other methods approved by the Director. In instances where multi-family dwellings are served by the line, the water system shall have the option to post the information at a conspicuous location.

(v) The Director shall require a system to replace lead service lines on a shorter schedule than that required by this section, taking into account the number of lead service lines in the system, where such a shorter replacement schedule is feasible. The Director shall make this determination in writing and notify the system of its finding within 6 months after the system is triggered into lead service line replacement based on monitoring referenced in R309-210-6(4)(c)(i).

(vi) Any system may cease replacing lead service lines whenever first draw samples collected pursuant to R309-210-6(3)(b)(ii) meet the lead action level during each of two consecutive monitoring periods and the system submits the results to the Director. If first draw tap samples collected in any such water system thereafter exceeds the lead action level, the system shall recommence replacing lead service lines, pursuant to R309-210-6(4)(c)(ii)(B).

(vii) To demonstrate compliance with R309-210-6(4)(c)(i) through R309-210-6(4)(c)(iv), a system shall report to the Director the information specified in R309-210-6(8)(e).

(5) Monitoring requirements for water quality parameters.

All large water systems and all small and medium-size systems that exceed the lead or copper action level shall monitor water quality parameters in addition to lead and copper in accordance with this section.

(a) General Requirements

(i) Sample collection methods

(A) Tap samples shall be representative of water quality throughout the distribution system taking into account the number of persons served, the different sources of water, the different treatment methods employed by the system, and seasonal variability. Tap sampling under this section is not required to be conducted at taps targeted for lead and copper sampling under R309-210-6(3)(a).

(B) Samples collected at the entry point(s) to the distribution system shall be from locations representative of each source after treatment. If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water is representative of all sources being used).

(ii) Number of samples

(A) Systems shall collect two tap samples for applicable water quality parameters during each monitoring period specified under R309-210-6(5)(b) through R309-210-6(5)(e) from the following number of sites in Table 210-5.

TABLE 210-5
NUMBER OF WATER QUALITY PARAMETER SAMPLE SITES

System Size (# People Served)	# of Sites For Water Quality Parameters
Greater than 100,000	25
10,001 to 100,000	10
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
100 or less	1

(B) Except as provided in paragraph (c)(iii) of this section, Systems shall collect two samples for each applicable water quality parameter at each entry point to the distribution system during each monitoring period specified in R309-210-6(5)(b).

Systems shall collect one sample for each applicable water quality parameter at each entry point to the distribution system during each monitoring period specified in R309-210-6(5)(c) through R309-210-6(5)(e).

(b) Initial Sampling

All large water systems shall measure the applicable water quality parameters as specified below at taps and at each entry point to the distribution system during each six-month monitoring period specified in R309-210-6(3)(d)(i). All small and medium-size systems shall measure the applicable water quality parameters at the locations specified below during each six-month monitoring period specified in R309-210-6(3)(d)(i) during which the system exceeds the lead or copper action level.

(i) At taps:

(A) pH;

(B) alkalinity;

(C) orthophosphate, when an inhibitor containing a phosphate compound is used;

(D) silica, when an inhibitor containing a silicate compound is used;

(E) calcium;

(F) conductivity; and

(G) water temperature.

(ii) At each entry point to the distribution system: all of the applicable parameters listed in R309-210-6(5)(b)(i).

(c) Monitoring after installation of corrosion control

Any large system which installs optimal corrosion control treatment pursuant to R309-210-6(2)(d)(iv) shall measure the water quality parameters at the locations and frequencies specified below during each six-month monitoring period specified in R309-210-6(3)(d)(ii)(A). Any small or medium-size system which installs optimal corrosion control treatment shall conduct such monitoring during each six-month monitoring period specified in R309-210-6(3)(d)(ii)(B) in which the system exceeds the lead or copper action level.

(i) At taps, two samples for:

(A) pH;

(B) alkalinity;

(C) orthophosphate, when an inhibitor containing a phosphate compound is used;

(D) silica, when an inhibitor containing a silicate compound is used;

(E) calcium, when calcium carbonate stabilization is used as part of corrosion control.

(ii) Except as provided in Paragraph (c)(iii) of this section, at each entry point to the distribution system, at least on sample no less frequently than every two weeks (bi-weekly) for:

(A) pH;

(B) when alkalinity is adjusted as part of optimal corrosion control, a reading of the dosage rate of the chemical used to adjust alkalinity, and the alkalinity concentration; and

(C) when a corrosion inhibitor is used as part of optimal corrosion control, a reading of the dosage rate of the inhibitor used, and the concentration of orthophosphate or silica (whichever is applicable).

(iii) Any ground water system can limit entry point sampling described in paragraph (c)(ii) of this section to those entry points that are representative of water quality and treatment conditions throughout the system. If water from untreated ground water sources mixes with water from treated ground water sources, the system must monitor for water quality parameters both at representative entry points receiving treatment and representative entry points receiving no treatment. Prior to the start of any monitoring under this paragraph, the system shall provide to the Director written information identifying the selected entry points and documentation, including information on seasonal variability, sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

(d) Monitoring after Director specifies water quality parameter values for optimal corrosion control.

After the Director specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment under R309-210-6(4)(a)(vi), all large systems shall measure the applicable water quality parameters in accordance with paragraph (c) of this section and determine compliance with the requirements of R309-210-6(4)(a)(vii) every six months with the first six-month period to begin on either January 1 or July 1, whichever comes first, after the Director specifies the optimal values under R309-210-6(4)(a)(vi). Any small or medium-size system shall conduct such monitoring during each six-month period specified in this paragraph in which the system exceeds the lead or copper action level. For any such small and medium-size system that is subject to a reduced monitoring frequency pursuant to R309-210-6(3)(d)(iv) at the time of the action level exceedance, the start of the applicable six-month monitoring period under this paragraph shall coincide with the start of the applicable monitoring period under R309-210-6(3)(d)(iv). Compliance with Director-designated optimal water quality parameter values shall be determined as specified under R309-210-6(4)(a)(vii).

(e) Reduced monitoring

(i) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Director under R309-210-6(4)(a)(vi) during three consecutive years of monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in this paragraph (e)(i) of this section from every six months to annually. This sampling begins during the calendar year immediately following the end of the monitoring period in which the third consecutive year of six-month monitoring occurs. Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Director under R309-210-6(4)(a)(vi), during three consecutive years of annual monitoring under this paragraph may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in paragraph (e)(i) of this section from annually to every three years. This sampling begins no later than the third calendar year following the end of the monitoring period in which the third consecutive year of monitoring occurs.

TABLE 210-6
REDUCED NUMBER OF WATER QUALITY PARAMETER SAMPLE SITES

System Size (# People Served)	Reduced # of Sites for Water Quality Parameters
Greater than 100,000	10
10,001 to 100,000	7
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
100 or less	1

(ii)(A) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the State under R309-210-6(4)(a)(vi) during three consecutive years of monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in this paragraph (e)(i) of this section from every six months to annually. This sampling begins during the calendar year immediately following the end of the monitoring period in which the third consecutive year of six-month monitoring occurs. Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the State under R309-210-6(4)(a)(vi), during three consecutive years of annual monitoring under this paragraph may reduce the frequency with which it collects the

number of tap samples for applicable water quality parameters specified in paragraph (e)(i) of this section from annually to every three years. This sampling begins no later than the third calendar year following the end of the monitoring period in which the third consecutive year of monitoring occurs.

(B) A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters specified in paragraph (e)(i) of this section to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to the PQL for lead specified in R309-200-4(3), that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/L for copper in R309-200-5(2)(c), and that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Director under R309-210-6(4)(a)(vi). Monitoring conducted every three years shall be done no later than every third calendar year.

(iii) A water system that conducts sampling annually shall collect these samples evenly throughout the year so as to reflect seasonal variability.

(iv) Any water system subject to the reduced monitoring frequency that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the Director in R309-210-6(4)(a)(vi) for more than 9 days in any six month period specified in R309-210-6(4)(a)(vii) shall resume distribution system tap water sampling in accordance with the number and frequency requirements in paragraph (d) of this section. Such a system may resume annual monitoring for water quality parameters at the tap at the reduced number of sites specified in paragraph (e)(i) of this section after it has completed two subsequent consecutive six month rounds of monitoring that meet the criteria of that paragraph or may resume triennial monitoring for water quality parameters at the tap at the reduced number os sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either paragraph (e)(ii)(A) or (e)(ii)(B) of this section.

(f) Additional monitoring by systems

The results of any monitoring conducted in addition to the minimum requirements of this section shall be considered by the system and the Director in making any determinations (i.e., determining concentrations of water quality parameters) under this section or R309-210-6(4)(a).

(g) The Director has the authority to allow the use of previously collected monitoring data for purposes of monitoring, if the data were collected in accordance with this section and analyzed in accordance with R309-104-8.

(6) Monitoring requirements for lead and copper in source water.

(a) Sample location, collection methods, and number of samples

(i) A water system that fails to meet the lead or copper action level on the basis of tap samples collected in accordance with R309-210-6(3) shall collect lead and copper source water samples in accordance with the following requirements regarding sample location, number of samples, and collection methods:

(A) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). The system shall take one sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(B) Surface water systems shall take a minimum of one sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source after treatment (hereafter called a sampling point). The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. For purposes of this paragraph, surface water systems include systems with a combination of surface and ground sources.

(C) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water is representative of all sources being used).

(D) The Director may reduce the total number of samples which must be analyzed by allowing the use of compositing. Compositing of samples must be done by certified laboratory personnel. Composite samples from a maximum of five samples are allowed, provided that if the lead concentration in the composite sample is greater than or equal to 0.001 mg/L or the copper concentration is greater than or equal to 0.160 mg/L, then either:

(I) A follow up sample shall be taken and analyzed within 14 days at each sampling point included in the composite; or

(II) If duplicates of or sufficient quantities from the original samples from each sampling point used in the composite are available, the system may use these instead of resampling.

(ii) Where the results of sampling indicate an exceedance of maximum permissible source water levels established under R309-210-6(4)(b)(ii)(D), the Director may require that one additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point. If a confirmation sample is taken for lead or copper, then the results of the initial and confirmation sample shall be averaged in determining compliance with the specified maximum permissible levels. Any sample value below the detection limit shall be considered to be zero. Any value above the detection limit but below the PQL shall either be considered as the measured value or be considered one-half the PQL.

(b) Monitoring frequency after system exceeds tap water action level.

Any system which exceeds the lead or copper action level at the tap shall collect one source water sample from each entry point to the distribution system no later than six months after the end of the monitoring period during which the lead or copper action level was exceeded. For monitoring periods that are annual or less frequent, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or if the Director has established an alternate monitoring period, the last day of that period.

(c) Monitoring frequency after installation of source water treatment.

Any system which installs source water treatment pursuant to R309-210-6(4)(b)(i)(C) shall collect an additional source water sample from each entry point to the distribution system during two consecutive six-month monitoring periods by the deadline specified in R309-210-6(4)(b)(i)(D).

(d) Monitoring frequency after Director specifies maximum permissible source water levels or determines that source water treatment is not needed

(i) A system shall monitor at the frequency specified below in cases where the Director specifies maximum permissible source water levels under R309-210-6(4)(b)(ii)(D) or determines that the system is not required to install source water treatment under R309-210-6(4)(b)(ii)(B).

(A) A water system using only groundwater shall collect samples once during the three-year compliance period in effect when the applicable determination under R309-210-6(6)(d)(i) is made. Such systems shall collect samples once during each subsequent compliance period. Triennial samples shall be collected every third calendar year.

(B) A water system using surface water (or a combination of surface and ground water) shall collect samples once during

each calendar year, the first annual monitoring period to begin during the year in which the applicable Director determination is made under paragraph (d)(i) of this section.

(ii) A system is not required to conduct source water sampling for lead and/or copper if the system meets the action level for the specific contaminant in tap water samples during the entire source water sampling period applicable to the system under R309-210-6(6)(d)(i)(A) or (B).

(e) Reduced monitoring frequency

(i) A water system using only ground water may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle (as that term is defined in R309-110-4) provided that the samples are collected no later than every ninth calendar year and if the system meets one of the following criteria:

(A) The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Director in R309-210-6(4)(b)(ii)(D) during at least three consecutive compliance periods under paragraph (d)(i) of this section; or

(B) The Director has determined that source water treatment is not needed and the system demonstrates that, during at least three consecutive compliance periods in which sampling was conducted under paragraph (d)(i) of this section, the concentration of lead in source water was less than or equal to 0.005 mg/L and the concentration of copper in source water was less than or equal to 0.65 mg/L.

(ii) A water system using surface water (or a combination of surface water and ground water) may reduce the monitoring frequency in paragraph (d)(i) of this section to once during each nine-year compliance cycle (as that term is defined in R309-110-4) provided that the samples are collected no later than every ninth calendar year and if the system meets one of the following criteria:

(A) The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Director in R309-210-6(4)(b)(ii)(D) for at least three consecutive years; or

(B) The Director has determined that source water treatment is not needed and the system demonstrates that, during at least three consecutive years, the concentration of lead in source water was less than or equal to 0.005 mg/L and the concentration of copper in source water was less than or equal to 0.65 mg/L.

(iii) A water system that uses a new source of water is not eligible for reduced monitoring for lead and/or copper until concentrations in samples collected from the new source during three consecutive monitoring periods are below the maximum permissible lead and copper concentrations specified by the Director in R309-210-6(4)(b)(i)(E).

(iv) The Director has the authority to allow the use of previously collected monitoring data for purposes of monitoring, if the data were collected in accordance with this section and analyzed in accordance with R309-104-8.

(7) Public education and supplemental monitoring requirements.

All water systems must deliver a consumer notice of lead tap water monitoring results to persons served by the water system at sites that are tested, as specified in paragraph (d) of this section. A water system that exceeds the lead action level based on tap water samples collected in accordance with R309-210-6(3) shall deliver the public education materials contained in paragraph (a) of this section in accordance with the requirements in paragraph (b) of this section. Water systems that exceed the lead action level must sample the tap water of any customer who requests it in accordance with paragraph (c) of this section.

(a) Content of written public education materials.

(i) Community water systems and Non-transient non-community water systems. Water systems must include the following elements in printed materials (e.g., brochures and pamphlets) in the same order as listed below. In addition, paragraphs (a)(i)(A) through (B) and (a)(i)(F) must be included in the materials, exactly as written, except for the text in brackets in these paragraphs for which the water system must include system-specific information. Any additional information presented by a water system must be consistent with the information below and be in plain language that can be understood by the general public. Water systems must submit all written public education materials to the Director prior to delivery. The Director may require the system to obtain approval of the content of written public materials prior to delivery.

(A) IMPORTANT INFORMATION ABOUT LEAD IN YOUR DRINKING WATER. (INSERT NAME OF WATER SYSTEM) found elevated levels of lead in drinking water in some homes/buildings. Lead can cause serious health problems, especially for pregnant women and young children. Please read this information closely to see what you can do to reduce lead in your drinking water.

(B) Health effects of lead. Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of your body. The greatest risk of lead exposure is to infants, young children, and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones, and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development.

(C) Sources of Lead.

(I) Explain what lead is.

(II) Explain possible sources of lead in drinking water and how lead enters drinking water. Include information on home/building plumbing materials and service lines that may contain lead.

(III) Discuss other important sources of lead exposure in addition to drinking water (e.g., paint).

(D) Discuss the steps the consumer can take to reduce their exposure to lead in drinking water.

(I) Encourage running the water to flush out the lead.

(II) Explain concerns with using hot water from the tap and specifically caution against the use of hot water for preparing baby formula.

(III) Explain that boiling water does not reduce lead levels.

(IV) Discuss other options consumers can take to reduce exposure to lead in drinking water, such as alternative sources or treatment of water.

(V) Suggest that parents have their child's blood tested for lead.

(E) Explain why there are elevated levels of lead in the system's drinking water (if known) and what the water system is doing to reduce the lead levels in homes/buildings in this area.

(F) For more information, call us at (INSERT YOUR NUMBER) ((IF APPLICABLE), or visit our Web site at (INSERT YOUR WEB SITE HERE)). For more information on reducing lead exposure around your home/building and the health effects of lead, visit EPA's Web site at "http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.htmlandlog=linklogandto=http://www.epa.gov/lead" or contact your health care provider.

(ii) Community water systems. In addition to including the elements specified in paragraph (a)(i) of this section, community water systems must:

(A) Tell consumers how to get their water tested.

(B) Discuss lead in plumbing components and the difference between low lead and lead free.

(b) Delivery of public education materials.

(i) For public water systems serving a large proportion of non-English speaking consumers, as determined by the Director, the public education materials must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the public education materials or to request assistance in the appropriate language.

(ii) A community water system that exceeds the lead action level on the basis of tap water samples collected in accordance with R309-210-6(3), and that is not already conducting public education tasks under this section, must conduct the public education tasks under this section within 60 days after the end of the monitoring period in which the exceedance occurred:

(A) Deliver printed materials meeting the content requirements of paragraph (a) of this section to all bill paying customers.

(B)(I) Contact customers who are most at risk by delivering education materials that meet the content requirements of paragraph (a) of this section to local public health agencies even if they are not located within the water system's service area, along with an informational notice that encourages distribution to all the organization's potentially affected customers or community water system's users. The water system must contact the local public health agencies directly by phone or in person. The local public health agencies may provide a specific list of additional community based organizations serving target populations, which may include organizations outside the service area of the water system. If such lists are provided, systems must deliver education materials that meet the content requirements of paragraph (a) of this section to all organizations on the provided lists.

(II) Contact customers who are most at risk by delivering materials that meet the content requirements of paragraph (a) of this section to the following organizations listed in aa through ff that are located within the water system's service area, along with an informational notice that encourages distribution to all the organization's potentially affected customers or community water system's users:

(aa) Public and private schools or school boards.

(bb) Women Infants and Children (WIC) and Head Start programs.

(cc) Public and private hospitals and medical clinics.

(dd) Pediatricians.

(ee) Family planning clinics.

(ff) Local welfare agencies.

(III) Make a good faith effort to locate the following organizations within the service area and deliver materials that meet the content requirements of paragraph (a) of this section to them, along with an informational notice that encourages distribution to all potentially affected customers or users. The good faith effort to contact at-risk customers may include requesting a specific contact list of these organizations from the local public health agencies, even if the agencies are not located within the water system's service area:

(aa) Licensed childcare centers.

(bb) Public and private preschools.

(cc) Obstetricians-Gynecologists and Midwives.

(C) No less often than quarterly, provide information on or in each water bill as long as the system exceeds the action level for lead. The message on the water bill must include the following statement exactly as written except for the text in brackets for which the water system must include system-specific information: (INSERT NAME OF WATER SYSTEM) found high levels of lead in drinking water in some homes. Lead can cause serious health problems. For more information please call (INSERT NAME OF WATER SYSTEM) (or visit (INSERT YOUR WEB SITE HERE)). The message or delivery mechanism can be modified in consultation with the Director; specifically, the Director may allow a separate mailing of public education materials to customers if the water system cannot place the information on water bills.

(D) Post material meeting the content requirements of paragraph (a) of this section on the water system's Web site if the system serves a population greater than 100,000.

(E) Submit a press release to newspaper, television and radio stations.

(F) In addition to paragraphs (b)(ii)(A) through (E) of this section, systems must implement at least three activities from one or more categories listed below. The educational content and selection of these activities must be determined in consultation with the Director.

(I) Public Service Announcements.

(II) Paid advertisements.

(III) Public Area Information Displays.

(IV) Emails to customers.

(V) Public Meetings.

(VI) Household Deliveries.

(VII) Targeted Individual Customer Contact.

(VIII) Direct material distribution to all multi-family homes and institutions.

(VIIII) Other methods approved by the Director.

(G) For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the Director has established an alternate monitoring period, the last day of that period.

(iii) As long as a community water system exceeds the action level, it must repeat the activities pursuant to paragraph (b)(ii) of this section as described in paragraphs (b)(iii)(A) through (D) of this section.

(A) A community water system shall repeat the tasks contained in paragraphs (b)(ii)(A), (B) and (F) of this section every 12 months.

(B) A community water system shall repeat tasks contained in paragraph (b)(ii)(C) of this section with each billing cycle.

(C) A community water system serving a population greater than 100,000 shall post and retain material on a publicly accessible Web site pursuant to paragraph (b)(ii)(D) of this section.

(D) The community water system shall repeat the task in paragraph (b)(ii)(E) of this section twice every 12 months on a schedule agreed upon with the Director. The Director can allow activities in paragraph (b)(ii) of this section to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the Director in advance of the 60-day deadline.

(iv) Within 60 days after the end of the monitoring period in which the exceedance occurred (unless it already is repeating public education tasks pursuant to paragraph (b)(v) of this section), a non-transient non-community water system shall deliver the public education materials specified by paragraph (a) of this section as follows:

(A) Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system; and

(B) Distribute informational pamphlets and/or brochures on lead in drinking water to each person served by the non-transient non-community water system. The Director may allow the system to utilize electronic transmission in lieu of or combined with printed materials as long as it achieves at least the same coverage.

(C) For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the Director has established an alternate monitoring period, the last day of that period.

(v) A non-transient non-community water system shall repeat the tasks contained in paragraph (b)(iv) of this section at least once during each calendar year in which the system exceeds the lead action level. The Director can allow activities in (b)(iv) of this section to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the Director in advance of the 60-day deadline.

(vi) A water system may discontinue delivery of public education materials if the system has met the lead action level during the most recent six-month monitoring period conducted pursuant to R309-210-6(3). Such a system shall recommence public education in accordance with this section if it subsequently exceeds the lead action level during any monitoring period.

(vii) A community water system may apply to the Director, in writing, (unless the Director has waived the requirement for prior Director approval) to use only the text specified in paragraph (a)(i) of this section in lieu of the text in paragraphs (a)(i) and (a)(ii) of this section and to perform the tasks listed in paragraphs (b)(iv) and (b)(v) of this section in lieu of the tasks in paragraphs (b)(ii) and (b)(iii) of this section if:

(A) The system is a facility, such as a prison or a hospital, where the population served is not capable of or is prevented from making improvements to plumbing or installing point of use treatment devices; and

(B) The system provides water as part of the cost of services provided and does not separately charge for water consumption.

(viii) A community water system serving 3,300 or fewer people may limit certain aspects of their public education programs as follows:

(A) With respect to the requirements of paragraph (b)(ii)(F) of this section, a system serving 3,300 or fewer must implement at least one of the activities listed in that paragraph.

(B) With respect to the requirements of paragraph (b)(ii)(B) of this section, a system serving 3,300 or fewer people may limit the distribution of the public education materials required under that paragraph to facilities and organizations served by the system that are most likely to be visited regularly by pregnant women and children.

(C) With respect to the requirements of paragraph (b)(ii)(E) of this section, the Director may waive this requirement for systems serving 3,300 or fewer persons as long as system distributes notices to every household served by the system.

(c) Supplemental monitoring and notification of results. A water system that fails to meet the lead action level on the basis of tap samples collected in accordance with R309-210-6(3) shall offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the system required to collect and analyze the sample itself.

(d) Notification of results.

(i) Reporting requirement. All water systems must provide a notice of the individual tap results from lead tap water monitoring carried out under the requirements of R309-210-6(3) to the persons served by the water system at the specific sampling site from which the sample was taken (e.g., the occupants of the residence where the tap was tested).

(ii) Timing of notification. A water system must provide the consumer notice as soon as practical, but no later than 30 days after the system learns of the tap monitoring results.

(iii) Content. The consumer notice must include the results of lead tap water monitoring for the tap that was tested, an explanation of the health effects of lead, list steps consumers can take to reduce exposure to lead in drinking water and contact information for the water utility. The notice must also provide the maximum contaminant level goal and the action level for lead and the definitions for these two terms from R309-225-5(3).

(iv) Delivery. The consumer notice must be provided to persons served at the tap that was tested, either by mail or by another method approved by the Director. For example, upon approval by the Director, a non-transient non-community water system could post the results on a bulletin board in the facility to allow users to review the information. The system must provide the notice to customers at sample taps tested, including consumers who do not receive water bills.

(8) Reporting requirements.

All water systems shall report all of the following information to the Director in accordance with this section.

(a) Reporting requirements for tap water monitoring for lead and copper and for water quality parameter monitoring

(i) Except as provided in paragraph (a)(i)(H) of this section, a water system shall report the information specified below for all tap water samples specified in R309-210-6(3) and for all water quality parameter samples specified in R309-210-6(5) within the first 10 days following the end of each applicable monitoring period specified in R309-210-6 (3) and (5) (i.e., every six months, annually, every 3 years, or every 9 years). For monitoring periods with a duration less than six months, the end of the monitoring period is the last date samples can be collected during that period as specified in R309-210-6(3) and R309-210-6(5).

(A) the results of all tap samples for lead and copper including the location of each site and the criteria under R309-210-6(3)(a)(iii), (iv), (v), (vi), and (vii) under which the site was selected for the system's sampling pool;

(B) Documentation for each tap water lead or copper sample for which the water system request invalidation pursuant to R309-210-6(3)(f)(ii);

(D) the 90th percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period, (calculated in accordance with R309-200-5(2)(c))unless the Director calculates the system's 90th percentile lead and copper levels under paragraph (h) of this section;

(E) with the exception of initial tap sampling conducted pursuant to R309-210-6(3)(d)(i), the system shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed;

(F) the results of all tap samples for pH, and where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica collected under R309-210-6(5)(b) through (e);

(G) the results of all samples collected at the entry point(s) to the distribution system for applicable water quality parameters under R309-210-6(5)(b) through (e).

(H) A water system shall report the results of all water quality parameter samples collected under R309-210-6(5)(c) through (f) during each six month monitoring period specified in R309-210-6(5)(d) within the first 10 days following the end of the monitoring period unless the Director has specified a more frequent reporting requirement.

(ii) For a non-transient non-community water system, or a community water system meeting the criteria of R309-210-6(7)(b)(vii), that does not have enough taps that can provide first draw samples, the system must identify, in writing, each site that did not meet the six hour minimum standing time and the length of standing time for that particular substitute sample collected pursuant to R309-210-6(3)(b)(v) and include this information with the lead and copper tap sample results required

to be submitted pursuant to paragraph (a)(i)(A) of this section. The Director has waived prior Director approval of non-first-draw samples sites selected by the system pursuant to R309-210-6(3)(b)(v).

(iii) At a time specified by the Director, or if no specific time is designated by the Director, then as early as possible prior to the addition of a new source or any long-term change in water treatment, a water system deemed to have optimized corrosion control under R309-210-6(2)(b)(iii), a water system subject to reduced monitoring pursuant to R309-210-6(3)(d)(iv), or a water system subject to a monitoring waiver pursuant to R309-210-6(3)(g), shall submit written documentation to the Director describing the change or addition. The Director must review and approve the addition of a new source or long-term change in treatment before it is implemented by the water system. Examples of long-term treatment changes include the addition of a new treatment process or modification of an existing treatment process. Examples of modifications include switching secondary disinfectants, switching coagulants (e.g., alum to ferric chloride), and switching corrosion inhibitor products (e.g., orthophosphate to blended phosphate). Long-term changes can include dose changes to existing chemicals if the system is planning long-term changes to its finished water pH or residual inhibitor concentration. Long-term treatment changes would not include chemical dose fluctuations associated with daily raw water quality changes.

(iv) Any small system applying for a monitoring waiver under R309-210-6(3)(g), or subject to a waiver granted pursuant to R309-210-6(3)(g)(iii), shall provide the following information to the Director in writing by the specified deadline:

(A) By the start of the first applicable monitoring period in R309-210-6(3), any small system applying for a monitoring waiver shall provide the documentation required to demonstrate that it meets the waiver criteria of R309-210-6(3)(g)(i) and (ii).

(B) No later than nine years after the monitoring previously conducted pursuant to R309-210-6(3)(g)(ii) or (g)(iv)(A), each small system desiring to maintain its monitoring waiver shall provide the information required by R309-210-6(3)(g)(iv)(A) and (B).

(C) No later than 60 days after it becomes aware that it is no longer free of lead-containing or copper containing material, as appropriate, each small system with a monitoring waiver shall provide written notification to the Director, setting forth the circumstances resulting in the lead containing or copper containing materials being introduced into the system and what corrective action, if any, the system plans to remove these materials

(D) By October 10, 2000, any small system with a waiver granted prior to April 11, 2000 and that has not previously met the requirements of R309-210-6(3)(g)(ii) shall provide the information required by that paragraph.

(v) Each ground water system that limits water quality parameter monitoring to a subset of entry points under R309-210-6(5)(c)(iii) shall provide, by the commencement of such monitoring, written correspondence to the Director that identifies the selected entry points and includes information sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

(b) Source water monitoring reporting requirements

(i) A water system shall report the sampling results for all source water samples collected in accordance with R309-210-6(6) within the first 10 days following the end of each source water monitoring period (i.e., annually, per compliance period, per compliance cycle) specified in R309-210-6(6).

(ii) With the exception of the first round of source water sampling conducted pursuant to R309-210-6(6)(b), the system shall specify any site which was not sampled during previous monitoring periods, and include an explanation of why the sampling point has changed.

(c) Corrosion control treatment reporting requirements

By the applicable dates under R309-210-6(2), systems shall report the following information:

(i) for systems demonstrating that they have already optimized corrosion control, information required in R309-210-6(2)(b)(ii) or R309-210-6(2)(b)(iii).

(ii) for systems required to optimize corrosion control, their recommendation regarding optimal corrosion control treatment under R309-210-6(4)(a)(i).

(iii) for systems required to evaluate the effectiveness of corrosion control treatments under R309-210-6(4)(a)(iii), the information required by that paragraph.

(iv) for systems required to install optimal corrosion control designated by the Director under R309-210-6(4)(a)(iv), a letter certifying that the system has completed installing that treatment.

(d) Source water treatment reporting requirements

By the applicable dates in R309-210-6(4)(b), systems shall provide the following information to the Director :

(i) if required under R309-210-6(4)(b)(ii)(A), their recommendation regarding source water treatment;

(ii) for systems required to install source water treatment under R309-210-6(4)(b)(ii)(B), a letter certifying that the system has completed installing the treatment designated by the Director within 24 months after the Director designated the treatment.

(e) Lead service line replacement reporting requirements

Systems shall report the following information to the Director to demonstrate compliance with the requirements of R309-210-6(4)(c):

(i) No later than 12 months after the end of a monitoring period in which a system exceeds the lead action level in sampling referred to in R309-210-6(4)(c)(i), the system must submit written documentation to the Director of the material evaluation conducted as required in R309-210-6(3)(a), identify the initial number of lead service lines in its distribution system at the time the system exceeds the lead action level, and provide the system's schedule for annually replacing at least 7 percent of the initial number of lead service lines in its distribution system.

(ii) No later than 12 months after the end of a monitoring period in which a system exceeds the lead action level in sampling referred to in R309-210-6(4)(c)(i), and every 12 months thereafter, the system shall demonstrate to the Director in writing that the system has either:

(A) replaced in the previous 12 months at least 7 percent of the initial lead service lines (or a greater number of lines specified by the Director under R309-210-6(4)(c)(v)) in its distribution system, or

(B) conducted sampling which demonstrates that the lead concentration in all service line samples from an individual line(s), taken pursuant to R309-210-6(3)(b)(iii), is less than or equal to 0.015 mg/L. In such cases, the total number of lines replaced and/or which meet the criteria in R309-210-6(4)(c)(iii) shall equal at least 7 percent of the initial number of lead lines identified under paragraph (e)(i) of this section (or the percentage specified by the Director under R309-210-6(4)(c)(v)).

(iii) The annual letter submitted to the Director under R309-210-6(8)(e)(ii) shall contain the following information:

(A) the number of lead service lines scheduled to be replaced during the previous year of the system's replacement schedule;

(B) the number and location of each lead service line replaced during the previous year of the system's replacement schedule;

(C) if measured, the water lead concentration and location of each lead service line sampled, the sampling method, and the date of sampling.

(iv) Systems shall also report any additional information

as specified by the Director, and in a time and manner prescribed by the Director, to verify that all partial lead service line replacement activities have taken place.

(f) Public education program reporting requirements

(i) Any water system that is subject to the public education requirements in R309-210-6(7)shall, within ten days after the end of each period in which the system is required to perform public education in accordance with R309-210-6(7)(b), send written documentation to the Director that contains:

(A) A demonstration that the system has delivered the public education materials that meet the content requirements in R309-210-6(7)(a) and the delivery requirements in R309-210-6(7)(b); and

(B) A list of all the newspapers, radio stations, television stations, and facilities and organizations to which the system delivered public education materials during the period in which the system was required to perform public education tasks.

(ii) Unless required by the Director, a system that previously has submitted the information required by paragraph (f)(i)(B) of this section, as long as there have been no changes in the distribution list and the system certifies that the public education materials were distributed to the same list submitted previously.

(iii) No later than 3 months following the end of the monitoring period, each system must mail a sample copy of the consumer notification of tap results to the Director along with a certification that the notification has been distributed in a manner consistent with the requirements of R309-210-6(7)(d).

(g) Reporting of additional monitoring data

Any system which collects sampling data in addition to that required by this subpart shall report the results to the Director within the first ten day following the end of the applicable monitoring period under R309-210-6(3), R309-210-6(5) and R309-210-6(6) during which the samples are collected.

(h) Reporting of 90th percentile lead and copper concentrations where the Director calculates a system's 90th percentile concentrations. A water system is not required to report the 90th percentile lead and copper concentrations measured from among all lead and copper tap water samples during each monitoring period, as required by paragraph (a)(i)(D) of this section if:

(i) The Director has previously notified the water system that it will calculate the water system's 90th percentile lead and copper concentrations, based on the lead and copper tap results submitted pursuant to paragraph (h)(ii)(A) of this section, and has specified a date before the end of the applicable monitoring period by which the system must provide the results of lead and copper tap water samples;

(ii) The system has provided the following information to the Director by the date specified in paragraph (h)(i) of this section:

(A) The results of all tap samples for lead and copper including the location of each site and the criteria under R309-210-6(3)(a)(iii), (iv), (v), (vi), and/or (vii) under which the site was selected for the system's sampling pool, pursuant to paragraph (a)(i)(A) of this section; and

(B) An identification of sampling sites utilized during the current monitoring period that were not sampled during previous monitoring periods, and an explanation why sampling sites have changed; and

(iii) The Director has provided the results of the 90th percentile lead and copper calculations, in writing, to the water system before the end of the monitoring period.

R309-210-7. Asbestos Distribution System Monitoring.

(1) The frequency of monitoring conducted to determine compliance with the maximum contaminant level for asbestos specified in R309-200-5(1) shall be conducted as follows:

(a) Each community and non-transient non-community water system is required to monitor for asbestos during the first three-year compliance period of each nine-year compliance cycle beginning in the compliance period starting January 1, 1993.

(b) If the system believes it is not vulnerable due to corrosion of asbestos-cement pipe, it may apply to the Director for a waiver of the monitoring requirement in paragraph (a) of this section. If the Director grants the waiver, the system is not required to monitor for asbestos.

(c) The Director may grant a waiver based on a consideration of the use of asbestos-cement pipe for finished water distribution and the corrosive nature of the water.

(d) A waiver remains in effect until the completion of the three-year compliance period. Systems not receiving a waiver must monitor in accordance with the provisions of paragraph (a) of this section.

(2) A system vulnerable to asbestos contamination due solely to corrosion of asbestos-cement pipe shall take one sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

(3) A system vulnerable to asbestos contamination due both to its source water supply (as specified in R309-205-5(2)) and corrosion of asbestos-cement pipe shall take one sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

(4) A system which exceeds the maximum contaminant levels as determined in R309-205-5(1)(g) shall monitor quarterly beginning in the next quarter after the violation occurred.

(5). The Director may decrease the quarterly monitoring requirement to the frequency specified in paragraph (a) of this section provided the Director has determined that the system is reliably and consistently below the maximum contaminant level. In no case can the Director make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface (or combined surface/ground) water system takes a minimum of four quarterly samples.

(6) If monitoring data collected after January 1, 1990 are generally consistent with the requirements of R309-210-7, then the Director may allow systems to use that data to satisfy the monitoring requirement for the initial compliance period beginning January 1, 1993.

R309-210-8. Disinfection Byproducts - Stage 1 Requirements.

(1) General requirements. The requirements in this sub-section establish criteria under which community and non-transient non-community water systems that add a chemical disinfectant to the water in any part of the drinking water treatment process, shall modify their practices to meet MCLs and MRDLs in R309-200-5(3)(c) and meet treatment technique requirements in R309-215-12 and 13. The requirements of this sub-section also establish criteria under which transient non-community water systems that use chlorine dioxide shall modify their practices to meet MRDLs for chlorine dioxide in R309-200-5(3)(c).

(a) Compliance dates.

(i) Community and Non-transient non-community water systems. Surface water systems serving 10,000 or more persons must comply with this section beginning January 1, 2002. Surface water systems serving fewer than 10,000 persons and systems using only ground water not under the direct influence of surface water must comply with this section beginning January 1, 2004.

(ii) Transient non-community water systems. Surface water systems serving 10,000 or more persons and using chlorine dioxide as a disinfectant or oxidant must comply with any requirements for chlorine dioxide in this section beginning January 1, 2002. Surface water systems serving fewer than

10,000 persons and using chlorine dioxide as a disinfectant or oxidant and systems using only ground water not under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with any requirements for chlorine dioxide in this section beginning January 1, 2004.

(b) Systems must take all samples during normal operating conditions.

(c) Systems may consider multiple wells drawing water from a single aquifer as one treatment plant for determining the minimum number of TTHM and HAA5 samples required, with approval from the Director.

(d) Failure to monitor in accordance with the monitoring plan required under paragraph (5) of this section is a monitoring violation.

(e) Failure to monitor will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MCLs or MRDLs.

(f) Systems may use only data collected under the provisions of this section or the federal Information Collection Rule,(40 CFR, Part 141, Subpart M) to qualify for reduced monitoring.

(2) Monitoring requirements for disinfection byproducts.

(a) TTHMs and HAA5s

(i) Routine monitoring. Systems must monitor at the frequency indicated in the following:

(A) If a system elects to sample more frequently than the minimum required, at least 25 percent of all samples collected each quarter (including those taken in excess of the required frequency) must be taken at locations that represent the maximum residence time of the water in the distribution system. The remaining samples must be taken at locations representative of at least average residence time in the distribution system.

(B) Surface water systems serving at least 10,000 persons shall take four water samples per quarter per treatment plant. At least 25 percent of all samples collected each quarter shall be at locations representing maximum residence time. The remaining samples taken at locations representative of at least average residence time in the distribution system and representing the entire distribution system, taking into account number of persons served, different sources of water, and different treatment methods.

(C) Surface water systems serving from 500 to 9,999 persons shall take one water sample per quarter per treatment plant at a locations representing maximum residence time.

(D) Surface water systems serving fewer than 500 persons shall take one sample per year per treatment plant during month of warmest water temperature at a location representing maximum residence time. If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the system must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets reduced monitoring criteria in paragraph (2)(a)(v) of this section.

(E) Systems using only ground water not under direct influence of surface water using chemical disinfectant and serving at least 10,000 persons shall take one water sample per quarter per treatment plant at a locations representing maximum residence time.

(F) Systems using only ground water not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons shall take one sample per year per treatment plant during month of warmest water temperature at a location representing maximum residence time. If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the system must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets criteria in paragraph (2)(a)(v) of this section for reduced monitoring.

(ii) Systems may reduce monitoring, except as otherwise provided, if the system has monitored for at least one year and is in accordance with the following paragraphs. Any Surface water system serving fewer than 500 persons may not reduce its monitoring to less than one sample per treatment plant per year.

(A) A surface water system serving at least 10,000 persons which has a source water annual average TOC level, before any treatment, of less than or equal to 4.0 mg/L and has a TTHM annual average of less than or equal to 0.040 mg/L and has a HAA5 annual average of less than or equal to 0.030 mg/L may reduce monitoring to one sample per treatment plant per quarter at a distribution system location reflecting maximum residence time.

(B) A surface water system serving from 500 to 9,999 persons which has a source water annual average TOC level, before any treatment, of less than or equal to 4.0 mg/L and has a TTHM annual average of less than or equal to 0.040 mg/L and has a HAA5 annual average of less than or equal to 0.030 mg/L may reduce monitoring to one sample per treatment plant per year at a distribution system location reflecting maximum residence time during the month of warmest water temperature.

(C) A system using only ground water not under direct influence of surface water using chemical disinfectant and serving at least 10,000 persons that has a TTHM annual average of less than or equal to 0.040 mg/L and has a HAA5 annual average of less than or equal to 0.030 mg/L may reduce monitoring to one sample per treatment plant per year at a distribution system location reflecting maximum residence time during the month of warmest water temperature.

(D) A system using only ground water not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons that has a TTHM annual average of less than or equal to 0.040 mg/L and has a HAA5 annual average of less than or equal to 0.030 mg/L for two consecutive years or has a TTHM annual average of less than or equal to 0.020 mg/L and has a HAA5 annual average of less than or equal to 0.015mg/L for one year may reduce monitoring to one sample per treatment plant per three year monitoring cycle at a distribution system location reflecting maximum residence time during the month of warmest water temperature, with the three-year cycle beginning on January 1 following the quarter in which the system qualifies for reduced monitoring.

(iii) Monitoring requirements for source water TOC in order to qualify for reduced monitoring for TTHM and HAA5 under paragraph (2)(a)(ii) of this section, surface water systems not monitoring under the provisions of paragraph (d) of this section must take monthly TOC samples every 30 days at a location prior to any treatment, beginning April 1, 2008 or earlier, if specified by the Director. In addition to meeting other criteria for reduced monitoring in paragraph (2)(a)(ii) of this section, the source water TOC running annual average must be equal to or less than 4.0 mg/L (based on the most recent four quarters of monitoring) on a continuing basis at each treatment plant to reduce or remain on reduced monitoring for TTHM and HAA5. Once qualified for reduced monitoring for TTHM and HAA5 under paragraph (2)(a)(ii) of this section, a system may reduce source water TOC monitoring to quarterly TOC samples taken every 90 days at a location prior to any treatment.

(iv) Systems on a reduced monitoring schedule may remain on that reduced schedule as long as the average of all samples taken in the year (for systems which must monitor quarterly) or the result of the sample (for systems which must monitor no more frequently than annually) is no more than 0.060 mg/L and 0.045 mg/L for TTHMs and HAA5, respectively. Systems that do not meet these levels must resume monitoring at the frequency identified in paragraph (2)(a)(i) of

this section in the quarter immediately following the monitoring period in which the system exceeds 0.060 mg/L or 0.045 mg/L for TTHM or HAA5, respectively. For systems using only ground water not under the direct influence of surface water and serving fewer than 10,000 persons, if either the TTHM annual average is greater than 0.080 mg/L or the HAA5 annual average is greater than 0.060 mg/L, the system must go to the increased monitoring identified in paragraph (2)(a)(i) of this section in the quarter immediately following the monitoring period in which the system exceeds 0.080 mg/L or 0.060 mg/L for TTHMs or HAA5 respectively.

(v) Systems on increased monitoring may return to routine monitoring if, after at least one year of monitoring their TTHM annual average is less than or equal to 0.060 mg/L and their HAA5 annual average is less than or equal to 0.045 mg/L.

(vi) The Director may return a system to routine monitoring when appropriate to protect public health.

(b) Chlorite. Community and non-transient non-community water systems using chlorine dioxide, for disinfection or oxidation, must conduct monitoring for chlorite.

(i) Routine monitoring.

(A) Daily monitoring. Systems must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the chlorite MCL, the system must take additional samples in the distribution system the following day at the locations required by paragraph (2)(b)(ii) of this section, in addition to the sample required at the entrance to the distribution system.

(B) Monthly monitoring. Systems must take a three-sample set each month in the distribution system. The system must take one sample at each of the following locations: near the first customer, at a location representative of average residence time, and at a location reflecting maximum residence time in the distribution system. Any additional routine sampling must be conducted in the same manner (as three-sample sets, at the specified locations). The system may use the results of additional monitoring conducted under paragraph (2)(b)(ii) of this section to meet the requirement for monitoring in this paragraph.

(ii) Additional monitoring. On each day following a routine sample monitoring result that exceeds the chlorite MCL at the entrance to the distribution system, the system is required to take three chlorite distribution system samples at the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(iii) Reduced monitoring.

(A) Chlorite monitoring at the entrance to the distribution system required by paragraph (2)(b)(i)(A) of this section may not be reduced.

(B) Chlorite monitoring in the distribution system required by paragraph (2)(b)(i)(B) of this section may be reduced to one three-sample set per quarter after one year of monitoring where no individual chlorite sample taken in the distribution system under paragraph (2)(b)(i)(B) of this section has exceeded the chlorite MCL and the system has not been required to conduct monitoring under paragraph (2)(b)(ii) of this section. The system may remain on the reduced monitoring schedule until either any of the three individual chlorite samples taken monthly in the distribution system under paragraph (2)(b)(i)(B) of this section exceeds the chlorite MCL or the system is required to conduct monitoring under paragraph (2)(b)(ii) of this section, at which time the system must revert to routine monitoring.

(c) Bromate.

(i) Routine monitoring. Community and nontransient noncommunity systems using ozone, for disinfection or oxidation, must take one sample per month for each treatment plant in the system using ozone. Systems must take samples monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

(ii) Reduced monitoring.

(A) Until March 31, 2009, systems required to analyze for bromate may reduce monitoring from monthly to once per quarter, if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly bromide measurements for one year. The system may remain on reduced bromate monitoring until the running annual average source water bromide concentration, computed quarterly, is equal to or greater than 0.05 mg/L based upon representative monthly measurements. If the running annual average source water bromide concentration is greater than or equal to 0.05 mg/L, the system must resume routine monitoring required by paragraph (2)(c)(i) of this section in the following month.

(B) Beginning April 1, 2009, systems may no longer use the provisions of paragraph (2)(c)(ii)(A) of this section to qualify for reduced monitoring. A system required to analyze for bromate may reduce monitoring from monthly to quarterly, if the system's running annual average bromate concentration is equal to or less than 0.0025 mg/L based on monthly bromate measurements under paragraph (2)(c)(i) of this section for the most recent four quarters, with samples analyzed using Method 317.0 Revision 2.0, 326.0 or 321.8. If a system has qualified for reduced bromate monitoring under paragraph (2)(c)(ii)(A) of this section, that system may remain on reduced monitoring as long as the running annual average of quarterly bromate samples is less than or equal to 0.0025 mg/L based on samples analyzed using Method 317.0 Revision 2.0, 326.0 or 321.8. If the running annual average bromate concentration is greater than 0.0025 mg/L, the system must resume routine monitoring required by (2)(c)(i) of this section.

(3) Monitoring requirements for disinfectant residuals.

(a) Chlorine and chloramines.

(i) Routine monitoring. Community and non-transient non-community water systems that use chlorine or chloramines must measure the residual disinfectant level in the distribution system at the same point in the distribution system and at the same time as total coliforms are sampled, as specified in R309-211. Systems that use surface water may use the results of residual disinfectant concentration sampling conducted in R309-215-10(4), in lieu of taking separate samples.

(ii) In addition, ground water systems shall take the following readings at each facility a minimum of three times a week: the total volume of water treated; the type and amount of disinfectant used in treating the water (clearly indicating the weight if gas feeders are used, or the percent solution and volume fed if liquid feeders are used); and the setting of the rotometer valve or injector pump. Surface water systems may use the results of residual disinfectant concentration sampling conducted under R309-215-10(3) for systems which filter, in lieu of taking separate samples.

(iii) Reduced monitoring. Monitoring may not be reduced.

(b) Chlorine Dioxide.

(i) Routine monitoring. Community, nontransient noncommunity, and transient noncommunity water systems that use chlorine dioxide for disinfection or oxidation must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the MRDL, the system must take samples in the distribution system the following day at the locations required by paragraph (3)(b)(ii) of this section, in addition to the sample required at the entrance to the distribution system.

(ii) Additional monitoring. On each day following a routine sample monitoring result that exceeds the MRDL, the system is required to take three chlorine dioxide distribution system samples. If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if

chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfection addition points after the entrance to the distribution system (i.e., no booster chlorination), the system must take three samples as close to the first customer as possible, at intervals of at least six hours. If chlorine is used to maintain a disinfectant residual in the distribution system and there are one or more disinfection addition points after the entrance to the distribution system (i.e., booster chlorination), the system must take one sample at each of the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(iii) Reduced monitoring. Chlorine dioxide monitoring may not be reduced.

(4) Bromide. Systems required to analyze for bromate may reduce bromate monitoring from monthly to once per quarter, if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly measurements for one year. The system must continue bromide monitoring to remain on reduced bromate monitoring.

(5) Monitoring plans. Each system required to monitor under this section must develop and implement a monitoring plan. The system must maintain the plan and make it available for inspection by the Director and the general public no later than 30 days following the applicable compliance dates in R309-210-8(1)(a). All Surface water systems serving more than 3300 people must submit a copy of the monitoring plan to the Director no later than the date of the first report required under R309-105-16(2). The Director may also require the plan to be submitted by any other system. After review, the Director may require changes in any plan elements. The plan must include at least the following elements.

(a) Specific locations and schedules for collecting samples for any parameters included in this subpart.

(b) How the system will calculate compliance with MCLs, MRDLs, and treatment techniques.

(c) If approved for monitoring as a consecutive system, or if providing water to a consecutive system, the Director may modify the monitoring requirements treating the systems as a single distribution system, however, the sampling plan shall reflect the entire distribution system of all interconnected systems.

(6) Compliance requirements.

(a) General requirements.

(i) Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system fails to monitor for TTHM, HAA5, or bromate, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average. Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MRDLs for chlorine and chloramines, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average.

(ii) All samples taken and analyzed under the provisions of this section shall be included in determining compliance, even if that number is greater than the minimum required.

(iii) If, during the first year of monitoring under R309-210-8, any individual quarter's average will cause the running annual average of that system to exceed the MCL, the system is out of compliance at the end of that quarter.

(b) Disinfection byproducts.

(i) TTHMs and HAA5.

(A) For systems monitoring quarterly, compliance with MCLs in R309-200-5(3)(c) shall be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples collected by the system as prescribed by R309-210-8(2)(a).

(B) For systems monitoring less frequently than quarterly, systems demonstrate MCL compliance if the average of samples taken that year under the provisions of R309-210-8(2)(a) does not exceed the MCLs in R309-200-5(3)(c). If the average of these samples exceeds the MCL, the system shall increase monitoring to once per quarter per treatment plant and such a system is not in violation of the MCL until it has completed one year of quarterly monitoring, unless the result of fewer than four quarters of monitoring will cause the running annual average to exceed the MCL, in which case the system is in violation at the end of that quarter. Systems required to increase monitoring frequency to quarterly monitoring shall calculate compliance by including the sample which triggered the increased monitoring plus the following three quarters of monitoring.

(C) If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the system is in violation of the MCL and shall notify the public pursuant to R309-220, in addition to reporting to the Director pursuant to R309-105-16.

(D) If a PWS fails to complete four consecutive quarters of monitoring, compliance with the MCL for the last four-quarter compliance period shall be based on an average of the available data.

(ii) Chlorite. Compliance shall be based on an arithmetic average of each three sample set taken in the distribution system as prescribed by R309-210-8(2)(b)(i)(B) and (2)(b)(ii). If the arithmetic average of any three sample sets exceeds the MCL, the system is in violation of the MCL and shall notify the public pursuant to R309-220, in addition to reporting to the Director pursuant to R309-105-16.

(iii) Bromate. Compliance shall be based on a running annual arithmetic average, computed quarterly, of monthly samples (or, for months in which the system takes more than one sample, the average of all samples taken during the month) collected by the system as prescribed by R309-210-8(2)(c). If the average of samples covering any consecutive four-quarter period exceeds the MCL, the system is in violation of the MCL and shall notify the public pursuant to R309-220, in addition to reporting to the Director pursuant to R309-105-16. If a PWS fails to complete 12 consecutive months' monitoring, compliance with the MCL for the last four-quarter compliance period shall be based on an average of the available data.

(c) Disinfectant residuals.

(i) Chlorine and chloramines.

(A) Compliance shall be based on a running annual arithmetic average, computed quarterly, of monthly averages of all samples collected by the system under R309-210-8(3)(a). If the average covering any consecutive four-quarter period exceeds the MRDL, the system is in violation of the MRDL and shall notify the public pursuant to R309-220, in addition to reporting to the Director pursuant to R309-105-16.

(B) In cases where systems switch between the use of chlorine and chloramines for residual disinfection during the year, compliance shall be determined by including together all monitoring results of both chlorine and chloramines in calculating compliance. Reports submitted pursuant to R309-105-16 shall clearly indicate which residual disinfectant was analyzed for each sample.

(ii) Chlorine dioxide.

(A) Acute violations. Compliance shall be based on consecutive daily samples collected by the system under R309-210-8(3)(b). If any daily sample taken at the entrance to the distribution system exceeds the MRDL, and on the following day one (or more) of the three samples taken in the distribution system exceed the MRDL, the system is in violation of the MRDL and shall take immediate corrective action to lower the level of chlorine dioxide below the MRDL and shall notify the

public pursuant to the procedures for acute health risks in R309-220-5. Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system will also be considered an MRDL violation and the system shall notify the public of the violation in accordance with the provisions for acute violations under R309-220-5 in addition to reporting the Director pursuant to R309-105-16.

(B) Nonacute violations. Compliance shall be based on consecutive daily samples collected by the system under R309-210-8(3)(b). If any two consecutive daily samples taken at the entrance to the distribution system exceed the MRDL and all distribution system samples taken are below the MRDL, the system is in violation of the MRDL and shall take corrective action to lower the level of chlorine dioxide below the MRDL at the point of sampling and will notify the public pursuant to the procedures for nonacute health risks in R309-220-6 in addition to reporting to the Director pursuant to R309-105-16. Failure to monitor at the entrance to the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system is also an MRDL violation and the system shall notify the public of the violation in accordance with the provisions for nonacute violations under R309-220-6 in addition to reporting to the Director pursuant to R309-105-16.

R309-210-9. Disinfection Byproducts - Initial Distribution System Evaluations.

(1) General requirements.

(a) The requirements of this sub-section establish monitoring and other requirements for identifying R309-210-10 compliance monitoring locations for determining compliance with maximum contaminant levels for total trihalomethanes (TTHM) and haloacetic acids (five)(HAA5). The water system must use an Initial Distribution System Evaluation (IDSE) to determine locations with representative high TTHM and HAA5 concentrations throughout the distribution system. IDSEs are used in conjunction with, but separate from, R309-210-8 compliance monitoring, to identify and select R309-210-10 compliance monitoring locations.

(b) Applicability. Community water systems that uses a primary or residual disinfectant other than ultraviolet light or delivers water that has been treated with a primary or residual disinfectant other than ultraviolet light; or if the system is a non-transient non-community water systems that serves at least 10,000 people and uses a primary or residual disinfectant other than ultraviolet light or delivers water that has been treated with a primary or residual disinfectant other than ultraviolet light are subject to these requirements.

(c) Schedule. The water system must comply with the requirements of this subpart on the schedule in paragraph (c)(i).

(i) For water systems that are not part of a combined distribution system and systems that serve the largest population in the combined distribution system.

(A) For water systems that serve a population greater than or equal to 100,000:

(I) The water system must submit a standard monitoring plan or system specific study plan or 40/30 certification to the Director by or receive very small system waiver from the Director by October 1, 2006.

(II) The water system must complete the standard monitoring or system specific study by September 30, 2008.

(III) The water system must submit the IDSE report to the Director by January 1, 2009.

(B) For water systems that serve a population from 50,000 to 99,999:

(I) The water system must submit a standard monitoring plan or system specific study plan or 40/30 certification to the Director by or receive very small system waiver from the Director by April 1, 2007.

(II) The water system must complete the standard monitoring or system specific study by March 31, 2009.

(III) The water system must submit the IDSE report to the Director by July 1, 2009.

(C) For water systems that serve a population from 10,000 to 49,999:

(I) The water system must submit a standard monitoring plan or system specific study plan or 40/30 certification to the Director by or receive very small system waiver from the Director by October 1, 2007.

(II) The water system must complete the standard monitoring or system specific study by September 30, 2009.

(III) The water system must submit the IDSE report to the Director by January 1, 2010.

(D) For community water systems that serve a population less than 10,000:

(I) The water system must submit a standard monitoring plan or system specific study plan or 40/30 certification to the Director by or receive very small system waiver from the Director by April 1, 2008.

(II) The water system must complete the standard monitoring or system specific study by March 31, 2010.

(III) The water system must submit the IDSE report to the Director by July 1, 2010.

(ii) For other water systems that are part of a combined distribution system:

(A) For wholesale systems or consecutive systems:

(I) The water system must submit a standard monitoring plan or system specific study plan or 40/30 certification to the Director by or receive very small system waiver from the Director at the same time as the system with the earliest compliance date in the combined distribution system.

(II) The water system must complete the standard monitoring or system specific study at the same time as the system with the earliest compliance date in the combined distribution system.

(III) The water system must submit the IDSE report to the Director by at the same time as the system with the earliest compliance date in the combined distribution system.

(iii) If, within 12 months after the date the water system is required to submit the information in (i)(A)(I), (B)(I), (C)(I), (D)(I) and (ii)(A)(I) above, the Director does not approve the water system plan or notify the water system that it has not yet completed its review, the water system may consider the plan that was submitted as approved. The water system must implement that plan and must complete standard monitoring or a system specific study no later than the date identified in (i)(A)(II), (B)(II), (C)(II), (D)(II) and (ii)(A)(II) above.

(iv) The water system must submit the 40/30 certification under R309-210-9(4) by the date identified in (i)(A)(II), (B)(II), (C)(II), (D)(II) and (ii)(A)(II) above.

(v) If, within three months after the date identified in (i)(A)(III), (B)(III), (C)(III), (D)(III) and (ii)(A)(III) above (nine months after the date identified in this column if the water system must comply on the schedule in paragraph (c)(i)(C) of this section), the Director does not approve the IDSE report or notify the water system that it has not yet completed its review, the water system may consider the report submitted as approved and must implement the recommended R309-210-10 monitoring as required.

(vi) For the purpose of the schedule in paragraph (c)(i) through (c)(v) of this section, the Director may determine that the combined distribution system does not include certain consecutive systems based on factors such as receiving water from a wholesale system only on an emergency basis or receiving only a small percentage and small volume of water from a wholesale system. The Director may also determine that the combined distribution system does not include certain

wholesale systems based on factors such as delivering water to a consecutive system only on an emergency basis or delivering only a small percentage and small volume of water to a consecutive system.

(d) The water system must conduct standard monitoring that meets the requirements in R309-210-9(2), or a system specific study that meets the requirements in R309-210-9(3), or certify to the Director that the water system meet 40/30 certification criteria under R309-210-9(4), or qualify for a very small system waiver under R309-210-9(5).

(i) The water system must have taken the full complement of routine TTHM and HAA5 compliance samples required of a system with the population and source water under R309-210-8 (or the water system must have taken the full complement of reduced TTHM and HAA5 compliance samples required of a system with the population and source water under R309-210-8 if the water system meets reduced monitoring criteria under R309-210-8) during the period specified in R309-210-9(4)(a) to meet the 40/ 30 certification criteria in R309-210-9(4) the water system must have taken TTHM and HAA5 samples under R309-200-4(3) and R309-210-8 to be eligible for the very small system waiver in R309-210-9(5).

(ii) If the water system has not taken the required samples, the water system must conduct standard monitoring that meets the requirements in R309-210-9(2), or a system specific study that meets the requirements in R309-210-9(3).

(e) The water system must use only the analytical methods specified in R309-200-4(3), or otherwise approved by EPA for monitoring under this subpart, to demonstrate compliance with the requirements of this subpart.

(f) IDSE results will not be used for the purpose of determining compliance with MCLs in R309-200-5(3)(c).

(2) Standard monitoring.

(a) Standard monitoring plan. The standard monitoring plan must comply with paragraphs (a)(i) through (a)(iv) of this section. The water system must prepare and submit the standard monitoring plan to the Director according to the schedule in R309-210-9(1)(c).

(i) The standard monitoring plan must include a schematic of the distribution system (including distribution system entry points and their sources, and storage facilities), with notes indicating locations and dates of all projected standard monitoring, and all projected R309-210-8 compliance monitoring.

(ii) The standard monitoring plan must include justification of standard monitoring location selection and a summary of data the water system relied on to justify standard monitoring location selection.

(iii) The standard monitoring plan must specify the population served and system type (surface water or ground water).

(iv) The water system must retain a complete copy of the standard monitoring plan submitted under this paragraph (a), including any Director modification of the standard monitoring plan, for as long as the water system is required to retain the IDSE report under R309-105-17(8).

(b) Standard monitoring.

(i) The water system must monitor as indicated in paragraph (b)(i). The water system must collect dual sample sets at each monitoring location. One sample in the dual sample set must be analyzed for TTHM. The other sample in the dual sample set must be analyzed for HAA5. The water system must conduct one monitoring period during the peak historical month for TTHM levels or HAA5 levels or the month of warmest water temperature. The water system must review available compliance, study, or operational data to determine the peak historical month for TTHM or HAA5 levels or warmest water temperature.

(A) Surface water systems serving less than 500 population which are consecutive systems.

(I) One monitoring period per year, dual sample sets must be taken during the peak historical month. Two dual samples sets must be collected per monitoring period.

(II) One dual sample set must be taken at the high TTHM location in the distribution system.

(III) One dual sample set must be taken near the entry point of the disinfected water into the distribution system.

(B) Surface water systems serving less than 500 population which are non-consecutive systems.

(I) One monitoring period per year, dual sample sets must be taken during the peak historical month. Two dual samples sets must be collected per monitoring period.

(II) One dual sample set must be taken at the high TTHM location in the distribution system.

(III) One dual sample set must be taken at the high HAA5 location in the distribution system.

(C) Surface water systems serving between 500 to 3,300 population which are consecutive systems.

(I) Four monitoring periods per year, dual sample sets must be taken every 90 days. Two dual samples sets must be collected per monitoring period.

(II) One dual sample set must be taken at the high TTHM location in the distribution system.

(III) One dual sample set must be taken near the entry point of the disinfected water into the distribution system.

(D) Surface water systems serving between 500 to 3,300 population which are non-consecutive systems.

(I) Four monitoring periods per year, dual sample sets must be taken every 90 days. Two dual samples sets must be collected per monitoring period.

(II) One dual sample set must be taken at the high TTHM location in the distribution system.

(III) One dual sample set must be taken at the high HAA5 location in the distribution system.

(E) Surface water systems serving between 3,301 to 9,999 population.

(I) Four monitoring periods per year, dual sample sets must be taken every 90 days. Four dual samples sets must be collected per monitoring period.

(II) Two dual sample sets must be taken at the high TTHM locations in the distribution system.

(III) One dual sample set must be taken at the high HAA5 location in the distribution system.

(IV) One dual sample set must be taken at an average residence time of the disinfected water in the distribution system.

(F) Surface water systems serving between 10,000 to 49,999 population.

(I) Six monitoring periods per year, dual sample sets must be taken every 60 days. Eight dual samples sets must be collected per monitoring period.

(II) Three dual sample sets must be taken at the high TTHM locations in the distribution system.

(III) Two dual sample sets must be taken at the high HAA5 locations in the distribution system.

(IV) Two dual sample sets must be taken at an average residence time of the disinfected water in the distribution system.

(V) One dual sample set must be taken near the entry point of the disinfected water into the distribution system.

(G) Surface water systems serving between 50,000 to 249,999 population.

(I) Six monitoring periods per year, dual sample sets must be taken every 60 days. 16 dual samples sets must be collected per monitoring period.

(II) Five dual sample sets must be taken at the high TTHM locations in the distribution system.

(III) Four dual sample sets must be taken at the high

HAA5 locations in the distribution system.

(IV) Four dual sample sets must be taken at an average residence time of the disinfected water in the distribution system.

(V) Three dual sample sets must be taken near the entry point of the disinfected water into the distribution system.

(H) Surface water systems serving between 250,000 to 999,999 population.

(I) Six monitoring periods per year, dual sample sets must be taken every 60 days. 24 dual samples sets must be collected per monitoring period.

(II) Eight dual sample sets must be taken at the high TTHM locations in the distribution system.

(III) Six dual sample sets must be taken at the high HAA5 locations in the distribution system.

(IV) Six dual sample sets must be taken at an average residence time of the disinfected water in the distribution system.

(V) Four dual sample sets must be taken near the entry point of the disinfected water into the distribution system.

(I) Surface water systems serving between 1,000,000 to 4,999,999 population.

(I) Six monitoring periods per year, dual sample sets must be taken every 60 days. 32 dual samples sets must be collected per monitoring period.

(II) Ten dual sample sets must be taken at the high TTHM locations in the distribution system.

(III) Eight dual sample sets must be taken at the high HAA5 locations in the distribution system.

(IV) Eight dual sample sets must be taken at an average residence time of the disinfected water in the distribution system.

(V) Six dual sample sets must be taken near the entry point of the disinfected water into the distribution system.

(J) Surface water systems serving 5,000,000 or more population.

(I) Six monitoring periods per year, dual sample sets must be taken every 60 days. 40 dual samples sets must be collected per monitoring period.

(II) Twelve dual sample sets must be taken at the high TTHM locations in the distribution system.

(III) Ten dual sample sets must be taken at the high HAA5 locations in the distribution system.

(IV) Ten dual sample sets must be taken at an average residence time of the disinfected water in the distribution system.

(V) Eight dual sample sets must be taken near the entry point of the disinfected water into the distribution system.

(K) Ground water systems serving less than 500 population which are consecutive systems.

(I) One monitoring period per year, dual sample sets must be taken during the peak historical month. Two dual samples sets must be collected per monitoring period.

(II) One dual sample set must be taken at the high TTHM location in the distribution system.

(III) One dual sample set must be taken near the entry point of the disinfected water into the distribution system.

(L) Ground water systems serving less than 500 population which are non-consecutive systems.

(I) One monitoring period per year, dual sample sets must be taken during the peak historical month. Two dual samples sets must be collected per monitoring period.

(II) One dual sample set must be taken at the high TTHM location in the distribution system.

(III) One dual sample set must be taken at the high HAA5 location in the distribution system.

(M) Ground water systems serving between 500 to 9,999 population.

(I) Four monitoring periods per year, dual sample sets must be taken every 90 days. Two dual samples sets must be collected per monitoring period.

(II) One dual sample set must be taken at the high TTHM location in the distribution system.

(III) One dual sample set must be taken at the high HAA5 location in the distribution system.

(N) Ground water systems serving between 10,000 to 99,999 population.

(I) Four monitoring periods per year, dual sample sets must be taken every 90 days. Six dual samples sets must be collected per monitoring period.

(II) Two dual sample sets must be taken at the high TTHM locations in the distribution system.

(III) Two dual sample sets must be taken at the high HAA5 locations in the distribution system.

(IV) One dual sample set must be taken at an average residence time of the disinfected water in the distribution system.

(V) One dual sample set must be taken near the entry point of the disinfected water into the distribution system.

(O) Ground water systems serving between 100,000 to 499,999 population.

(I) Four monitoring periods per year, dual sample sets must be taken every 90 days. Eight dual samples sets must be collected per monitoring period.

(II) Three dual sample sets must be taken at the high TTHM locations in the distribution system.

(III) Three dual sample sets must be taken at the high HAA5 locations in the distribution system.

(IV) One dual sample set must be taken at an average residence time of the disinfected water in the distribution system.

(V) One dual sample set must be taken near the entry point of the disinfected water into the distribution system.

(P) Ground water systems serving 500,000 or greater population.

(I) Four monitoring periods per year, dual sample sets must be taken every 90 days. Twelve dual samples sets must be collected per monitoring period.

(II) Four dual sample sets must be taken at the high TTHM locations in the distribution system.

(III) Four dual sample sets must be taken at the high HAA5 locations in the distribution system.

(IV) Two dual sample sets must be taken at an average residence time of the disinfected water in the distribution system.

(V) Two dual sample sets must be taken near the entry point of the disinfected water into the distribution system.

(Q) A dual sample set (i.e., a TTHM and an HAA5 sample) must be taken at each monitoring location during each monitoring period.

(R) The peak historical month is the month with the highest TTHM or HAA5 levels or the warmest water temperature.

(ii) The water system must take samples at locations other than the existing R309-210-8 monitoring locations. Monitoring locations must be distributed throughout the distribution system.

(iii) If the number of entry points to the distribution system is fewer than the specified number of entry point monitoring locations, excess entry point samples must be replaced equally at high TTHM and HAA5 locations. If there is an odd extra location number, the water system must take a sample at a high TTHM location. If the number of entry points to the distribution system is more than the specified number of entry point monitoring locations, the water system must take samples at entry points to the distribution system having the highest annual water flows.

(iv) The system monitoring under this paragraph (b) may not be reduced under the provisions of R309-105-5(2).

(c) IDSE report. The IDSE report must include the elements required in paragraphs (c)(i) through (c)(iv) of this section. The water system must submit the IDSE report to the Director according to the schedule in R309-210-9(1)(c).

(i) The IDSE report must include all TTHM and HAA5 analytical results from R309-210-8 compliance monitoring and all standard monitoring conducted during the period of the IDSE as individual analytical results and LRAAs presented in a tabular or spreadsheet format acceptable to the Director. If changed from the standard monitoring plan submitted under paragraph (a) of this section, the report must also include a schematic of the distribution system, the population served, and system type (surface water or ground water).

(ii) The IDSE report must include an explanation of any deviations from the approved standard monitoring plan.

(iii) The water system must recommend and justify R309-210-10 compliance monitoring locations and timing based on the protocol in R309-210-9(6).

(iv) The water system must retain a complete copy of the IDSE report submitted under this section for 10 years after the date that the water system submitted the report. If the Director modifies the R309-210-10 monitoring requirements that the water system recommended in the IDSE report or if the Director approves alternative monitoring locations, the water system must keep a copy of the Director's notification on file for 10 years after the date of the Director's notification. The water system must make the IDSE report and any Director notification available for review by the Director or the public.

(3) System specific studies.

(a) System specific study plan. The water system specific study plan must be based on either existing monitoring results as required under paragraph (a)(i) of this section or modeling as required under paragraph (a)(ii) of this section. The water system must prepare and submit the system specific study plan to the Director according to the schedule in R309-210-9(1)(c).

(i) Existing monitoring results. The water system may comply by submitting monitoring results collected before the water system is required to begin monitoring under R309-210-9(1)(c). The monitoring results and analysis must meet the criteria in paragraphs (a)(i)(A) and (a)(i)(B) of this section.

(A) Minimum requirements.

(I) TTHM and HAA5 results must be based on samples collected and analyzed in accordance with R309-200-4(3). Samples must be collected no earlier than five years prior to the study plan submission date.

(II) The monitoring locations and frequency must meet the conditions identified in this paragraph (a)(i)(A)(II). Each location must be sampled once during the peak historical month for TTHM levels or HAA5 levels or the month of warmest water temperature for every 12 months of data submitted for that location. Monitoring results must include all R309-210-8 compliance monitoring results plus additional monitoring results as necessary to meet minimum sample requirements.

(III) Surface water systems serving a population less than 500 shall have data from:

(aa) three monitoring locations; and

(bb) three samples for each TTHM and HAA5.

(IV) Surface water systems serving a population between 500 to 3,300 shall have data from:

(aa) three monitoring locations; and

(bb) nine samples each for TTHM and HAA5.

(V) Surface water systems serving a population between 3,301 to 9,999 shall have data from:

(aa) six monitoring locations; and

(bb) 36 samples each for TTHM and HAA5.

(VI) Surface water systems serving a population between 10,000 to 49,999 shall have data from:

(aa) 12 monitoring locations; and

(bb) 72 samples each for TTHM and HAA5.

(VII) Surface water systems serving a population between 50,000 to 249,999 shall have data from:

(aa) 24 monitoring locations; and

(bb) 144 samples each for TTHM and HAA5.

(VIII) Surface water systems serving a population between 250,000 to 999,999 shall have data from:

(aa) 36 monitoring locations; and

(bb) 216 samples each for TTHM and HAA5.

(IX) Surface water systems serving a population between 1,000,000 to 4,999,999 shall have data from:

(aa) 48 monitoring locations; and

(bb) 288 samples each for TTHM and HAA5.

(X) Surface water systems serving a population 5,000,000 or greater shall have data from:

(aa) 60 monitoring locations; and

(bb) 360 samples each for TTHM and HAA5.

(XI) Ground water systems serving a population less than 500 shall have data from:

(aa) three monitoring locations; and

(bb) three samples for each TTHM and HAA5.

(XII) Ground water systems serving a population between 500 to 9,999 shall have data from:

(aa) three monitoring locations; and

(bb) nine samples each for TTHM and HAA5.

(XIII) Ground water systems serving a population between 10,000 to 99,999 shall have data from:

(aa) 12 monitoring locations; and

(bb) 48 samples each for TTHM and HAA5.

(XIV) Ground water systems serving a population between 100,000 to 499,999 shall have data from:

(aa) 18 monitoring locations; and

(bb) 72 samples each for TTHM and HAA5.

(XV) Ground water systems serving a population of 500,000 or greater shall have data from:

(aa) 24 monitoring locations; and

(bb) 96 samples each for TTHM and HAA5.

(B) Reporting monitoring results. The water system must report the information in this paragraph (a)(i)(B).

(I) The water system must report previously collected monitoring results and certify that the reported monitoring results include all compliance and non-compliance results generated during the time period beginning with the first reported result and ending with the most recent R309-210-8 results.

(II) The water system must certify that the samples were representative of the entire distribution system and that treatment, and distribution system have not changed significantly since the samples were collected.

(III) The study monitoring plan must include a schematic of the distribution system (including distribution system entry points and their sources, and storage facilities), with notes indicating the locations and dates of all completed or planned system specific study monitoring.

(IV) The water system specific study plan must specify the population served and system type (surface water or ground water).

(V) The water system must retain a complete copy of the system specific study plan submitted under this paragraph (a)(i), including any Director modification of the system specific study plan, for as long as the water system is required to retain the IDSE report under paragraph (b)(v) of this section.

(VI) If the water system submits previously collected data that fully meet the number of samples required under paragraph (a)(i)(A)(II) of this section and the Director rejects some of the data, the water system must either conduct additional monitoring to replace rejected data on a schedule the Director approves or conduct standard monitoring under R309-210-9(2).

(ii) Modeling. The water system may comply through analysis of an extended period simulation hydraulic model. The

extended period simulation hydraulic model and analysis must meet the criteria in this paragraph (a)(ii).

(A) Minimum requirements.

(I) The model must simulate 24 hour variation in demand and show a consistently repeating 24 hour pattern of residence time.

(II) The model must represent the criteria listed in paragraphs (a)(ii)(A)(II)(aa) through (ii) of this section.

(aa) 75% of pipe volume;

(bb) 50% of pipe length;

(cc) All pressure zones;

(dd) All 12-inch diameter and larger pipes;

(ee) All 8-inch and larger pipes that connect pressure zones, influence zones from different sources, storage facilities, major demand areas, pumps, and control valves, or are known or expected to be significant conveyors of water;

(ff) All 6-inch and larger pipes that connect remote areas of a distribution system to the main portion of the system;

(gg) All storage facilities with standard operations represented in the model; and

(hh) All active pump stations with controls represented in the model; and

(ii) All active control valves.

(III) The model must be calibrated, or have calibration plans, for the current configuration of the distribution system during the period of high TTHM formation potential. All storage facilities must be evaluated as part of the calibration process. All required calibration must be completed no later than 12 months after plan submission.

(B) Reporting modeling. The system specific study plan must include the information in this paragraph (a)(ii)(B).

(I) Tabular or spreadsheet data demonstrating that the model meets requirements in paragraph (a)(ii)(A)(II) of this section.

(II) A description of all calibration activities undertaken, and if calibration is complete, a graph of predicted tank levels versus measured tank levels for the storage facility with the highest residence time in each pressure zone, and a time series graph of the residence time at the longest residence time storage facility in the distribution system showing the predictions for the entire simulation period (i.e., from time zero until the time it takes to for the model to reach a consistently repeating pattern of residence time).

(III) Model output showing preliminary 24 hour average residence time predictions throughout the distribution system.

(IV) Timing and number of samples representative of the distribution system planned for at least one monitoring period of TTHM and HAA5 dual sample monitoring at a number of locations no less than would be required for the system under standard monitoring in R309-210-9(2) during the historical month of high TTHM. These samples must be taken at locations other than existing R309-210-8 compliance monitoring locations.

(V) Description of how all requirements will be completed no later than 12 months after the water system submits the system specific study plan.

(VI) Schematic of the distribution system (including distribution system entry points and their sources, and storage facilities), with notes indicating the locations and dates of all completed system specific study monitoring (if calibration is complete) and all R309-210-8 compliance monitoring.

(VII) Population served and system type (surface water or ground water).

(VIII) The water system must retain a complete copy of the system specific study plan submitted under this paragraph (a)(ii), including any Director modification of the system specific study plan, for as long as the water system is required to retain the IDSE report under paragraph (b)(vii) of this section.

(C) If the water system submits a model that does not fully meet the requirements under paragraph (a)(ii) of this section, the water system must correct the deficiencies and respond to Director inquiries concerning the model. If the water system fails to correct deficiencies or respond to inquiries to the Director's satisfaction, the water system must conduct standard monitoring under R309-210-9(2).

(b) IDSE report. The IDSE report must include the elements required in paragraphs (b)(i) through (b)(vi) of this section. The water system must submit the IDSE report according to the schedule in R309-210-9(1)(c).

(i) The IDSE report must include all TTHM and HAA5 analytical results from R309-210-8 compliance monitoring and all system specific study monitoring conducted during the period of the system specific study presented in a tabular or spreadsheet format acceptable to the Director. If changed from the system specific study plan submitted under paragraph (a) of this section, the IDSE report must also include a schematic of the distribution system, the population served, and system type (surface water or ground water).

(ii) If the water system used the modeling provision under paragraph (a)(ii) of this section, the water system must include final information for the elements described in paragraph (a)(ii)(B) of this section, and a 24-hour time series graph of residence time for each R309-210-10 compliance monitoring location selected.

(iii) The water system must recommend and justify R309-210-10 compliance monitoring locations and timing based on the protocol in R309-210-9(6).

(iv) The IDSE report must include an explanation of any deviations from the approved system specific study plan.

(v) The IDSE report must include the basis (analytical and modeling results) and justification the water system used to select the recommended R309-210-10 monitoring locations.

(vi) The water system may submit the IDSE report in lieu of the system specific study plan on the schedule identified in R309-210-9(1) (c) for submission of the system specific study plan if the water system believes that it has the necessary information by the time that the system specific study plan is due. If the water system elects this approach, the IDSE report must also include all information required under paragraph (a) of this section.

(vii) The water system must retain a complete copy of the IDSE report submitted under this section for 10 years after the date the water system submitted the IDSE report. If the Director modifies the R309-210-10 monitoring requirements the water system recommended in the IDSE report or if the Director approves alternative monitoring locations, the water system must keep a copy of the Director's notification on file for 10 years after the date of the Director's notification. The water system must make the IDSE report and any Director notification available for review by the Director or the public.

(4) 40/30 certification.

(a) Eligibility. The water system is eligible for 40/ 30 certification if it had no TTHM or HAA5 monitoring violations under R309-210-8 of this part and no individual sample exceeded 0.040 mg/L for TTHM or 0.030 mg/L for HAA5 during an eight consecutive calendar quarter period beginning no earlier than the date specified in this paragraph (a).

(i) If the 40/30 certification is due October 1, 2006 then the eligibility for 40/30 certification is based on eight consecutive calendar quarters of R309-210-8 compliance monitoring results beginning no earlier than January 2004.

(ii) If the 40/30 certification is due April 1, 2007 then the eligibility for 40/30 certification is based on eight consecutive calendar quarters of R309-210-8 compliance monitoring results beginning no earlier than January 2004.

(iii) If the 40/30 certification is due October 1, 2007 then the eligibility for 40/30 certification is based on eight

consecutive calendar quarters of R309-210-8 compliance monitoring results beginning no earlier than January 2005.

(iv) If the 40/30 certification is due April 1, 2008 then the eligibility for 40/30 certification is based on eight consecutive calendar quarters of R309-210-8 compliance monitoring results beginning no earlier than January 2005.

(v) Unless the water system is on reduced monitoring under R309-210-8 of this part and were not required to monitor during the specified period. If the water system did not monitor during the specified period, the water system must base its eligibility on compliance samples taken during the 12 months preceding the specified period.

(b) 40/30 certification.

(i) The water system must certify to the Director that every individual compliance sample taken under R309-210-8 of this part during the periods specified in paragraph (a) of this section were less than or equal to 0.040 mg/L for TTHM and less than or equal to 0.030 mg/L for HAA5, and that the water system did not have any TTHM or HAA5 monitoring violations during the period specified in paragraph (a) of this section.

(ii) The Director may require the water system to submit compliance monitoring results, distribution system schematics, and/or recommended R309-210-10 compliance monitoring locations in addition to the certification. If the water system fails to submit the requested information, the Director may require standard monitoring under R309-210-9(2) or a system specific study under R309-210-9(3).

(iii) The Director may still require standard monitoring under R309-210-9(2) or a system specific study under R309-210-9(3) even if the water system meets the criteria in paragraph (a) of this section.

(iv) A water system must retain a complete copy of its certification submitted under this section for 10 years after the date that the water system submitted the certification. The water system must make the certification, all data upon which the certification is based, and any Director notification available for review by the Director or the public.

(5) Very small system waivers.

(a) If the water system serves fewer than 500 people and it has taken TTHM and HAA5 samples under R309-210-8, the water system is not required to comply with this subpart unless the Director notifies the water system that it must conduct standard monitoring under R309-210-9(2) or a system specific study under R309-210-9(3).

(b) If the water system has not taken TTHM and HAA5 samples under R309-210-8 or if the Director notifies the water system that the water system must comply with this subpart, the water system must conduct standard monitoring under R309-210-9(2) or a system specific study under R309-210-9(3).

(6) Stage 2 (R309-210-10) compliance monitoring location recommendations.

(a) The IDSE report must include the recommendations and justification for where and during what month(s) TTHM and HAA5 monitoring for R309-210-10 of this part should be conducted. The water system must base the recommendations on the criteria in paragraphs (b) through (e) of this section.

(b) The water system must select the number of monitoring locations specified in this paragraph (b). The water system will use these recommended locations as R309-210-10 routine compliance monitoring locations, unless Director requires different or additional locations. The water system should distribute locations throughout the distribution system to the extent possible.

(i) Surface water systems serving less than 500.

(A) One monitoring period per year. Two dual samples sets must be collected per monitoring period.

(B) One dual sample set must be taken at the high TTHM location in the distribution system.

(C) One dual sample set must be taken at the high HAA5 location in the distribution system.

(ii) Surface water systems serving between 500 to 3,300.

(A) Four monitoring periods per year, dual sample sets must be taken every 90 days. Two dual samples sets must be collected per monitoring period.

(B) One dual sample set must be taken at the high TTHM location in the distribution system.

(C) One dual sample set must be taken at the high HAA5 location in the distribution system.

(iii) Surface water systems serving between 3,301 to 9,999 population.

(A) Four monitoring periods per year, dual sample sets must be taken every 90 days. Two dual samples sets must be collected per monitoring period.

(B) One dual sample set must be taken at the high TTHM locations in the distribution system.

(C) One dual sample set must be taken at the high HAA5 location in the distribution system.

(iv) Surface water systems serving between 10,000 to 49,999 population.

(A) Four monitoring periods per year, dual sample sets must be taken every 90 days. Four dual samples sets must be collected per monitoring period.

(B) Two dual sample sets must be taken at the high TTHM locations in the distribution system.

(C) One dual sample set must be taken at the high HAA5 locations in the distribution system.

(D) One dual sample set must be taken at an existing R309-210-8 compliance location.

(v) Surface water systems serving between 50,000 to 249,999 population.

(A) Four monitoring periods per year, dual sample sets must be taken every 90 days. Eight dual samples sets must be collected per monitoring period.

(B) Three dual sample sets must be taken at the high TTHM locations in the distribution system.

(C) Three dual sample sets must be taken at the high HAA5 locations in the distribution system.

(D) Two dual samples sets must be taken at an existing R309-210-8 compliance location.

(vi) Surface water systems serving between 250,000 to 999,999 population.

(A) Four monitoring periods per year, dual sample sets must be taken every 90 days. 12 dual samples sets must be collected per monitoring period.

(B) Five dual sample sets must be taken at the high TTHM locations in the distribution system.

(C) Four dual sample sets must be taken at the high HAA5 locations in the distribution system.

(D) Three dual sample sets must be taken at an existing R309-210-8 compliance location.

(vii) Surface water systems serving between 1,000,000 to 4,999,999 population.

(A) Four monitoring periods per year, dual sample sets must be taken every 90 days. 16 dual samples sets must be collected per monitoring period.

(B) Six dual sample sets must be taken at the high TTHM locations in the distribution system.

(C) Six dual sample sets must be taken at the high HAA5 locations in the distribution system.

(D) Four dual sample sets must be taken at an existing R309-210-8 compliance location.

(viii) Surface water systems serving 5,000,000 or more population.

(A) Four monitoring periods per year, dual sample sets must be taken every 90 days. 20 dual samples sets must be collected per monitoring period.

(B) Eight dual sample sets must be taken at the high TTHM locations in the distribution system.

(C) Seven dual sample sets must be taken at the high HAA5 locations in the distribution system.

(D) Five dual sample sets must be taken at an existing R309-210-8 compliance location.

(ix) Ground water systems serving less than 500.

(A) One monitoring period per year. Two dual samples sets must be collected per monitoring period.

(B) One dual sample set must be taken at the high TTHM location in the distribution system.

(C) One dual sample set must be taken at the high HAA5 location in the distribution system.

(x) Ground water systems serving between 500 to 9,999 population.

(A) One monitoring period per year. Two dual samples sets must be collected per monitoring period.

(B) One dual sample set must be taken at the high TTHM location in the distribution system.

(C) One dual sample set must be taken at the high HAA5 location in the distribution system.

(xi) Ground water systems serving between 10,000 to 99,999 population.

(A) Four monitoring periods per year, dual sample sets must be taken every 90 days. Four dual samples sets must be collected per monitoring period.

(B) Two dual sample sets must be taken at the high TTHM locations in the distribution system.

(C) One dual sample set must be taken at the high HAA5 locations in the distribution system.

(D) One dual sample set must be taken at an existing R309-210-8 compliance location.

(xii) Ground water systems serving between 100,000 to 499,999 population.

(A) Four monitoring periods per year, dual sample sets must be taken every 90 days. Six dual samples sets must be collected per monitoring period.

(B) Three dual sample sets must be taken at the high TTHM locations in the distribution system.

(C) Two dual sample sets must be taken at the high HAA5 locations in the distribution system.

(D) One dual sample set must be taken at an existing R309-210-8 compliance location.

(xiii) Ground water systems serving 500,000 or greater population.

(A) Four monitoring periods per year, dual sample sets must be taken every 90 days. Eight dual samples sets must be collected per monitoring period.

(B) Three dual sample sets must be taken at the high TTHM locations in the distribution system.

(C) Three dual sample sets must be taken at the high HAA5 locations in the distribution system.

(D) Two dual sample sets must be taken at an existing R309-210-8 compliance location.

(xiv) All systems must monitor during month of highest DBP concentrations.

(xv) Systems on quarterly monitoring must take dual sample sets every 90 days at each monitoring location, except for subpart H systems serving 500-3,300. Systems on annual monitoring and subpart H systems serving 500-3,300 are required to take individual TTHM and HAA5 samples (instead of a dual sample set) at the locations with the highest TTHM and HAA5 concentrations, respectively. Only one location with a dual sample set per monitoring period is needed if highest TTHM and HAA5 concentrations occur at the same location, and month, if monitored annually).

(c) The water system must recommend R309-210-10 compliance monitoring locations based on standard monitoring results, system specific study results, and R309-210-8 compliance monitoring results. The water system must follow the protocol in paragraphs (c)(i) through (c)(viii) of this section. If required to monitor at more than eight locations, the water system must repeat the protocol as necessary. If the water system do not have existing R309-210-8 compliance monitoring results or if the water system do not have enough existing R309-210-8 compliance monitoring results, the water system must repeat the protocol, skipping the provisions of paragraphs (c)(iii) and (c)(vii) of this section as necessary, until the water system have identified the required total number of monitoring locations.

(i) Location with the highest TTHM LRAA not previously selected as a R309-210-10 monitoring location.

(ii) Location with the highest HAA5 LRAA not previously selected as a R309-210-10 monitoring location.

(iii) Existing R309-210-8 average residence time compliance monitoring location (maximum residence time compliance monitoring location for ground water systems) with the highest HAA5 LRAA not previously selected as a R309-210-10 monitoring location.

(iv) Location with the highest TTHM LRAA not previously selected as a R309-210-10 monitoring location.

(v) Location with the highest TTHM LRAA not previously selected as a R309-210-10 monitoring location.

(vi) Location with the highest HAA5 LRAA not previously selected as a R309-210-10 monitoring location.

(vii) Existing R309-210-8 average residence time compliance monitoring location (maximum residence time compliance monitoring location for ground water systems) with the highest TTHM LRAA not previously selected as a R309-210-10 monitoring location.

(viii) Location with the highest HAA5 LRAA not previously selected as a R309-210-10 monitoring location.

(d) The water system may recommend locations other than those specified in paragraph (c) of this section if the water system include a rationale for selecting other locations. If the Director approves the alternate locations, the water system must monitor at these locations to determine compliance under R309-210-10 of this part.

(e) The recommended schedule must include R309-210-10 monitoring during the peak historical month for TTHM and HAA5 concentration, unless the Director approves another month. Once the water system have identified the peak historical month, and if the water system is required to conduct routine monitoring at least quarterly, the water system must schedule R309-210-10 compliance monitoring at a regular frequency of every 90 days or fewer.

R309-210-10. Disinfection Byproducts - Stage 2 Requirements.

(1) General requirements.

(a) General. The regulations in this sub-section establish monitoring and other requirements for achieving compliance with maximum contaminant levels based on locational running annual averages (LRAA) for total trihalomethanes (TTHM) and haloacetic acids (five)(HAA5), and for achieving compliance with maximum residual disinfectant residuals for chlorine and chloramine for certain consecutive systems.

(b) Applicability. The water system is subject to these requirements if the system is a community water system or a non-transient non-community water system that uses a primary or residual disinfectant other than ultraviolet light or delivers water that has been treated with a primary or residual disinfectant other than ultraviolet light.

(c) Schedule. The water system must comply with the requirements in this subpart on the schedule in the following sub-paragraphs (c)(i) through (vi) based on the system type.

(i) For water systems that are not part of a combined distribution system and systems that serve the largest population in the combined distribution system.

(A) For water systems that serve a population greater than

or equal to 100,000 the water system must comply with R309-210-10 monitoring by April 1, 2012.

(B) For water systems that serve a population from 50,000 to 99,999 the water system must comply with R309-210-10 monitoring by October 1, 2012.

(C) For water systems that serve a population from 10,000 to 49,999 the water system must comply with R309-210-10 monitoring by October 1, 2013.

(D) For water systems that serve a population less than 10,000 the water system must comply with R309-210-10 monitoring by October 1, 2013 if no Cryptosporidium monitoring is required under R309-215-15(2)(a)(iv) or October 1, 2014 if Cryptosporidium monitoring is required under R309-215-15(a)(iv) or (a)(vi).

(ii) For other water systems that are part of a combined distribution system:

(A) For wholesale systems or consecutive systems the water system must comply with R309-210-10 monitoring at the same time as the system with the earliest compliance date in the combined distribution system.

(iii) The Director may grant up to an additional 24 months for compliance with MCLs and operational evaluation levels if the water system requires capital improvements to comply with an MCL.

(iv) The monitoring frequency is specified in R309-210-10(2)(a)(ii).

(A) If the water system is required to conduct quarterly monitoring, the water system must begin monitoring in the first full calendar quarter that includes the compliance date in paragraph (c).

(B) If the water system is required to conduct monitoring at a frequency that is less than quarterly, the water system must begin monitoring in the calendar month recommended in the IDSE report prepared under R309-210-9(2) or R309-210-9(3) or the calendar month identified in the R309-210-10 monitoring plan developed under R309-210-10(3) no later than 12 months after the compliance date in R309-210-10(1)(c).

(v) If the water system is required to conduct quarterly monitoring, the water system must make compliance calculations at the end of the fourth calendar quarter that follows the compliance date and at the end of each subsequent quarter (or earlier if the LRAA calculated based on fewer than four quarters of data would cause the MCL to be exceeded regardless of the monitoring results of subsequent quarters). If the water system is required to conduct monitoring at a frequency that is less than quarterly, the water system must make compliance calculations beginning with the first compliance sample taken after the compliance date.

(vi) For the purpose of the schedule in this paragraph (c), the Director may determine that the combined distribution system does not include certain consecutive systems based on factors such as receiving water from a wholesale system only on an emergency basis or receiving only a small percentage and small volume of water from a wholesale system. The Director may also determine that the combined distribution system does not include certain wholesale systems based on factors such as delivering water to a consecutive system only on an emergency basis or delivering only a small percentage and small volume of water to a consecutive system.

(d) Monitoring and compliance.

(i) Systems required to monitor quarterly. To comply with R309-210-10 MCLs in R309-200-5(3)(c)(3)(vi), the water system must calculate LRAAs for TTHM and HAA5 using monitoring results collected under this sub-section and determine that each LRAA does not exceed the MCL. If the water system fails to complete four consecutive quarters of monitoring, the water system must calculate compliance with the MCL based on the average of the available data from the most recent four quarters. If the water system takes more than one sample per quarter at a monitoring location, the water system must average all samples taken in the quarter at that location to determine a quarterly average to be used in the LRAA calculation.

(ii) Systems required to monitor yearly or less frequently. To determine compliance with R309-210-10 MCLs in R309-200-5(3)(c)(3)(vi), the water system must determine that each sample taken is less than the MCL. If any sample exceeds the MCL, the water system must comply with the requirements of R309-210-10(6). If no sample exceeds the MCL, the sample result for each monitoring location is considered the LRAA for that monitoring location.

(e) Violation. The water system is in violation of the monitoring requirements for each quarter that a monitoring result would be used in calculating an LRAA if the water system fail to monitor.

(2) Routine monitoring.

(a) Monitoring.

(i) If the water system submitted an IDSE report, the water system must begin monitoring at the locations and months the water system have recommended in the IDSE report submitted under R309-210-9(6) following the schedule in R309-210-10(1)(c), unless the Director requires other locations or additional locations after its review. If the water system submitted a 40/30 certification under R309-210-9(4) or the water system qualified for a very small system waiver under R309-210-9(5) or the water system is a non-transient non-community water system serving less than 10,000, the water system must monitor at the location(s) and dates identified in the monitoring plan in R309-210-8(5), updated as required by R309-210-10(3).

(ii) The water system must monitor at no fewer than the number of locations identified in this paragraph (a)(ii).

(A) Surface water systems serving less than 500 shall have one monitoring period per year and shall collect two dual samples sets per monitoring period.

(B) Surface water systems serving between 500 to 3,300 shall have four monitoring periods per year and shall collect two dual samples sets per monitoring period.

(C) Surface water systems serving between 3,301 to 9,999 population shall have four monitoring periods per year and shall collect two dual samples sets per monitoring period.

(D) Surface water systems serving between 10,000 to 49,999 population shall have four monitoring periods per year and shall collect four dual samples sets per monitoring period.

(E) Surface water systems serving between 50,000 to 249,999 population shall have four monitoring periods per year and shall collect eight dual samples sets per monitoring period.

(F) Surface water systems serving between 250,000 to 999,999 population shall have four monitoring periods per year and shall collect 12 dual samples per monitoring period.

(G) Surface water systems serving between 1,000,000 to 4,999,999 population shall have four monitoring periods per year and shall collect 16 dual samples sets per monitoring period.

(H) Surface water systems serving 5,000,000 or more population shall have four monitoring periods per year and shall collect 20 dual samples sets per monitoring period.

(I) Ground water systems serving less than 500 shall have one monitoring period per year and shall collect two dual samples sets per monitoring period.

(J) Ground water systems serving between 500 to 9,999 population shall have one monitoring period per year and shall collect two dual samples sets per monitoring period.

(K) Ground water systems serving between 10,000 to 99,999 population shall have four monitoring periods per year and shall collect four dual samples sets per monitoring period.

(L) Ground water systems serving between 100,000 to 499,999 population shall have four monitoring periods per year

and shall collect six dual samples sets per monitoring period.

(M) Ground water systems serving 500,000 or greater population shall have four monitoring periods per year and shall collect eight dual samples sets per monitoring period.

(N) All systems must monitor during month of highest DBP concentrations.

(O) Systems on quarterly monitoring must take dual sample sets every 90 days at each monitoring location, except for surface water systems serving 500-3,300. Systems on annual monitoring and surface water systems serving 500-3,300 are required to take individual TTHM and HAA5 samples (instead of a dual sample set) at the locations with the highest TTHM and HAA5 concentrations, respectively. Only one location with a dual sample set per monitoring period is needed if highest TTHM and HAA5 concentrations occur at the same location (and month, if monitored annually).

(iii) If the water system is an undisinfected system that begins using a disinfectant other than UV light after the dates in R309-210-9 for complying with the Initial Distribution System Evaluation requirements, the water system must consult with the Director to identify compliance monitoring locations for this sub-section. The water system must then develop a monitoring plan under R309-210-10(3) that includes those monitoring locations.

(b) Analytical methods. The water system must use an approved method listed in R309-200-4(3) for TTHM and HAA5 analyses in this sub-section. Analyses must be conducted by laboratories that have received certification by EPA or the Director as specified in R309-200-4(3).

(3) Stage 2 monitoring plan.

(a)(i) The water system must develop and implement a monitoring plan to be kept on file for Director and public review. The monitoring plan must contain the elements in paragraphs (a)(i)(A) through (a)(i)(D) of this section and be complete no later than the date the water system conduct the initial monitoring under this sub-section.

(A) Monitoring locations;

(B) Monitoring dates;

(C) Compliance calculation procedures; and

(D) Monitoring plans for any other systems in the combined distribution system if the Director has reduced monitoring requirements under the Director authority in R309-105-5(2).

(ii) If the water system were not required to submit an IDSE report under either R309-210-9(2) or R309-210-9(3), and the water system do not have sufficient R309-210-8 monitoring locations to identify the required number of R309-210-10 compliance monitoring locations indicated in R309-210-9(6)(b), the water system must identify additional locations by alternating selection of locations representing high TTHM levels and high HAA5 levels until the required number of compliance monitoring locations have been identified. The water system must also provide the rationale for identifying the locations as having high levels of TTHM or HAA5. If the water system have more R309-210-8 monitoring locations than required for R309-210-10 compliance monitoring in R309-210-9(6)(b), the water system must identify which locations the water system will use for R309-210-10 compliance monitoring by alternating selection of locations representing high TTHM levels and high HAA5 levels until the required number of R309-210-10 compliance monitoring locations have been identified.

(b) If the water system is a surface water system serving greater than 3,300 people, the water system must submit a copy of the monitoring plan to the Director prior to the date the water system conduct the initial monitoring under this sub-section, unless the IDSE report submitted under R309-210-9 contains all the information required by this section.

(c) The water system may revise the monitoring plan to reflect changes in treatment, distribution system operations and layout (including new service areas), or other factors that may affect TTHM or HAA5 formation, or for Director-approved reasons, after consultation with the Director regarding the need for changes and the appropriateness of changes. If the water system changes monitoring locations, the water system must replace existing compliance monitoring locations with the lowest LRAA with new locations that reflect the current distribution system locations with expected high TTHM or HAA5 levels. The Director may also require modifications in the monitoring plan. If the water system is a surface water system serving greater than 3,300 people, the water system must submit a copy of the modified monitoring plan to the Director prior to the date the water system is required to comply with the revised monitoring plan.

(4) Reduced monitoring.

(a) The water system may reduce monitoring to the level specified in this paragraph (a) any time the LRAA is equal to or less than 0.040 mg/L for TTHM and equal to or less than 0.030 mg/L for HAA5 at all monitoring locations. The water system may only use data collected under the provisions of this sub-section or R309-210-8 to qualify for reduced monitoring. In addition, the source water annual average TOC level, before any treatment, must be less than or equal to 4.0 mg/L at each treatment plant treating surface water or ground water under the direct influence of surface water, based on monitoring conducted under either R309-210-8(2)(a)(iii) or R309-215-12.

(i) Surface water systems serving a population less than 500. Monitoring reduction

(A) Monitoring may not be reduced.

(ii) Surface water systems serving between 500 to 3,300 population.

(A) One monitoring periods per year. 1 TTHM and 1 HAA5 sample must be collected per monitoring period.

(B) One sample at the location and during the quarter with the highest TTHM single measurement in the distribution system.

(C) One sample at the location and during the quarter with the highest HAA5 single measurement in the distribution system.

(D) Only one dual sample set per year is required if the highest TTHM and HAA5 measurements occurred at the same location and quarter.

(iii) Surface water systems serving between 3,301 to 9,999 population.

(A) One monitoring period per year. Two dual samples sets must be collected per monitoring period.

(B) One dual sample set at the location and during the quarter with the highest TTHM single measurement in the distribution system.

(C) One dual sample set at the location and during the quarter with the highest HAA5 single measurement in the distribution system.

(iv) Surface water systems serving between 10,000 to 49,999 population.

(A) Four monitoring periods per year. Two dual samples sets must be collected per monitoring period.

(B) One dual sample set must be taken at the location of the highest TTHM LRAAs.

(C) One dual sample set must be taken at the location of the highest HAA5 LRAAs.

(v) Surface water systems serving between 50,000 to 249,999 population.

(A) Four monitoring periods per year. Four dual samples sets must be collected per monitoring period.

(B) A dual sample set must be taken at each of the locations of the two highest TTHM LRAAs.

(C) A dual sample set must be taken at each of the locations of the two highest HAA5 LRAAs.

(vi) Surface water systems serving between 250,000 to

999,999 population.

(A) Four monitoring periods per year. Six dual samples sets must be collected per monitoring period.

(B) A dual sample set must be taken at each of the locations of the three highest TTHM LRAAs.

(C) A dual sample set must be taken at each of the locations of the three highest HAA5 LRAAs.

(vii) Surface water systems serving between 1,000,000 to 4,999,999 population.

(A) Four monitoring periods per year. Eight dual samples sets must be collected per monitoring period.

(B) A dual sample set must be taken at each of the locations of the four highest TTHM LRAAs.

(C) A dual sample set must be taken at each of the locations of the four highest HAA5 LRAAs.

(viii) Surface water systems serving 5,000,000 or more population.

(A) Four monitoring periods per year. 10 dual samples sets must be collected per monitoring period.

(B) A dual sample set must be taken at each of the locations of the five highest TTHM LRAAs.

(C) A dual sample set must be taken at each of the locations of the five highest HAA5 LRAAs.

(ix) Ground water systems serving less than 500.

(A) One monitoring period every three years. 1 TTHM and 1 HAA5 sample must be collected per monitoring period.

(B) One sample at the location and during the quarter with the highest TTHM single measurement in the distribution system.

(C) One sample at the location and during the quarter with the highest HAA5 single measurement in the distribution system.

(D) Only one dual sample set per year is required if the highest TTHM and HAA5 measurements occurred at the same location and quarter.

(x) Ground water systems serving between 500 to 9,999 population.

(A) One monitoring period per year. 1 TTHM and 1 HAA5 sample must be collected per monitoring period.

(B) One sample at the location and during the quarter with the highest TTHM single measurement in the distribution system.

(C) One sample at the location and during the quarter with the highest HAA5 single measurement in the distribution system.

(D) Only one dual sample set per year is required if the highest TTHM and HAA5 measurements occurred at the same location and quarter.

(xi) Ground water systems serving between 10,000 to 99,999 population.

(A) One monitoring period per year. Two dual samples sets must be collected per monitoring period.

(B) One dual sample set at the location and during the quarter with the highest TTHM single measurement in the distribution system.

(C) One dual sample set at the location and during the quarter with the highest HAA5 single measurement in the distribution system.

(xii) Ground water systems serving between 100,000 to 499,999 population.

(A) Four monitoring periods per year. Two dual samples sets must be collected per monitoring period.

(B) One dual sample set must be taken at the location of the highest TTHM LRAAs.

(C) One dual sample set must be taken at the location of the highest HAA5 LRAAs.

(xiii) Ground water systems serving 500,000 or greater population.

(A) Four monitoring periods per year. Four dual samples sets must be collected per monitoring period.

(B) A dual sample set must be taken at each of the locations of the two highest TTHM LRAAs.

(C) A dual sample set must be taken at each of the locations of the two highest HAA5 LRAAs.

(xiv) Systems on quarterly monitoring must take dual sample sets every 90 days.

(b) The water system may remain on reduced monitoring as long as the TTHM LRAA less than or equal to 0.040 mg/L and the HAA5 LRAA less than or equal to 0.030 mg/L at each monitoring location (for systems with quarterly reduced monitoring) or each TTHM sample less than or equal to 0.060 mg/L and each HAA5 sample less than or equal to 0.045 mg/L (for systems with annual or less frequent monitoring). In addition, the source water annual average TOC level, before any treatment, must be less than or equal to 4.0 mg/L at each treatment plant treating surface water or ground water under the direct influence of surface water, based on monitoring conducted under either R309-210-8(2)(a)(iii) or R309-215-12.

(c) If the LRAA based on quarterly monitoring at any monitoring location exceeds either 0.040 mg/L for TTHM or 0.030 mg/L for HAA5 or if the annual (or less frequent) sample at any location exceeds either 0.060 mg/L for TTHM or 0.045 mg/L for HAA5, or if the source water annual average TOC level, before any treatment, is greater than 4.0 mg/L at any treatment plant treating surface water or ground water under the direct influence of surface water, the water system must resume routine monitoring under R309-210-10(2) or begin increased monitoring if R309-210-10(6) applies.

(d) The Director may return the system to routine monitoring at the Director's discretion.

(5) Additional requirements for consecutive systems.

If the water system is a consecutive system that does not add a disinfectant but delivers water that has been treated with a primary or residual disinfectant other than ultraviolet light, the water system must comply with analytical and monitoring requirements for chlorine and chloramines in R309-200-4(3) and the compliance requirements in R309-210-8(6)(c)(i) beginning April 1, 2009, unless required earlier by the Director, and report monitoring results under R309-105-16(2)(c).

(6) Conditions requiring increased monitoring.

(a) If the water system is required to monitor at a particular location annually or less frequently than annually under R309-210-10(2) or R309-210-10(4), the water system must increase monitoring to dual sample sets once per quarter (taken every 90 days) at all locations if a TTHM sample is greater than 0.080 mg/L or a HAA5 sample is greater than 0.06 mg/L at any location.

(b) The water system is in violation of the MCL when the LRAA exceeds the R309-210-10 MCLs in R309-200-5(3)(c)(vi), calculated based on four consecutive quarters of monitoring (or the LRAA calculated based on fewer than four quarters of data if the MCL would be exceeded regardless of the monitoring results of subsequent quarters). The water system is in violation of the monitoring requirements for each quarter that a monitoring result would be used in calculating an LRAA if the water system fail to monitor.

(c) The water system may return to routine monitoring once the water system have conducted increased monitoring for at least four consecutive quarters and the LRAA for every monitoring location is less than or equal to 0.060 mg/L for TTHM and less than or equal to 0.045 mg/L for HAA5.

(7) Operational evaluation levels.

(a) The water system have exceeded the operational evaluation level at any monitoring location where the sum of the two previous quarters' TTHM results plus twice the current quarter's TTHM result, divided by 4 to determine an average, exceeds 0.080 mg/L, or where the sum of the two previous quarters' HAA5 results plus twice the current quarter's HAA5

result, divided by 4 to determine an average, exceeds 0.060 mg/L.

(b)(i) If the water system exceeds the operational evaluation level, the water system must conduct an operational evaluation and submit a written report of the evaluation to the Director no later than 90 days after being notified of the analytical result that causes the water system to exceed the operational evaluation level. The written report must be made available to the public upon request.

(ii) The operational evaluation must include an examination of system treatment and distribution operational practices, including storage tank operations, excess storage capacity, distribution system flushing, changes in sources or source water quality, and treatment changes or problems that may contribute to TTHM and HAA5 formation and what steps could be considered to minimize future exceedences.

(A) The water system may request and the Director may allow the water system to limit the scope of the evaluation if the water system is able to identify the cause of the operational evaluation level exceedance.

(B) The request to limit the scope of the evaluation does not extend the schedule in paragraph (b)(i) of this section for submitting the written report. The Director must approve this limited scope of evaluation in writing and the water system must keep that approval with the completed report.

(8) Requirements for remaining on reduced TTHM and HAA5 monitoring based on R309-210-8 results.

The water system may remain on reduced monitoring after the dates identified in R309-210-10(1)(c) for compliance with this sub-section only if the water system qualifies for a 40/30 certification under R309-210-9(4) or have received a very small system waiver under R309-210-9(5), plus the water system meets the reduced monitoring criteria in R309-210-10(4)(a), and the water system does not change or add monitoring locations from those used for compliance monitoring under R309-210-8. If the monitoring locations under this sub-section differ from the monitoring locations under R309-210-8, the water system may not remain on reduced monitoring after the dates identified in R309-210-10(1)(c) for compliance with this sub-section.

(9) Requirements for remaining on increased TTHM and HAA5 monitoring based on R309-210-8 results.

If the water system was on increased monitoring under R309-210-8(2)(a), the water system must remain on increased monitoring until the water system qualifies for a return to routine monitoring under R309-210-10(6)(c). The water system must conduct increased monitoring under R309-210-10(6) at the monitoring locations in the monitoring plan developed under R309-210-10(3) beginning at the date identified in R309-210-10(1)(c) for compliance with this sub-section and remain on increased monitoring until the water system qualifies for a return to routine monitoring under R309-210-10(6)(c).

(10) Reporting and recordkeeping requirements.

(a) Reporting.

(i) The water system must report the following information for each monitoring location to the Director within 10 days of the end of any quarter in which monitoring is required:

(A) Number of samples taken during the last quarter.

(B) Date and results of each sample taken during the last quarter.

(C) Arithmetic average of quarterly results for the last four quarters for each monitoring location (LRAA), beginning at the end of the fourth calendar quarter that follows the compliance date and at the end of each subsequent quarter. If the LRAA calculated based on fewer than four quarters of data would cause the MCL to be exceeded regardless of the monitoring results of subsequent quarters, the water system must report this information to the Director as part of the first report due following the compliance date or anytime thereafter that this determination is made. If the water system is required to conduct monitoring at a frequency that is less than quarterly, the water system must make compliance calculations beginning with the first compliance sample taken after the compliance date, unless the water system is required to conduct increased monitoring under R309-210-10(6).

(D) Whether, based on R309-200-5(3)(c)(vi) and this sub-section, the MCL was violated at any monitoring location.

(E) Any operational evaluation levels that were exceeded during the quarter and, if so, the location and date, and the calculated TTHM and HAA5 levels.

(ii) If the system is a surface water system seeking to qualify for or remain on reduced TTHM/HAA5 monitoring, the water system must report the following source water TOC information for each treatment plant that treats surface water or ground water under the direct influence of surface water to the Director within 10 days of the end of any quarter in which monitoring is required:

(A) The number of source water TOC samples taken each month during last quarter.

(B) The date and result of each sample taken during last quarter.

(C) The quarterly average of monthly samples taken during last quarter or the result of the quarterly sample.

(D) The running annual average (RAA) of quarterly averages from the past four quarters.

(E) Whether the RAA exceeded 4.0 mg/L.

(iii) The Director may choose to perform calculations and determine whether the MCL was exceeded or the system is eligible for reduced monitoring in lieu of having the system report that information.

(b) Recordkeeping. The water system must retain any R309-210-10 monitoring plans and the R309-210-10 monitoring results as required by R309-105-17.

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R309. Environmental Quality, Drinking Water.
R309-211. Monitoring and Water Quality: Distribution System -- Total Coliform Requirements.
R309-211-1. Purpose.

The purpose of this rule is to outline the total coliform monitoring, MCL, and treatment technique requirements for public water systems. This rule applies to all public drinking water systems as specified herein.

R309-211-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63G-3 of the same, known as the Administrative Rulemaking Act.

R309-211-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-211-4. General Monitoring Requirements for All Public Water Systems.

(1) Sample siting plans.

(a) Systems must develop a written sample siting plan that identifies sampling sites and a sample collection schedule that are representative of water throughout the distribution system. These plans are subject to Director review and revision. Systems must collect total coliform samples according to the written sample siting plan. Monitoring required by R309-211-5, 6 and 7 may take place at a customer's premise, dedicated sampling station, or other designated compliance sampling location. Routine and repeat sample sites and any sampling points necessary to meet the requirements of R309-215-16 must be reflected in the sampling plan.

(b) Systems must collect samples at regular time intervals throughout the month, except that systems that use only ground water and serve 4,900 or fewer people may collect all required samples on a single day if they are taken from different sites.

(c) Systems must take at least the minimum number of required samples even if the system has had an E. coli MCL violation or has exceeded the coliform treatment technique triggers in R309-211-8(1).

(d) A system may conduct more compliance monitoring than is required by this rule to investigate potential problems in the distribution system and use monitoring as a tool to assist in uncovering problems. A system may take more than the minimum number of required routine samples and must include the results in calculating whether the coliform treatment technique trigger in R309-211-8(1)(a)(i) and (ii) has been exceeded only if the samples are taken in accordance with the existing sample siting plan and are representative of water throughout the distribution system.

(e) Systems must identify repeat monitoring locations in the sample siting plan. Unless the provisions of paragraphs (1)(e)(i) or (1)(e)(ii) of this section are met, the system must collect at least one repeat sample from the sampling tap where the original total coliform-positive sample was taken, and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. If a total coliform-positive sample is at the end of the distribution system, or one service connection away from the end of the distribution system, the system must still take all required repeat samples. However, the Director may allow an alternative sampling location in lieu of the requirement to collect at least one repeat sample upstream or downstream of the original sampling site. Except as provided for in paragraph (1)(e)(ii) of this section, systems required to conduct triggered source water monitoring under R309-215-16(2) must take ground water source sample(s) in addition to repeat samples required under this rule.

(i) Systems may propose repeat monitoring locations to the Director that the system believes to be representative of a pathway for contamination of the distribution system. A system may elect to specify either alternative fixed locations or criteria for selecting repeat sampling sites on a situational basis in a standard operating procedure (SOP) in its sample siting plan. The system must design its SOP to focus the repeat samples at locations that best verify and determine the extent of potential contamination of the distribution system area based on specific situations. The Director may modify the SOP or require alternative monitoring locations as needed.

(ii) Ground water systems serving 1,000 or fewer people may propose repeat sampling locations to the Director that differentiate potential source water and distribution system contamination (e.g., by sampling at entry points to the distribution system). A ground water system with a single well required to conduct triggered source water monitoring may, with written Director approval, take one of its repeat samples at the monitoring location required for triggered source water monitoring under R309-215-16(2)(a) if the system demonstrates to the Director's satisfaction that the sample siting plan remains representative of water quality in the distribution system. If approved by the Director, the system may use that sample result to meet the monitoring requirements in both R309-215-16(2)(a) and this section.

(A) If a repeat sample taken at the monitoring location required for triggered source water monitoring is E. coli-positive, the system has violated the E. coli MCL and must also comply with R309-215-16(2)(a)(iii). If a system takes more than one repeat sample at the monitoring location required for triggered source water monitoring, the system may reduce the number of additional source water samples required under R309-215-16(2)(a)(iii) by the number of repeat samples taken at that location that were not E. coli-positive.

(B) If a system takes more than one repeat sample at the monitoring location required for triggered source water monitoring under R309-215-16(2)(a), and more than one repeat sample is E. coli-positive, the system has violated the E. coli MCL and must also comply with R309-215-16(3)(a)(i).

(C) If all repeat samples taken at the monitoring location required for triggered source water monitoring are E. coli-negative and a repeat sample taken at a monitoring location other than the one required for triggered source water monitoring is E. coli-positive, the system has violated the E. coli MCL, but is not required to comply with R309-215-16(2)(a)(iii).

(f) The Director may review, revise, and approve, as appropriate, repeat sampling proposed by systems under paragraphs (1)(e)(i) and (ii) of this section. The system must demonstrate that the sample siting plan remains representative of the water quality in the distribution system. The Director may determine that monitoring at the entry point to the distribution system (especially for undisinfected ground water systems) is effective to differentiate between potential source water and distribution system problems.

(2) Special purpose samples. Special purpose samples, such as those taken to determine whether disinfection practices are sufficient following pipe placement, replacement, or repair, must not be used to determine whether the coliform treatment technique trigger has been exceeded. Repeat samples taken pursuant to R309-211-7 are not considered special purpose samples, and must be used to determine whether the coliform treatment technique trigger has been exceeded.

(3) Invalidation of total coliform samples. A total coliform-positive sample invalidated under this paragraph (3) of this section does not count toward meeting the minimum monitoring requirements of this subpart.

(a) The Director may invalidate a total coliform-positive sample only if the conditions of paragraph (3)(a)(i), (ii), or (iii) of this section are met.

(i) The laboratory establishes that improper sample analysis caused the total coliform-positive result.

(ii) The Director, on the basis of the results of repeat samples collected as required under R309-211-7(1), determines that the total coliform-positive sample resulted from a domestic or other non-distribution system plumbing problem. The Director cannot invalidate a sample on the basis of repeat sample results unless all repeat sample(s) collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected at a location other than the original tap are total coliform-negative (e.g., a Director cannot invalidate a total coliform-positive sample on the basis of repeat samples if all the repeat samples are total coliform-negative, or if the system has only one service connection).

(iii) The Director has substantial grounds to believe that a total coliform-positive result is due to a circumstance or condition that does not reflect water quality in the distribution system. In this case, the system must still collect all repeat samples required under R309-211-7(1), and use them to determine whether a coliform treatment technique trigger in R309-211-8 has been exceeded. To invalidate a total coliform-positive sample under this paragraph, the decision and supporting rationale must be documented in writing, and approved and signed by the supervisor of the Director who recommended the decision. The Director must make this document available to EPA and the public. The written documentation must state the specific cause of the total coliform-positive sample, and what action the system has taken, or will take, to correct this problem. The Director may not invalidate a total coliform-positive sample solely on the grounds that all repeat samples are total coliform-negative.

(b) A laboratory must invalidate a total coliform sample (unless total coliforms are detected) if the sample produces a turbid culture in the absence of gas production using an analytical method where gas formation is examined (e.g., the Multiple-Tube Fermentation Technique), produces a turbid culture in the absence of an acid reaction in the Presence-Absence (P-A) Coliform Test, or exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter (e.g., Membrane Filter Technique). If a laboratory invalidates a sample because of such interference, the system must collect another sample from the same location as the original sample within 24 hours of being notified of the interference problem, and have it analyzed for the presence of total coliforms. The system must continue to re-sample within 24 hours and have the samples analyzed until it obtains a valid result. The Director may waive the 24-hour time limit on a case-by-case basis. Alternatively, the Director may implement criteria for waiving the 24-hour sampling time limit to use in lieu of case-by-case extensions.

(4) A public water system that uses inadequately treated surface water or inadequately treated ground water under the direct influence of surface water (R309-200 and R309-215) shall collect and analyze for total coliforms at least one sample each day the turbidity level of the source water, measured as specified in R309-200-4(3), exceeds 1 NTU. This sample shall be collected near the first service connection from the source. The system shall collect the sample within 24 hours of the time when the turbidity level was first exceeded. The sample shall be analyzed within 30 hours of collection. Sample results from this coliform monitoring shall be included in determining total coliform compliance for that month. The Director may extend the 24 hour limitation if the system has a logistical problem that is beyond the system's control. In the case of an extension the Director shall specify how much time the system has to collect the sample.

R309-211-5. Routine Monitoring Requirements for Water Systems Serving 1,000 or Fewer People.

(1) General.

(a) The provisions of this section apply to water systems serving 1,000 or fewer people.

(b) Following any total coliform-positive sample taken under the provisions of this section, systems must comply with the repeat monitoring requirements and E. coli analytical requirements in R309-211-7.

(c) Once all monitoring required by this section and R309-211-7 for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in R309-211-8 have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by R309-211-8.

(2) Monitoring frequency for total coliforms. The monitoring frequency for total coliforms is one sample/month.

(3) Seasonal systems.

(a) All seasonal systems must demonstrate completion of a Director-approved start-up procedure, which may include a requirement for startup sampling prior to serving water to the public.

(b) A seasonal system must monitor every month that it is in operation.

(c) The Director may exempt any seasonal system from some or all of the requirements for seasonal systems if the entire distribution system remains pressurized during the entire period that the system is not operating.

R309-211-6. Routine Monitoring Requirements for Public Water Systems Serving More Than 1,000 People.

(1) General.

(a) The provisions of this section apply to public water systems serving more than 1,000 persons.

(b) Following any total coliform-positive sample taken under the provisions of this section, systems must comply with the repeat monitoring requirements and E. coli analytical requirements in R309-211-7.

(c) Once all monitoring required by this section and R309-211-7 for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in R309-211-8 have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by R309-211-8.

(d) Seasonal systems.

(i) Beginning April 1, 2016, all seasonal systems must demonstrate completion of a Director-approved start-up procedure, which may include a requirement for start-up sampling prior to serving water to the public.

(ii) The Director may exempt any seasonal system from some or all of the requirements for seasonal systems if the entire distribution system remains pressurized during the entire period that the system is not operating.

(2) Monitoring frequency for total coliforms. The monitoring frequency for total coliforms is based on the population served by the system, as follows:

TABLE 211-1
Total Coliform Monitoring Frequency for Public Water Systems

Population served	Minimum number of samples per month
25 to 1,000	1
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7

6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15
17,201 to 21,500	20
21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60
59,001 to 70,000	70
70,001 to 83,000	80
83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270
970,001 to 1,230,000	300
1,230,001 to 1,520,000	330
1,520,001 to 1,850,000	360
1,850,001 to 2,270,000	390
2,270,001 to 3,020,000	420
3,020,001 to 3,960,000	450
3,960,001 or more	480

R309-211-7. Repeat Monitoring and E. coli Requirements.

(1) Repeat monitoring.

(a) If a sample taken under R309-211-5 though R309-211-6 is total coliform-positive, the system must collect a set of repeat samples within 24 hours of being notified of the positive result. The system must collect no fewer than three repeat samples for each total coliform-positive sample found. The Director may extend the 24-hour limit on a case-by-case basis if the system has a logistical problem in collecting the repeat samples within 24 hours that is beyond its control. Alternatively, the Director may implement criteria for the system to use in lieu of case-by-case extensions. In the case of an extension, the Director must specify how much time the system has to collect the repeat samples. The Director cannot waive the requirement for a system to collect repeat samples in paragraphs (1)(a) through (1)(c) of this section.

(b) The system must collect all repeat samples on the same day, except that the Director may allow a system with a single service connection to collect the required set of repeat samples over a three-day period or to collect a larger volume repeat sample(s) in one or more sample containers of any size, as long as the total volume collected is at least 300 ml.

(c) The system must collect an additional set of repeat samples in the manner specified in paragraphs (1)(a) through (1)(c) of this section if one or more repeat samples in the current set of repeat samples is total coliform-positive. The system must collect the additional set of repeat samples within 24 hours of being notified of the positive result, unless the Director extends the limit as provided in paragraph (1)(a) of this section. The system must continue to collect additional sets of repeat samples until either total coliforms are not detected in one complete set of repeat samples or the system determines that a coliform treatment technique trigger specified in R309-211-8(1) has been exceeded as a result of a repeat sample being total coliform-positive and notifies the Director. If a trigger identified in R309-211-8 is exceeded as a result of a routine sample being total coliform-positive, systems are required to conduct only one round of repeat monitoring for each total coliform-positive routine sample.

(d) After a system collects a routine sample and before it learns the results of the analysis of that sample, if it collects another routine sample(s) from within five adjacent service connections of the initial sample, and the initial sample, after analysis, is found to contain total coliforms, then the system may count the subsequent sample(s) as a repeat sample instead of as a routine sample.

(e) Results of all routine and repeat samples taken under R309-211-5 through R309-211-7 not invalidated by the Director must be used to determine whether a coliform treatment technique trigger specified in R309-211-8 has been exceeded.

(2) Escherichia coli (E. coli) testing.

(a) If any routine or repeat sample is total coliform-positive, the system must analyze that total coliform-positive culture medium to determine if E. coli are present. If E. coli are present, the system must notify the Director by the end of the day when the system is notified of the test result, unless the system is notified of the result after the Director office is closed and the Director does not have either an after-hours phone line or an alternative notification procedure, in which case the system must notify the Director before the end of the next business day.

(b) The Director has the discretion to allow a system, on a case-by-case basis, to forgo E. coli testing on a total coliform-positive sample if that system assumes that the total coliform-positive sample is E. coli-positive. Accordingly, the system must notify the Director as specified in paragraph (2)(a) of this section and the provisions of R309-200-5(6)(b) apply.

R309-211-8. Coliform Treatment Technique Triggers and Assessment Requirements for Protection Against Potential Fecal Contamination.

(1) Treatment technique triggers. Systems must conduct assessments in accordance with paragraph (2) of this section after exceeding treatment technique triggers in paragraphs (1)(a) and (1)(b) of this section.

(a) Level 1 treatment technique triggers.

(i) For systems taking 40 or more samples per month, the system exceeds 5.0% total coliform-positive samples for the month.

(ii) For systems taking fewer than 40 samples per month, the system has two or more total coliform-positive samples in the same month.

(iii) The system fails to take every required repeat sample after any single total coliform-positive sample.

(b) Level 2 treatment technique triggers.

(i) An E. coli MCL violation, as specified in R309-211-9(1).

(ii) A second Level 1 trigger as defined in paragraph (1)(a) of this section, within a rolling 12-month period, unless the Director has determined a likely reason that the samples that caused the first Level 1 treatment technique trigger were total coliform-positive and has established that the system has corrected the problem.

(2) Requirements for assessments.

(a) Systems must ensure that Level 1 and 2 assessments are conducted in order to identify the possible presence of sanitary defects and defects in distribution system coliform monitoring practices. Level 2 assessments must be conducted by parties approved by the Director.

(b) When conducting assessments, systems must ensure that the assessor evaluates minimum elements that include review and identification of inadequacies in sample sites; sampling protocol; sample processing; atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., small ground water systems); and existing water quality monitoring data. The system must conduct the assessment consistent with any Director directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

(c) Level 1 Assessments. A system must conduct a Level

1 assessment consistent with Director requirements if the system exceeds one of the treatment technique triggers in paragraph (1)(a) of this section.

(i) The system must complete a Level 1 assessment as soon as practical after any trigger in paragraph (1)(a) of this section. In the completed assessment form, the system must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment form may also note that no sanitary defects were identified. The system must submit the completed Level 1 assessment form to the Director within 30 days after the system learns that it has exceeded a trigger.

(ii) If the Director reviews the completed Level 1 assessment and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the Director must consult with the system. If the Director requires revisions after consultation, the system must submit a revised assessment form to the Director on an agreed-upon schedule not to exceed 30 days from the date of the consultation.

(iii) Upon completion and submission of the assessment form by the system, the Director must determine if the system has identified a likely cause for the Level 1 trigger and, if so, establish that the system has corrected the problem, or has included a schedule acceptable to the Director for correcting the problem.

(d) Level 2 Assessments. A system must ensure that a Level 2 assessment consistent with Director requirements is conducted if the system exceeds one of the treatment technique triggers in paragraph (1)(b) of this section. The system must comply with any expedited actions or additional actions required by the Director in the case of an E. coli MCL violation.

(i) The system must ensure that a Level 2 assessment is completed by the Director or by a party approved by the Director as soon as practical after any trigger in paragraph (1)(b) of this section. The system must submit a completed Level 2 assessment form to the Director within 30 days after the system learns that it has exceeded a trigger. The assessment form must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment form may also note that no sanitary defects were identified.

(ii) The system may conduct Level 2 assessments if the system has staff or management with the certification or qualifications specified by the Director unless otherwise directed by the Director.

(iii) If the Director reviews the completed Level 2 assessment and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the Director must consult with the system. If the Director requires revisions after consultation, the system must submit a revised assessment form to the Director on an agreed-upon schedule not to exceed 30 days.

(iv) Upon completion and submission of the assessment form by the system, the Director must determine if the system has identified a likely cause for the Level 2 trigger and determine whether the system has corrected the problem, or has included a schedule acceptable to the Director for correcting the problem.

(3) Corrective Action. Systems must correct sanitary defects found through either Level 1 or 2 assessments conducted under paragraph (2) of this section. For corrections not completed by the time of submission of the assessment form, the system must complete the corrective action(s) in compliance with a timetable approved by the Director in consultation with the system. The system must notify the Director when each scheduled corrective action is completed.

(4) Consultation. At any time during the assessment or corrective action phase, either the water system or the Director may request a consultation with the other party to determine the appropriate actions to be taken. The system may consult with the Director on all relevant information that may impact on its ability to comply with a requirement of this subpart, including the method of accomplishment, an appropriate timeframe, and other relevant information.

R309-211-9. Violations.

(1) E. coli MCL Violation. A system is in violation of the MCL for E. coli when any of the conditions identified in paragraphs (1)(a) through (1)(d) of this section occur.

(a) The system has an E. coli-positive repeat sample following a total coliform-positive routine sample.

(b) The system has a total coliform-positive repeat sample following an E. coli-positive routine sample.

(c) The system fails to take all required repeat samples following an E. coli-positive routine sample.

(d) The system fails to test for E. coli when any repeat sample tests positive for total coliform.

(2) Treatment technique violation.

(a) A treatment technique violation occurs when a system exceeds a treatment technique trigger specified in R309-211-8(1) and then fails to conduct the required assessment or corrective actions within the timeframe specified in R309-211-8(2) and (3).

(b) A treatment technique violation occurs when a seasonal system fails to complete a Director-approved start-up procedure prior to serving water to the public.

(3) Monitoring violations.

(a) Failure to take every required routine or additional routine sample in a compliance period is a monitoring violation.

(b) Failure to analyze for E. coli following a total coliform-positive routine sample is a monitoring violation.

(4) Reporting violations.

(a) Failure to submit a monitoring report or completed assessment form after a system properly conducts monitoring or assessment in a timely manner is a reporting violation.

(b) Failure to notify the Director following an E. coli-positive sample as required by R309-211-7(2)(a) in a timely manner is a reporting violation.

(c) Failure to submit certification of completion of Director-approved start-up procedure by a seasonal system is a reporting violation.

R309-211-10. Invalidation of a Total Coliform Sample.

The invalidation of a total coliform sample result can be made only by the Administrator in accordance with Section 141.21(c)(1)(i), (ii), or (iii) or by the certified laboratory in accordance with R309-211-4(3), with the Administrator acting as the Director.

R309-211-11. Reporting and Recordkeeping.

(1) Reporting.

(a) E. coli.

(i) A system must notify the Director by the end of the day when the system learns of an E. coli MCL violation, unless the system learns of the violation after the Director's office is closed and the Director does not have either an after-hours phone line or an alternative notification procedure, in which case the system must notify the Director before the end of the next business day, and notify the public in accordance with R309-220.

(ii) A system must notify the Director by the end of the day when the system is notified of an E. coli-positive routine sample, unless the system is notified of the result after the Director's office is closed and the Director does not have either an after-hours phone line or an alternative notification procedure, in which case the system must notify the Director before the end of the next business day.

(b) A system that has violated the treatment technique for coliforms in R309-211-8 must report the violation to the Director no later than the end of the next business day after it learns of the violation, and notify the public in accordance with R309-220.

(c) A system required to conduct an assessment under the provisions of R309-211-8 of this part must submit the assessment report within 30 days. The system must notify the Director in accordance with R309-211-8(3) when each scheduled corrective action is completed for corrections not completed by the time of submission of the assessment form.

(d) A system that has failed to comply with a coliform monitoring requirement must report the monitoring violation to the Director within 10 days after the system discovers the violation, and notify the public in accordance with R309-220.

(e) A seasonal system must certify, prior to serving water to the public, that it has complied with the Director-approved start-up procedure.

(2) Recordkeeping.

(a) The system must maintain any assessment form, regardless of who conducts the assessment, and documentation of corrective actions completed as a result of those assessments, or other available summary documentation of the sanitary defects and corrective actions taken under R309-211-8 for Director review. This record must be maintained by the system for a period not less than five years after completion of the assessment or corrective action.

(b) The system must maintain a record of any repeat sample taken that meets Director's criteria for an extension of the 24-hour period for collecting repeat samples as provided for under R309-211-7(1)(a).

KEY: drinking water, distribution system monitoring, total coliform, compliance determinations
January 15, 2019 19-4-104

R309. Environmental Quality, Drinking Water.
R309-215. Monitoring and Water Quality: Treatment Plant Monitoring Requirements.
R309-215-1. Purpose.

The purpose of this rule is to outline the monitoring and reporting requirements for public water systems which treat water prior to providing it for human consumption.

R309-215-2 Authority.
R309-215-3 Definitions.
R309-215-4 General.
R309-215-5 Monitoring Requirements for Groundwater Disinfection.
R309-215-6 Monitoring Requirements for Miscellaneous Treatment Plants.
R309-215-7 Surface Water Treatment Plant Evaluations.
R309-215-8 Surface Water Treatment Plant Monitoring and Reporting.
R309-215-9 Turbidity Monitoring and Reporting.
R309-215-10 Residual Disinfectant Monitoring.
R309-215-11 Waterborne Disease Outbreak.
R309-215-12 Monitoring Requirements for Disinfection Byproducts Precursors (DBPP).
R309-215-13 Treatment Techniques for control of Disinfection Byproducts Precursors (DBPP).
R309-215-14 Disinfection Profiling and Benchmarking.
R309-215-15 Enhanced Treatment for Cryptosporidium (Federal Subpart W).
R309-215-16 Groundwater Rule.

R309-215-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63G-3 of the same, known as the Administrative Rulemaking Act.

R309-215-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-215-4. General.

(1) All public water systems are required to monitor their water to determine if they comply with the requirements for water quality stated in R309-200. In exceptional circumstances the Director may modify the monitoring requirements given herein as is deemed appropriate.

(2) The Director may determine compliance or initiate compliance actions based upon analytical results and other information compiled by authorized representatives.

(3) If the water fails to meet minimum standards, then certain public notification procedures shall be carried out, as outlined in R309-220. Water suppliers shall also keep analytical records in their possession, for a required length of time, as outlined in R309-105-17.

(4) All samples shall be taken at representative sites as specified herein for each contaminant or group of contaminants.

(5) For the purpose of determining compliance, samples may only be considered if they have been analyzed by the State of Utah primacy laboratory or a laboratory certified by the Utah State Health Laboratory.

(6) Measurements for pH, temperature, turbidity and disinfectant residual may, under the direction of the direct responsible operator, be performed by any water supplier or their representative.

(7) All samples shall be marked either: routine, repeat, check or investigative before submission of such samples to a certified laboratory. Routine, repeat, and check samples shall be considered compliance purpose samples.

(8) All sample results can be sent to the Division of Drinking Water either electronically or in hard copy form.

(9) Unless otherwise required by the Director, the effective dates on which required monitoring shall be initiated are identical to the dates published in 40 CFR 141 on July 1, 2001 by the Office of the Federal Register

(10) Exemptions from monitoring requirements shall only be granted in accordance with R309-105-5.

R309-215-5. Monitoring Requirements for Groundwater Disinfection.

(1) General: Continuous disinfection is recommended for all drinking water sources. Continuous disinfection shall be required of all groundwater sources which do not consistently meet standards of bacteriologic quality. Once required by the Director continuous disinfection shall not be interrupted nor terminated unless so authorized, in writing, by the Director.

(2) Disinfection Reporting: For each disinfection treatment facility, plant management shall report information to the Division as specified in R309-105-16(2)(c).

(3) A water system shall report a malfunction of any facility or equipment such that a detectable residual cannot be maintained throughout the distribution system. The system shall notify the Division as soon as possible, but no later than by the end of the next business day. The system also shall notify the Division by the end of the next business day whether or not the residual was restored to at least 0.2 mg/L within four hours.

R309-215-6. Monitoring Requirements for Miscellaneous Treatment Plants.

(1) Treatment of the drinking water may be required for other than inactivation of microbial contaminants or removal/inactivation of pathogens and viruses. Miscellaneous treatment methods are outlined in R309-535.

(2) The Director may require additional monitoring as necessary to evaluate the treatment process and to ensure the quality of the water. The specific analytes, frequency of monitoring, the reporting frequency and the sampling location for which monitoring may be required shall be determined by the following:

(a) the contaminant of concern for which the treatment process has been installed;

(b) the process control samples required to operate treatment process being used; and

(c) alternative surrogate sampling when it is either quicker or less expensive and still provides the necessary information;

(3) For point-of-use or point-of-entry technology the location of sampling may be at each treatment unit spread out over time.

(4) If monitoring is required, the Director shall provide the report forms and the water system shall report the data as required by R309-105-16(3). Alternate forms may be used as long as prior approval from the Director is obtained.

R309-215-7. Surface Water Treatment Evaluations.

(1) General: Surface water sources or groundwater sources under direct influence of surface water shall be disinfected during the course of required surface water treatment. Disinfection shall not be considered a substitute for inadequate collection facilities. All public water systems which use a treatment technique to treat water obtained in whole or in part from surface water sources or ground water sources under the direct influence of surface water shall monitor the plant's operation and report the results to the Division as indicated in R309-215-7 through R309-215-14. Individual plants will be evaluated in accordance with the criteria outlined in paragraph (2) below. Based on information submitted and/or plant inspections, the plant will receive credit for treatment techniques other than disinfection that remove pathogens, specifically Giardia lamblia and viruses. This credit (log

removal) will reduce the required disinfectant "CT" value which the plant shall maintain to assure compliance with R309-200-5(7)(a)(i).

(2) Criteria for Individual Treatment Plant Evaluation: New and existing water treatment plants shall meet specified monitoring and performance criteria in order to ensure that filtration and disinfection are satisfactorily practiced. The monitoring requirements and performance criteria for turbidity and disinfection listed above provide the minimum for the Division to evaluate the plant's efficiency in removing and/or inactivating 99.9 percent (3-log) of Giardia lamblia cysts and 99.99 percent (4-log) of viruses as required by R309-505-6(2)(a) and (b).

(3) The Division, upon evaluation of individual raw water sources, surface water or ground water under the direct influence of surface water, may require greater than the 3-log, 4-log removal/inactivation of Giardia and viruses respectfully. If a raw water source exhibits an estimated concentration of 1 to 10 Giardia cysts per 100 liters, 4 and 5-log removal/inactivation may be required. If the raw water exhibits a concentration of 10 to 100 cysts per 100 liters, 5 and 6-log removal/inactivation may be required.

If a plant decides to recycle any spent filter backwash water, thickener supernatant, or liquids from dewatering processes the Division shall be notified in writing by December 8, 2003 or prior to recycling such waters. Such notification shall include, at a minimum:

(a) A plant schematic showing the origin of all flows which are recycled (including, but not limited to, spent filter backwash water, thickener supernatant, and any liquids from dewatering processes), the hydraulic conveyance used to transport them, and the location where they are reintroduced back into the treatment plant.

(b) Typical recycle flow in gallons per minute (gpm), the highest observed plant flow experienced in the previous year (gpm), design flow for the treatment plant (gpm), and operating capacity approved by the Director for the plant where the Director has made such determinations.

(c) Treatment technique (TT) requirement. Any system that recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes shall return these flows through the processes of a system's existing conventional or direct filtration system as defined in R309-525 or R309-530 or at an alternate location approved by the Director by or after June 8, 2004. If capital improvements are required to modify the recycle location to meet this requirement, all capital improvements must be completed no later than June 8, 2006.

(4) The Director, upon individual plant evaluation, may assign the treatment techniques (coagulation, flocculation, sedimentation and filtration) credit toward removal of Giardia cysts and viruses. The greater the number of barriers in the treatment process, the greater the reduction of pathogens, therefore lessor credit will be given to processes such as direct filtration which eliminate one or more conventional barriers. Plants may monitor turbidity at multiple points in the treatment process as evidence of the performance of an individual treatment technique.

(5) The nominal credit that will be assigned certain conventional processes are outlined in Table 215-1:

TABLE 215-1
CONVENTIONAL PROCESS CREDIT

Process	Log Reduction Credit Giardia	Viruses
Conventional Complete Treatment	2.5	2.0
Direct Filtration	2.0	1.0
Slow Sand Filtration	2.0	2.0
Diatomaceous Earth Filters	2.0	1.0

(6) Upon evaluation of information provided by individual plants or obtained during inspections by Division staff, the Director may increase or decrease the nominal credit assigned individual plants based on that evaluation.

(a) Items which would augment the treatment process and thereby warrant increased credit are:

(i) facilities or means to moderate extreme fluctuations in raw water characteristics;

(ii) sufficient on-site laboratory facilities regularly used to alert operators to changes in raw water quality;

(iii) use of pilot stream facilities which duplicate treatment conditions but allow operators to know results of adjustments much sooner than if only monitoring plant effluent;

(iv) use of additional monitoring methods such as particle size and distribution analysis to achieve greater efficiency in particulate removal;

(v) regular program for preventive maintenance, records of such, and general good housekeeping; or

(vi) adequate staff of well trained and certified plant operators.

(b) Items which would be considered a detriment to the treatment process and thereby warrant decreased credit are:

(i) inadequate staff of trained and certified operators;

(ii) lack of regular maintenance and poor housekeeping; or

(iii) insufficient on-site laboratory facilities.

R309-215-8. Surface Water Treatment Plant Monitoring and Reporting.

Treatment plant management shall report the following to the Division within ten days after the end of each month that the system serves water to the public, except as otherwise noted:

(1) For each day;

(a) if the plant treats water from multiple sources, the sources being utilized (including recycled backwash water) and the ratio for each if blending occurs.

(b) the total volume of water treated by the plant,

(c) the turbidity of the raw water entering the plant,

(d) the pH of the effluent water, measured at or near the monitoring point for disinfectant residual,

(e) the temperature of the effluent water, measured at or near the monitoring point for disinfectant residual,

(f) the type and amount of chemicals used in the treatment process (clearly indicating the weight and active percent of chemical if dry feeders are used, or the percent solution and volume fed if liquid feeders are used),

(g) the high and low temperature and weather conditions (local forecast information may be used, but any precipitation in the watershed should be further described as light, moderate, heavy, or extremely heavy), and

(h) the results of any "jar tests" conducted that day

(2) For each filter, each day;

(a) the rate of water applied to each (gpm/sq.ft.),

(b) the head loss across each (feet of water or psi),

(c) length of backwash (if conducted; in minutes), and

(d) hours of operation since last backwashed.

(3) Annually; certify in writing as required by R309-105-14(1) that when a product containing acrylamide and/or epichlorohydrin is used, the combination of the amount of residual monomer in the polymer and the dosage rate does not exceed the levels specified as follows:

(a) Acrylamide: 0.05%, when dosed at 1 part per million, and

(b) Epichlorohydrin: 0.01%, when dosed at 20 parts per million.

Certification may rely on manufacturers data.

(4) Additional record-keeping for plants that recycle.

The system must collect and retain on file recycle flow information for review and evaluation by the Director beginning June 8, 2004 or upon approval for recycling. As a minimum the

following shall be maintained:

(a) Copy of the recycle notification and information submitted to the Division under R309-215-7(3).

(b) List of all recycle flows and the frequency with which they are returned.

(c) Average and maximum backwash flow rates through the filters and the average and maximum duration of the filter backwash process in minutes.

(d) Typical filter run length and a written summary of how filter run length is determined.

(e) The type of treatment provided for the recycle flow.

(f) Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used, average dose, frequency of use and frequency at which solids are removed, if applicable.

R309-215-9. Turbidity Monitoring and Reporting.

Public water systems utilizing surface water and ground water under the direct influence of surface water shall monitor for turbidity in accordance with this section. Small surface water systems serving a population less than 10,000 shall monitor in accordance with subsections (1), (2), (3), (5) and (6). Large surface water systems serving 10,000 or more population shall monitor in accordance with subsections (1), (2), (3), (4) and (6).

(1) Routine Monitoring Requirements for Treatment Facilities utilizing surface water sources or ground water sources under the direct influence of surface water.

(a) All public water systems which use a treatment technique to treat water obtained in whole or in part from surface water sources or ground water sources under the direct influence of surface water shall monitor for turbidity at the treatment plant's clearwell outlet. This monitoring shall be independent of the individual filter monitoring required by R309-525-15(4)(b)(vi) and R309-525-15(4)(c)(vii). Where the plant facility does not have an internal clearwell, the turbidity shall be monitored at the inlet to a finished water reservoir external to the plant provided such reservoir receives only water from the treatment plant and, furthermore, is located before any point of consumer connection to the water system. If such external reservoir does not exist, turbidity shall then be monitored at a location immediately downstream of the treatment plant filters.

(b) All treatment plants, with the exception of those utilizing slow sand filtration and other conditions indicated in section (c) below, shall be equipped with continuous turbidity monitoring and recording equipment for which the direct responsible charge operator will validate the continuous measurements for accuracy in accordance with paragraph (d) below. These plants shall continuously record the finished water turbidity of the combined filter effluent as well as each individual filter. All systems shall be equipped to continuously monitor the turbidity at each filter unless the treatment plant is only equipped with two filters and the turbidity is measured at the combined filter effluent (CFE). If there is a failure in continuous monitoring equipment the system shall conduct grab sampling every 4 hours in lieu of continuous monitoring, but for no more than five working days following the failure of equipment. Systems serving less than 10,000 population shall have no more than 14 days to conduct grab samples in lieu of continuous monitoring in order to correct any failing equipment. All surface water systems shall monitor the turbidity results of individual filters at a frequency no greater than every 15 minutes.

(c) Turbidity measurements, as outlined below, shall be reported to the Division within ten days after the end of each month that the system serves water to the public. Systems are required to mark and interpret turbidity values from the recorded charts at the end of each four-hour interval of operation (or some shorter regular time interval) to determine compliance with the turbidity performance criterion. For systems using slow sand filtration the Director may reduce the sampling frequency to as little as once per day if the Director determines that less frequent monitoring is sufficient to indicate effective filtration performance. For systems serving 500 or fewer persons, the Director may reduce the turbidity sampling frequency to as little as once per day, regardless of the type of filtration treatment used, if the Director determines that less frequent monitoring is sufficient to indicate effective filtration performance.

The following shall be reported and the required percentage achieved for compliance:

(i) The total number of interpreted filtered water turbidity measurements taken during the month;

(ii) The number and percentage of interpreted filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified in R309-200-5(5)(a)(ii) (or increased limit approved by the Director). The percentage of measurements which are less than or equal to the turbidity limit shall be 95 percent or greater for compliance; and

(iii) The date and value of any turbidity measurements taken during the month which exceed 5 NTU. The system shall inform the Division as soon as practical, but no later than 24 hours after the exceedance is known, in accordance with R309-220-6(2)(c) if any turbidity measurements exceed 5 NTU.

(d) The analytical method which shall be followed in making the required determinations shall be Nephelometric Method - Nephelometric Turbidity Unit as set forth in the latest edition of Standard Methods for Examination of Water and Wastewater, 1985, American Public Health Association et al., (Method 214A, pp. 134-136 in the 16th edition). Continuous turbidity monitoring equipment shall be checked for accuracy and recalibrated using methods outlined in the above standard at a minimum frequency of monthly. The direct responsible charge operator will note on the turbidity report form when these recalibrations are conducted. For systems that practice lime softening, the representative combined filter effluent turbidity sample may be acidified prior to analysis with prior approval by the Director as to the protocol.

(2) Procedures if a Filtered Water Turbidity Limit is Exceeded

(a) Resampling -

If an analysis indicates that the turbidity limit has been exceeded, the sampling and measurement shall be confirmed by resampling as soon as practicable and preferably within one hour.

(b) If the result of resampling confirms that the turbidity limit has been exceeded, the system shall collect and have analyzed at least one bacteriologic sample near the first service connection from the source as specified in R309-211-4(4). The system shall collect this bacteriologic sample within 24 hours of the turbidity exceedance. Sample results from this monitoring shall be included in determining bacteriologic compliance for that month.

(c) Initial Notification of the Director -

If the repeat sample confirms that the turbidity limit has been exceeded, the supplier shall report this fact to the Director as soon as practical, but no later than 24 hours after the exceedance is known in accordance with the public notification requirements under R309-220-6(2)(c). This reporting is in addition to reporting the incident on any monthly reports.

(3) For the purpose of individual plant evaluation and establishment of pathogen removal credit for the purpose of lowering the required "CT" value assigned a plant, plant management may do additional turbidity monitoring at other points to satisfy criteria in R309-215-7(2).

(4) Additional reporting and recordkeeping requirements for large surface water systems (serving greater than 10,000

population) reporting and recordkeeping requirements.

In addition to the reporting and recordkeeping requirements sub-sections (1), (2) and (3) above, a large surface water system that provides conventional filtration treatment or direct filtration shall report monthly to the Division the information specified in paragraphs (a) and (b) of this section. In addition to the reporting and recordkeeping requirements above, a public water system subject to the requirements of this subpart that provides filtration approved under R309-530-8 or R309-530-9 shall report monthly to the Division the information specified in paragraphs (a) of this section. The reporting in paragraph (a) of this section is in lieu of the reporting specified above.

(a) Turbidity measurements, as required in R309-200-5(5)(a), shall be reported within 10 days after the end of each month the system serves water to the public. Information that shall be reported includes:

(i) The total number of filtered water turbidity measurements taken during the month.

(ii) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to 0.3 NTU or those levels established under R309-200-5(5)(a)(ii).

(iii) The date and value of any turbidity measurements taken during the month which exceed 1 NTU for systems using conventional filtration treatment or direct filtration, or which exceed the maximum level set by the Director under R309-530-8 or R309-530-9.

(b) Systems shall maintain the results of individual filter monitoring taken under R309-215-9(1)(b) for at least three years. Systems shall record the results of individual filter monitoring every 15 minutes. Systems shall report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Systems shall report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in paragraphs (b)(i) through (iv) of this section. Systems that use lime softening may apply to the Director for alternative exceedance levels for the levels specified in paragraphs (b)(i) through (iv) of this section if they can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(i) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall either produce a filter profile for the filter within 7 days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(ii) For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first four hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the system shall report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition, the system shall either produce a filter profile for the filter within 7 days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(iii) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall conduct a self-assessment of the filter within 14 days of the exceedance and report that the self-assessment was conducted. The self assessment shall consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report.

(iv) For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall arrange for and conduct a comprehensive performance evaluation by the Director or a third party approved by the Director no later than 30 days following the exceedance and have the evaluation completed and submitted to the Division no later than 90 days following the exceedance.

(5) Additional reporting and recordkeeping requirements for surface water systems serving less than 10,000 population.

In addition to the reporting and recordkeeping requirements sub-sections (1), (2) and (3) above, a surface water system that provides conventional filtration treatment or direct filtration shall report monthly to the Division the information specified in paragraphs (a) and (b) of this section. In addition to the reporting and recordkeeping requirements above, a public water system subject to the requirements of this subpart that provides filtration approved under R309-530-8 or R309-530-9 shall report monthly to the Division the information specified in paragraphs (a) of this section. The reporting in paragraph (a) of this section is in lieu of the reporting specified above.

(a) Turbidity measurements, as required in R309-200-5(5)(a), shall be reported within 10 days after the end of each month the system serves water to the public. Information that shall be reported includes:

(i) The total number of filtered water turbidity measurements taken during the month.

(ii) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to 0.3 NTU or those levels established under R309-200-5(5)(a)(ii).

(iii) The date and value of any turbidity measurements taken during the month which exceed 1 NTU for systems using conventional filtration treatment or direct filtration, or which exceed the maximum level set by the Director under R309-530-8 or R309-530-9.

(b) Systems shall maintain the results of individual filter monitoring taken under R309-215-9(1)(b) for at least three years. Systems shall record the results of individual filter monitoring every 15 minutes. Systems shall report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Systems shall report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in paragraphs (b)(i) through (iv) of this section. Systems that use lime softening may apply to the Director for alternative exceedance levels for the levels specified in paragraphs (b)(i) through (iv) of this section if they can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(i) For any individual filter (or CFE for systems with 2 filters that monitor CFE in lieu of individual filters) that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the system shall report the filter number(s), the corresponding date(s), the turbidity values which exceeded 1.0 NTU, and the cause (if

known) for the exceedance(s), to the Director by the 10th of the following month.

(ii) If a system was required to report to the Director for three months in a row and turbidity exceeded 1.0 NTU in two consecutive recordings taken 15 minutes apart at the same filter (or CFE for systems with 2 filters that monitor CFE in lieu of individual filters), the system shall conduct a self-assessment of the filter within 14 days of the day the filter exceeded 1.0 NTU in two consecutive measurements for the third straight month unless a CPE as specified in paragraph (iii) of this section was required. Systems with 2 filters that monitor CFE in lieu of individual filters must conduct a self assessment on both filters. The self-assessment must consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report. If a self-assessment is required, the date that it was triggered and the date that it was completed.

(iii) If a system was required to report to the Director for two months in a row and turbidity exceeded 2.0 NTU in two consecutive measurements taken 15 minutes apart at the same filter (or CFE for systems with 2 filters that monitor CFE in lieu of individual filters), the system shall arrange to have a comprehensive performance evaluation (CPE) conducted by the Director or a third party approved by the Director no later than 60 days following the day the filter exceeded 2.0 NTU in two consecutive measurements for the second straight month. If a CPE is required, the system must report a CPE required and the date it was triggered. If a CPE has been completed by the Director or a third party approved by the Director within the 12 prior months or the system and Division are jointly participating in an ongoing Comprehensive Technical Assistance (CTA) project at the system, a new CPE is not required. If conducted, a CPE must be completed and submitted to the Division no later than 120 days following the day the filter exceeded 2.0 NTU in two consecutive measurements for the second straight month.

(6) Additional reporting requirements.

(a) If at any time the turbidity exceeds 1 NTU in representative samples of filtered water in a system using conventional filtration treatment or direct filtration, the system shall inform the Division as soon as possible, but no later than the end of the next business day.

(b) If at any time the turbidity in representative samples of filtered water exceeds the maximum level set by the Director under R309-530-8 or R309-530-9 for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the system shall inform the Division as soon as possible, but no later than the end of the next business day.

R309-215-10. Residual Disinfectant.

Treatment plant management shall continuously monitor disinfectant residuals and report the following to the Division within ten days after the end of each month that the system serves water to the public, except as otherwise noted:

(1) For each day, the lowest measurement of residual disinfectant concentration in mg/L in water entering the distribution system, except that if there is a failure in the continuous monitoring equipment, grab sampling every 4 hours may be conducted in lieu of continuous monitoring, but for no more than 5 working days following the failure of the equipment. Systems serving 3,300 or fewer persons may take grab samples in lieu of providing continuous monitoring on an ongoing basis at the frequencies listed in Table 215.2 below:

TABLE 215-2

RESIDUAL GRAB SAMPLE FREQUENCY

System size by population	Samples/day
Less than 500	1
501 to 1,000	2
1,001 to 2,500	3
2,501 to 3,300	4

Note: The day's samples cannot be taken at the same time. The sampling intervals are subject to Director's review and approval.

(2) The date and duration of each period when the residual disinfectant concentration in water entering the distribution system fell below 0.2 mg/L and when the Division was notified of the occurrence. The system shall notify the Division as soon as possible, but no later than by the end of the next business day. The system also shall notify the Division by the end of the next business day whether or not the residual was restored to at least 0.2 mg/L within four hours.

(3) The following information on the samples taken in the distribution system in conjunction with total coliform monitoring pursuant to R309-211 and R309-210-8(3)(a)(i):

(a) number of instances where the residual disinfectant concentration is measured;

(b) number of instances where the residual disinfectant concentration is not measured but heterotrophic bacteria plate count (HPC) is measured;

(c) number of instances where the residual disinfectant concentration is measured but not detected and no HPC is measured;

(d) number of instances where no residual disinfectant concentration is detected and where HPC is greater than 500/ml;

(e) number of instances where the residual disinfectant concentration is not measured and HPC is greater than 500/ml;

(f) for the current and previous month the system serves water to the public, the value of "V" in the formula, $V = ((c+d+e)/(a+b)) \times 100$, where a = the value in sub-section (a) above, b = the value in sub-section (b) above, c = the value in sub-section (c) above, d = the value in sub-section (d) above, and e = the value in sub-section (e) above.

(4) The residual disinfectant concentration must be measured at least at the same points in the distribution system and at the same time as the total coliforms are sampled as specified in R309-211. The State may allow a public water system which uses both a surface water source or a ground water source under direct influence of surface water, and a ground water source, to take disinfectant residual samples at points other than the total coliform sampling points if the Director determines that such points are more representative of treated (disinfected) water quality within the distributions system. Heterotrophic bacteria, measured as heterotrophic plate count (HPC) as specified in paragraph R309-200-4(3), may be measured in lieu of residual disinfectant concentration.

R309-215-11. Waterborne Disease Outbreak.

Each public water system, upon discovering that a waterborne disease outbreak as defined in R309-110 potentially attributable to their water system has occurred, shall report that occurrence to the Division as soon as possible, but no later than by the end of the next business day.

R309-215-12. Monitoring Requirements for Disinfection Byproducts Precursors (DBPP).

(1) Routine monitoring. Surface water systems which use conventional filtration treatment (as defined in R309-110) shall monitor each treatment plant for TOC no later than the point of combined filter effluent turbidity monitoring and representative of the treated water. All systems required to monitor under this paragraph (1) shall also monitor for TOC in the source water prior to any treatment at the same time as monitoring for TOC in the treated water. These samples (source water and treated water) are referred to as paired samples. At the same time as the

source water sample is taken, all systems shall monitor for alkalinity in the source water prior to any treatment. Systems shall take one paired sample and one source water alkalinity sample per month per plant at a time representative of normal operating conditions and influent water quality.

(2) Reduced monitoring. Surface water systems with an average treated water TOC of less than 2.0 mg/L for two consecutive years, or less than 1.0 mg/L for one year, may reduce monitoring for both TOC and alkalinity to one paired sample and one source water alkalinity sample per plant per quarter. The system shall revert to routine monitoring in the month following the quarter when the annual average treated water TOC is greater than or equal to 2.0 mg/L.

(3) Compliance shall be determined as specified by R309-215-13(3). Systems may begin monitoring to determine whether Step 1 TOC removals can be met 12 months prior to the compliance date for the system. This monitoring is not required and failure to monitor during this period is not a violation. However, any system that does not monitor during this period, and then determines in the first 12 months after the compliance date that it is not able to meet the Step 1 requirements in R309-215-13(2)(b) and shall therefore apply for alternate minimum TOC removal (Step 2) requirements, is not eligible for retroactive approval of alternate minimum TOC removal (Step 2) requirements as allowed pursuant to R309-215-13(2)(c) and is in violation. Systems may apply for alternate minimum TOC removal (Step 2) requirements any time after the compliance date. For systems required to meet Step 1 TOC removals, if the value calculated under R309-215-13(3)(a)(iv) is less than 1.00, the system is in violation of the treatment technique requirements and shall notify the public pursuant to R309-220, in addition to reporting to the Director pursuant to R309-105-16.

R309-215-13. Treatment Technique for Control of Disinfection Byproduct Precursors (DBPP).

(1) Applicability.

(a) Surface water systems using conventional filtration treatment (as defined in R309-110) shall operate with enhanced coagulation or enhanced softening to achieve the TOC percent removal levels specified in paragraph (2) of this section unless the system meets at least one of the alternative compliance criteria listed in paragraph (1)(b) or (1)(c) of this section.

(b) Alternative compliance criteria for enhanced coagulation and enhanced softening systems. Surface Water Systems using conventional filtration treatment may use the alternative compliance criteria in paragraphs (1)(b)(i) through (vi) of this section to comply with this section in lieu of complying with paragraph (2) of this section. Systems shall still comply with monitoring requirements in R309-215-12.

(i) The system's source water TOC level, measured according to R309-200-4(3), is less than 2.0 mg/L, calculated quarterly as a running annual average.

(ii) The system's treated water TOC level, measured according to R309-200-4(3), is less than 2.0 mg/L, calculated quarterly as a running annual average

(iii) The system's source water TOC level, measured according to R309-200-4(3), is less than 4.0 mg/L, calculated quarterly as a running annual average; the source water alkalinity, measured according to R309-200-4(3), is greater than 60 mg/L (as $CaCO_3$), calculated quarterly as a running annual average; and either the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively; or prior to the effective date for compliance in R309-210-8(1)(a), the system has made a clear and irrevocable financial commitment not later than the effective date for compliance in R309-210-8(1)(a) to use of technologies that will limit the levels of TTHMs and HAA5 to no more than 0.040 mg/L and 0.030 mg/L, respectively. Systems shall submit evidence of a clear and irrevocable financial commitment, in addition to a schedule containing milestones and periodic progress reports for installation and operation of appropriate technologies, to the Director for approval not later than the effective date for compliance in R309-210-8(1)(a). These technologies shall be installed and operating not later than June 30, 2005. Failure to install and operate these technologies by the date in the approved schedule will constitute a violation of National Primary Drinking Water Regulations.

(iv) The TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively, and the system uses only chlorine for primary disinfection and maintenance of a residual in the distribution system.

(v) The system's source water SUVA, prior to any treatment and measured monthly according to R309-200-4(3), is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(vi) The system's finished water SUVA, measured monthly according to R309-200-4(3), is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(c) Additional alternative compliance criteria for softening systems. Systems practicing enhanced softening that cannot achieve the TOC removals required by paragraph (2)(b) of this section may use the alternative compliance criteria in paragraphs (1)(c)(i) and (ii) of this section in lieu of complying with paragraph (2) of this section. Systems shall still comply with monitoring requirements in R309-210-8(4).

(i) Softening that results in lowering the treated water alkalinity to less than 60 mg/L (as $CaCO_3$), measured monthly according to R309-200-4(3) and calculated quarterly as a running annual average.

(ii) Softening that results in removing at least 10 mg/L of magnesium hardness (as $CaCO_3$), measured monthly according to R309-200-4(3) and calculated quarterly as an annual running average.

(2) Enhanced coagulation and enhanced softening performance requirements.

(a) Systems shall achieve the percent reduction of TOC specified in paragraph (2)(b) of this section between the source water and the combined filter effluent, unless the Director approves a system's request for alternate minimum TOC removal (Step 2) requirements under paragraph (2)(c) of this section.

(b) Required Step 1 TOC reductions, indicated in the following table, are based upon specified source water parameters measured in accordance with R309-200-4(3). Systems practicing softening are required to meet the Step 1 TOC reductions in the far-right column (Source water alkalinity >120 mg/L) for the specified source water TOC:

TABLE 215-3

Step 1 Required Removal of TOC by Enhanced Coagulation and Enhanced Softening for Surface Water Systems Using Conventional Treatment (notes 1,2)

Source-Water TOC, mg/L	Source-Water Alkalinity, mg/L as CaCO3		
	0-60 (percent)	>60-120 (percent)	>120 (Note 3) (percent)
>2.0-4.0	35.0%	25.0%	15.0%
>4.0-8.0	45.0%	35.0%	25.0%
>8.0	50.0%	40.0%	30.0%

Note 1: Systems meeting at least one of the conditions in paragraph (1)(b)(i)-(vi) of this section are not required to operate with enhanced coagulation.

Note 2: Softening systems meeting one of the alternative compliance criteria in paragraph (1)(c) of this section are not required to operate with enhanced softening.

Note 3: Systems practicing softening shall meet the TOC removal requirements in this column.

(c) Surface water systems using conventional treatment systems that cannot achieve the Step 1 TOC removals required by paragraph (2)(b) of this section due to water quality parameters or operational constraints shall apply to the Director, within three months of failure to achieve the TOC removals required by paragraph (2)(b) of this section, for approval of alternative minimum TOC removal (Step 2) requirements submitted by the system. If the Director approves the alternative minimum TOC removal (Step 2) requirements, the Director may make those requirements retroactive for the purposes of determining compliance. Until the Director approves the alternate minimum TOC removal (Step 2) requirements, the system shall meet the Step 1 TOC removals contained in paragraph (2)(b) of this section.

(d) Alternate minimum TOC removal (Step 2) requirements. Applications made to the Director by enhanced coagulation systems for approval of alternate minimum TOC removal (Step 2) requirements under paragraph (2)(c) of this section shall include, at a minimum, results of bench- or pilot-scale testing conducted under paragraph (2)(d)(i) of this section. The submitted bench- or pilot- scale testing shall be used to determine the alternate enhanced coagulation level.

(i) Alternate enhanced coagulation level is defined as: Coagulation at a coagulant dose and pH as determined by the method described in paragraphs (2)(d)(i) through (v) of this section such that an incremental addition of 10 mg/L of alum (or equivalent amount of ferric salt) results in a TOC removal of less than or equal to 0.3 mg/L. The percent removal of TOC at this point on the "TOC removal versus coagulant dose" curve is then defined as the minimum TOC removal required for the system. Once approved by the Director, this minimum requirement supersedes the minimum TOC removal required by the table in paragraph (2)(b) of this section. This requirement will be effective until such time as the Director approves a new value based on the results of a new bench- and pilot-scale test. Failure to achieve Director set alternative minimum TOC removal levels is a violation of R309-215-13.

(ii) Bench- or pilot-scale testing of enhanced coagulation shall be conducted by using representative water samples and adding 10 mg/L increments of alum (or equivalent amounts of ferric salt) until the pH is reduced to a level less than or equal to the enhanced coagulation Step 2 target pH shown in the following table 215-4:

TABLE 215-4

ENHANCED COAGULATION STEP 2 TARGET pH

ALKALINITY (mg/L as $CaCO_3$)	TARGET pH
0-60	5.5
>60-120	6.3
>120-240	7.0
>240	7.5

(iii) For waters with alkalinities of less than 60 mg/L for which addition of small amounts of alum or equivalent addition of iron coagulant drives the pH below 5.5 before significant TOC removal occurs, the system shall add necessary chemicals to maintain the pH between 5.3 and 5.7 in samples until the TOC removal of 0.3 mg/L per 10 mg/L alum added (or equivalant addition of iron coagulant) is reached.

(iv) The system may operate at any coagulant dose or pH necessary (consistent with other NPDWRs) to achieve the minimum TOC percent removal approved under paragraph (2)(c) of this section.

(v) If the TOC removal is consistently less than 0.3 mg/L of TOC per 10 mg/L of incremental alum dose at all dosages of alum (or equivalant addition of iron coagulant), the water is deemed to contain TOC not amenable to enhanced coagulation. The system may then apply to the Director for a waiver of enhanced coagulation requirements.

(3) Compliance Calculations.

(a) Surface Water Systems other than those identified in paragraphs (1)(b) or (1)(c) of this section shall comply with requirements contained in paragraphs (2)(b) or (2)(c) of this section. Systems shall calculate compliance quarterly, beginning after the system has collected 12 months of data, by determining an annual average using the following method:

(i) Determine actual monthly TOC percent removal, equal to: (1 - (treated water TOC/source water TOC)) x 100.

(ii) Determine the required monthly TOC percent removal (from either the table in paragraph (2)(b) of this section or from paragraph (2)(c) of this section).

(iii) Divide the value in paragraph (3)(a)(i) of this section by the value in paragraph (3)(a)(ii) of this section.

(iv) Add together the results of paragraph (3)(a)(iii) of this section for the last 12 months and divide by 12.

(v) If the value calculated in paragraph (3)(a)(iv) of this section is less than 1.00, the system is not in compliance with the TOC percent removal requirements.

(b) Systems may use the provisions in paragraphs (3)(b)(i) through (v) of this section in lieu of the calculations in paragraph (3)(a)(i) through (v) of this section to determine compliance with TOC percent removal requirements.

(i) In any month that the system's treated or source water TOC level, measured according to R309-200-4(3), is less than 2.0 mg/L, the system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (3)(a)(iii) of this section) when calculating compliance under the provisions of paragraph (3)(a) of this section.

(ii) In any month that a system practicing softening removes at least 10 mg/L of magnesium hardness (as $CaCO_3$), the system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (3)(a)(iii) of this section) when calculating compliance under the provisions of paragraph (3)(a) of this section.

(iii) In any month that the system's source water SUVA, prior to any treatment and measured according to R309-200-4(3), is less than or equal to 2.0 L/mg-m, the system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (3)(a)(iii) of this section) when calculating compliance under the provisions of paragraph (3)(a) of this section.

(iv) In any month that the system's finished water SUVA, measured according to R309-200-4(3), is less than or equal to 2.0 L/mg-m, the system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (3)(a)(iii) of this section) when calculating compliance under the provisions of paragraph (3)(a) of this section.

(v) In any month that a system practicing enhanced softening lowers alkalinity below 60 mg/L (as $CaCO_3$), the system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (3)(a)(iii) of this section) when calculating compliance under the provisions of paragraph (3)(a) of this section.

(c) Surface Water Systems using conventional treatment may also comply with the requirements of this section by meeting the criteria in paragraph (1)(b) or (c) of this section.

(4) Treatment Technique Requirements for DBP Precursors. The Director identifies the following as treatment techniques to control the level of disinfection byproduct precursors in drinking water treatment and distribution systems: For Surface Water Systems using conventional treatment, enhanced coagulation or enhanced softening.

R309-215-14. Disinfection Profiling and Benchmarking.

A disinfection profile is a graphical representation of your system's level of Giardia lamblia or virus inactivation measured during the course of a year. Community or non-transient non-community water systems which use surface water or ground

water under the direct influence of surface must develop a disinfection profile unless the Director determines that a system's profile is unnecessary. The Director may approve the use of a more representative data set for disinfection profiling than the data set required under R309-215-14.

(1) Determination of systems required to profile. A public water system subject to the requirements of this subpart shall determine its TTHM annual average using the procedure in paragraph (1)(a) of this section and its HAA5 annual average using the procedure in paragraph (1)(b) of this section. The annual average is the arithmetic average of the quarterly averages of four consecutive quarters of monitoring.

(a) The TTHM annual average shall be the annual average during the same period as is used for the HAA5 annual average.

(i) Those systems that collected data under the provisions of 40 CFR 141.142 subpart M (Information Collection Rule) shall use the results of the samples collected during the last four quarters of required monitoring.

(ii) Those systems that use grandfathered HAA5 occurrence data that meet the provisions of paragraph (1)(b)(ii) of this section shall use TTHM data collected at the same time under the provisions of R309-200-5(3)(c)(vii) and R309-210-9.

(iii) Those systems that use HAA5 occurrence data that meet the provisions of paragraph (1)(b)(iii)(A) of this section shall use TTHM data collected at the same time under the provisions of R309-200-5(3)(c)(vii) and R309-210-9.

(b) The HAA5 annual average shall be the annual average during the same period as is used for the TTHM annual average.

(i) Those systems that collected data under the provisions of 40 CFR 141.142 subpart M (Information Collection Rule) shall use the results of the samples collected during the last four quarters of required monitoring.

(ii) Those systems that have collected four quarters of HAA5 occurrence data that meets the routine monitoring sample number and location requirements for TTHM in R309-200-5(3)(c)(vii) and R309-210-9 and handling and analytical method requirements of R309-200-4(3) may use those data to determine whether the requirements of this section apply.

(iii) Those systems that have not collected four quarters of HAA5 occurrence data that meets the provisions of either paragraph (1)(b)(i) or (ii) of this section by March 16, 1999 shall either:

(A) Conduct monitoring for HAA5 that meets the routine monitoring sample number and location requirements for TTHM in R309-200-5(3)(c)(vii) and R309-210-9 and handling and analytical method requirements of R309-200-4(3) to determine the HAA5 annual average and whether the requirements of paragraph (2) of this section apply. This monitoring shall be completed so that the applicability determination can be made no later than March 31, 2000, or

(B) Comply with all other provisions of this section as if the HAA5 monitoring had been conducted and the results required compliance with paragraph (2) of this section.

(c) The system may request that the Director approve a more representative annual data set than the data set determined under paragraph (1)(a) or (b) of this section for the purpose of determining applicability of the requirements of this section.

(d) The Director may require that a system use a more representative annual data set than the data set determined under paragraph (1)(a) or (b) of this section for the purpose of determining applicability of the requirements of this section.

(e) The system shall submit data to the Director on the schedule in paragraphs (1)(e)(i) through (v) of this section.

(i) Those systems that collected TTHM and HAA5 data under the provisions of subpart M (Information Collection Rule), as required by paragraphs (1)(a)(i) and (1)(b)(i) of this section, shall submit the results of the samples collected during the last 12 months of required monitoring under 40 CFR section 141.142 (Information Collection Rule) not later than December 31, 1999.

(ii) Those systems that have collected four consecutive quarters of HAA5 occurrence data that meets the routine monitoring sample number and location for TTHM in R309-200-5(3)(c)(vii) and R309-210-9 and handling and analytical method requirements of R309-200-4(3), as allowed by paragraphs (1)(a)(ii) and (1)(b)(ii) of this section, shall submit those data to the Director not later April 16, 1999. Until the Director has approved the data, the system shall conduct monitoring for HAA5 using the monitoring requirements specified under paragraph (1)(b)(iii) of this section.

(iii) Those systems that conduct monitoring for HAA5 using the monitoring requirements specified by paragraphs (1)(a)(iii) and (1)(b)(iii)(A) of this section, shall submit TTHM and HAA5 data not later than April 1, 2000.

(iv) Those systems that elect to comply with all other provisions of this section as if the HAA5 monitoring had been conducted and the results required compliance with this section, as allowed under paragraphs (1)(b)(iii)(B) of this section, shall notify the Director in writing of their election not later than December 31, 1999.

(v) If the system elects to request that the Director approve a more representative annual data set than the data set determined under paragraph (1)(b)(i) of this section, the system shall submit this request in writing not later than December 31, 1999.

(f) Any system having either a TTHM annual average greater than or equal to 0.064 mg/L or an HAA5 annual average greater than or equal to 0.048 mg/L during the period identified in paragraphs (1)(a) and (b) of this section shall comply with paragraph (2) of this section.

(g) The Director may only determine that a system's profile is unnecessary if a system's TTHM and HAA5 levels are below 0.064 mg/L and 0.048 mg/L, respectively. To determine these levels, TTHM and HAA5 samples must be collected after January 1, 1998, during the month with the warmest water temperature, and at the point of maximum residence time in your distribution system. The Director may approve a more representative TTHM and HAA5 data set to determine these levels.

(2) Disinfection profiling.

(a) Any system that is required by paragraph (1) of this section shall develop a disinfection profile of its disinfection practice for a period of up to three years. A disinfection profile consists of the following 3 steps:

(i) The system must collect data for several parameters from the plant over the course of 12 months. If your system serves between 500 and 9,999 persons you must begin to collect data no later than July 1, 2003. If your system serves fewer than 500 persons you must begin to collect data no later than January 1, 2004. If your system serves 10,000 persons or greater than the requirements of R309-215-14(2) are only required if it meets the criteria in paragraph R309-215-14(1)(f).

(ii) The system must use this data to calculate weekly log inactivation as discussed in paragraph (d) of this section.

(iii) The system must use these weekly log inactivations to develop a disinfection profile.

(b) The system shall monitor daily for a period of 12 consecutive calendar months to determine the total logs of inactivation for each day of operation, based on the CT99.9 values in Tables 1.1-1.6, 2.1, and 3.1 of Section 141.74(b)(3) in the code of Federal Regulations (also available from the Division), as appropriate, through the entire treatment plant. This system shall begin this monitoring not later than April 1, 2000. As a minimum, the system with a single point of disinfectant application prior to entrance to the distribution system shall conduct the monitoring in paragraphs (2)(b)(i) through (iv) of this section. A system with more than one point of disinfectant application shall conduct the monitoring in

paragraphs (2)(b)(i) through (iv) of this section for each disinfection segment. The system shall monitor the parameters necessary to determine the total inactivation ratio, using analytical methods in R309-200-4(3), as follows:

(i) The temperature of the disinfected water shall be measured once per day at each residual disinfectant concentration sampling point during peak hourly flow.

(ii) If the system uses chlorine, the pH of the disinfected water shall be measured once per day at each chlorine residual disinfectant concentration sampling point during peak hourly flow.

(iii) The disinfectant contact time(s) ("T") shall be determined for each day during peak hourly flow.

(iv) The residual disinfectant concentration(s) ("C") of the water before or at the first customer and prior to each additional point of disinfection shall be measured each day during peak hourly flow.

(v) For systems serving less than 10,000 persons, the above parameters shall be monitored once per week on the same calendar day, over 12 consecutive months for the purposes of disinfection profiling.

(c) In lieu of the monitoring conducted under the provisions of paragraph (2)(b) of this section to develop the disinfection profile, the system may elect to meet the requirements of paragraph (2)(c)(i) of this section. In addition to the monitoring conducted under the provisions of paragraph (2)(b) of this section to develop the disinfection profile, the system may elect to meet the requirements of paragraph (2)(c)(ii) of this section.

(i) A PWS that has three years of existing operational data may submit those data, a profile generated using those data, and a request that the Director approve use of those data in lieu of monitoring under the provisions of paragraph (2)(b) of this section not later than March 31, 2000. The Director shall determine whether these operational data are substantially equivalent to data collected under the provisions of paragraph (2)(b) of this section. These data shall also be representative of Giardia lamblia inactivation through the entire treatment plant and not just of certain treatment segments. Until the Director approves this request, the system is required to conduct monitoring under the provisions of paragraph (2)(b) of this section.

(ii) In addition to the disinfection profile generated under paragraph (2)(b) of this section, a PWS that has existing operational data may use those data to develop a disinfection profile for additional years. Such systems may use these additional yearly disinfection profiles to develop a benchmark under the provisions of paragraph (3) of this section. The Director shall determine whether these operational data are substantially equivalent to data collected under the provisions of paragraph (2)(b) of this section. These data shall also be representative of inactivation through the entire treatment plant and not just of certain treatment segments.

(d) The system shall calculate the total inactivation ratio as follows:

(i) If the system uses only one point of disinfectant application, the system may determine the total inactivation ratio for the disinfection segment based on either of the methods in paragraph (2)(d)(i)(A) or (2)(d)(i)(B) of this section.

(A) Determine one inactivation ratio ($CTcalc/CT_{99.9}$) before or at the first customer during peak hourly flow.

(B) Determine successive $CTcalc/CT_{99.9}$ values, representing sequential inactivation ratios, between the point of disinfectant application and a point before or at the first customer during peak hourly flow. Under this alternative, the system shall calculate the total inactivation ratio by determining ($CTcalc/CT_{99.9}$) for each sequence and then adding the ($CTcalc/CT_{99.9}$) values together to determine sum of ($CTcalc/CT_{99.9}$).

(ii) If the system uses more than one point of disinfectant application before the first customer, the system shall determine the CT value of each disinfection segment immediately prior to the next point of disinfectant application, or for the final segment, before or at the first customer, during peak hourly flow. The ($CTcalc/CT_{99.9}$) value of each segment and sum of ($CTcalc/CT_{99.9}$) shall be calculated using the method in paragraph (b)(4)(i) of this section.

(iii) The system shall determine the total logs of inactivation by multiplying the value calculated in paragraph (2)(d)(i) or (ii) of this section by 3.0.

(e) A system that uses either chloramines and chlorine dioxide or ozone for primary disinfection shall also calculate the logs of inactivation for viruses using a method approved by the Director.

(f) The system shall retain disinfection profile data in graphic form, as a spreadsheet, or in some other format acceptable to the Director for review as part of sanitary surveys conducted by the Director.

(3) Disinfection Benchmarking

(a) Any system required to develop a disinfection profile under the provisions of paragraphs (1) and (2) of this section and that decides to make a significant change to its disinfection practice shall consult with the Director prior to making such change. Significant changes to disinfection practice are:

(i) Changes to the point of disinfection;

(ii) Changes to the disinfectant(s) used in the treatment plant;

(iii) Changes to the disinfection process; and

(iv) Any other modification identified by the Director.

(b) Any system that is modifying its disinfection practice shall calculate its disinfection benchmark using the procedure specified in paragraphs (3)(b)(i) through (ii) of this section.

(i) For each year of profiling data collected and calculated under paragraph (2) of this section, the system shall determine the lowest average monthly Giardia lamblia inactivation in each year of profiling data. The system shall determine the average Giardia lamblia inactivation for each calendar month for each year of profiling data by dividing the sum of daily Giardia lamblia of inactivation by the number of values calculated for that month.

(ii) The disinfection benchmark is the lowest monthly average value (for systems with one year of profiling data) or average of lowest monthly average values (for systems with more than one year of profiling data) of the monthly logs of Giardia lamblia inactivation in each year of profiling data.

(c) A system that uses either chloramines, ozone or chlorine dioxide for primary disinfection must calculate the disinfection benchmark from the data the system collected for viruses to develop the disinfection profile in addition to the Giardia lamblia disinfection benchmark calculated under paragraph (b)(i) above. This viral benchmark must be calculated in the same manner used to calculate the Giardia lamblia disinfection benchmark in paragraph (b)(i).

(d) The system shall submit information in paragraphs (3)(d)(i) through (iv) of this section to the Director as part of its consultation process.

(i) A description of the proposed change;

(ii) The disinfection profile for Giardia lamblia (and, if necessary, viruses) under paragraph (2) of this section and benchmark as required by paragraph (3)(b) of this section; and

(iii) An analysis of how the proposed change will affect the current levels of disinfection.

(iv) Any additional information requested by the Director.

R309-215-15. Enhanced Treatment for Cryptosporidium (Federal Subpart W).

(1) General requirements.

(a) The rule requirements of this section establish or

extend treatment technique requirements in lieu of maximum contaminant levels for Cryptosporidium. These requirements are in addition to requirements for filtration and disinfection in R309-200 and other parts of R309-215.

(b) Applicability. The requirements of this subpart apply to all surface water systems, which are public water systems supplied by a surface water source and public water systems supplied by a ground water source under the direct influence of surface water.

(i) Wholesale systems, as defined in R309-110, must comply with the requirements of this section based on the population of the largest system in the combined distribution system.

(ii) The requirements of this sub-section apply to systems required by these rules to provide filtration treatment, whether or not the system is currently operating a filtration system.

(c) Requirements. Systems subject to this subpart must comply with the following requirements:

(i) Systems must conduct an initial and a second round of source water monitoring for each plant that treats a surface water or GWUDI source. This monitoring may include sampling for Cryptosporidium, E. coli, and turbidity as described in R309-215-15(2) through R309-215-15(7), to determine what level, if any, of additional Cryptosporidium treatment they must provide.

(ii) Systems that plan to make a significant change to their disinfection practice must develop disinfection profiles and calculate disinfection benchmarks, as described in R309-215-15(9) through R309-215-15(10).

(iii) Filtered systems must determine their Cryptosporidium treatment bin classification as described in R309-215-15(11) and provide additional treatment for Cryptosporidium, if required, as described in R309-215-15(12). Filtered must implement Cryptosporidium treatment according to the schedule in R309-215-14.

(iv) Systems required to provide additional treatment for Cryptosporidium must implement microbial toolbox options that are designed and operated as described in R309-215-15(15) through R309-215-15(20).

(v) Systems must comply with the applicable recordkeeping and reporting requirements described in R309-215-15(21) through R309-215-15(22).

(vi) Systems must address significant deficiencies identified in sanitary surveys performed by EPA as described in R309-215-15(22).

(2) Source Water Monitoring Requirements.

(a) Initial round of source water monitoring. Systems must conduct the following monitoring on the schedule in paragraph (c) of this section unless they meet the monitoring exemption criteria in paragraph (d) of this section.

(i) Filtered systems serving at least 10,000 people must sample their source water for Cryptosporidium, E. coli, and turbidity at least monthly for 24 months.

(ii) (A) Filtered systems serving fewer than 10,000 people must sample their source water for E. coli at least once every two weeks for 12 months.

(B) A filtered system serving fewer than 10,000 people may avoid E. coli monitoring if the system notifies the Director that it will monitor for Cryptosporidium as described in paragraph (a)(iv) of this section. The system must notify the Director no later than 3 months prior to the date the system is otherwise required to start E. coli monitoring under R309-215-15(2)(c).

(iii) Filtered systems serving fewer than 10,000 people must sample their source water for Cryptosporidium at least twice per month for 12 months or at least monthly for 24 months if they meet one of the following, based on monitoring conducted under paragraph (a)(iii) of this section:

(A) For systems using lake/reservoir sources, the annual mean E. coli concentration is greater than 10 E. coli/ 100 mL.

(B) For systems using flowing stream sources, the annual mean E. coli concentration is greater than 50 E. coli/ 100 mL.

(C) The system does not conduct E. coli monitoring as described in paragraph (a)(iii) of this section.

(D) Systems using ground water under the direct influence of surface water (GWUDI) must comply with the requirements of paragraph (a)(iv) of this section based on the E. coli level that applies to the nearest surface water body. If no surface water body is nearby, the system must comply based on the requirements that apply to systems using lake/reservoir sources.

(iv) For filtered systems serving fewer than 10,000 people, the Director may approve monitoring for an indicator other than E. coli under paragraph (a)(ii) of this section. The Director also may approve an alternative to the E. coli concentration in paragraph (a)(iii)(A), (B) or (D) of this section to trigger Cryptosporidium monitoring. This approval by the Director must be provided to the system in writing and must include the basis for the Director's determination that the alternative indicator and/or trigger level will provide a more accurate identification of whether a system will exceed the Bin 1 Cryptosporidium level in R309-215-15(11).

(v) Systems may sample more frequently than required under this section if the sampling frequency is evenly spaced throughout the monitoring period.

(b) Second round of source water monitoring. Systems must conduct a second round of source water monitoring that meets the requirements for monitoring parameters, frequency, and duration described in paragraph (a) of this section, unless they meet the monitoring exemption criteria in paragraph (d) of this section. Systems must conduct this monitoring on the schedule in paragraph (c) of this section.

(c) Monitoring schedule. Systems must begin the monitoring required in paragraphs (a) and (b) of this section no later than the month beginning with the date listed:

(i) Systems that serve at least 100,000 people must:

(A) begin the first round of source water monitoring no later than October 1, 2006; and

(B) begin the second round of source water monitoring no later than April 1, 2015.

(ii) Systems that serve from 50,000 to 99,999 people must:

(A) begin the first round of source water monitoring no later than April 1, 2007; and

(B) begin the second round of source water monitoring no later than October 1, 2015.

(iii) Systems that serve from 10,000 to 49,999 people must:

(A) begin the first round of source water monitoring no later than April 1, 2008; and

(B) begin the second round of source water monitoring no later than October 1, 2016.

(iv) Systems that serve less than 10,000 people and monitor for E. coli must:

(A) begin the first round of source water monitoring no later than October 1, 2008; and

(B) begin the second round of source water monitoring no later than October 1, 2017.

(C) Applies only to filtered systems.

(v) Systems that serve less than 10,000 people and monitor for Cryptosporidium must:

(A) begin the first round of source water monitoring no later than April 1, 2010; and

(B) begin the second round of source water monitoring no later than April 1, 2019.

(C) Applies to filtered systems that meet the conditions of paragraph (a)(iii) of this section.

(d) Monitoring avoidance.

(i) Filtered systems are not required to conduct source water monitoring under this sub-section if the system will provide a total of at least 5.5-log of treatment for

Cryptosporidium, equivalent to meeting the treatment requirements of Bin 4 in R309-215-15(12).

(ii) If a system chooses to provide the level of treatment in paragraph (d)(i) of this section rather than start source monitoring, the system must notify the Director in writing no later than the date the system is otherwise required to submit a sampling schedule for monitoring under R309-215-15(3). Alternatively, a system may choose to stop sampling at any point after it has initiated monitoring if it notifies the Director in writing that it will provide this level of treatment. Systems must install and operate technologies to provide this level of treatment by the applicable compliance dates in R309-215-15(13).

(e) Plants operating only part of the year. Systems with surface water plants that operate for only part of the year must conduct source water monitoring in accordance with this subpart, but with the following modifications:

(i) Systems must sample their source water only during the months that the plant operates unless the Director specifies another monitoring period based on plant operating practices.

(ii) Systems with plants that operate less than six months per year and that monitor for Cryptosporidium must collect at least six Cryptosporidium samples per year during each of two years of monitoring. Samples must be evenly spaced throughout the period the plant operates.

(f)(i) New sources. A system that begins using a new source of surface water or GWUDI after the system is required to begin monitoring under paragraph (c) of this section must monitor the new source on a schedule the Director approves. Source water monitoring must meet the requirements of this sub-section. The system must also meet the bin classification and Cryptosporidium treatment requirements of R309-215-15(11) and (12) for the new source on a schedule the Director approves.

(ii) The requirements of R309-215-15(2)(f) apply to surface water systems that begin operation after the monitoring start date applicable to the system's size under paragraph (c) of this section.

(iii) The system must begin a second round of source water monitoring no later than 6 years following initial bin classification under R309-215-15(11).

(g) Failure to collect any source water sample required under this section in accordance with the sampling schedule, sampling location, analytical method, approved laboratory, and reporting requirements of R309-215-15(3) through R309-215-15(7) is a monitoring violation.

(h) Grandfathering monitoring data. Systems may use (grandfather) monitoring data collected prior to the applicable monitoring start date in paragraph (c) of this section to meet the initial source water monitoring requirements in paragraph (a) of this section. Grandfathered data may substitute for an equivalent number of months at the end of the monitoring period. All data submitted under this paragraph must meet the requirements in R309-215-15(8).

(3) Sampling schedules.

(a) Systems required to conduct source water monitoring under R309-215-15(2) must submit a sampling schedule that specifies the calendar dates when the system will collect each required sample.

(i) Systems must submit sampling schedules no later than 3 months prior to the applicable date listed in R309-215-15(2)(c) for each round of required monitoring.

(ii) (A) Systems serving at least 10,000 people must submit their sampling schedule for the initial round of source water monitoring under R309-215-15(2)(a) to EPA electronically at https:// intranet.epa.gov/lt2/.

(B) If a system is unable to submit the sampling schedule electronically, the system may use an alternative approach for submitting the sampling schedule that EPA approves.

(iii) Systems serving fewer than 10,000 people must submit their sampling schedules for the initial round of source water monitoring R309-215-15(2)(a) to the Director.

(iv) Systems must submit sampling schedules for the second round of source water monitoring R309-215-15(2)(b) to the Director.

(v) If EPA or the Director does not respond to a system regarding its sampling schedule, the system must sample at the reported schedule.

(b) Systems must collect samples within two days before or two days after the dates indicated in their sampling schedule (i.e., within a five-day period around the schedule date) unless one of the conditions of paragraph (b)(i) or (ii) of this section applies.

(i) If an extreme condition or situation exists that may pose danger to the sample collector, or that cannot be avoided and causes the system to be unable to sample in the scheduled five-day period, the system must sample as close to the scheduled date as is feasible unless the Director approves an alternative sampling date. The system must submit an explanation for the delayed sampling date to the Director concurrent with the shipment of the sample to the laboratory.

(ii)(A) If a system is unable to report a valid analytical result for a scheduled sampling date due to equipment failure, loss of or damage to the sample, failure to comply with the analytical method requirements, including the quality control requirements in R309-215-15(5), or the failure of an approved laboratory to analyze the sample, then the system must collect a replacement sample.

(B) The system must collect the replacement sample not later than 21 days after receiving information that an analytical result cannot be reported for the scheduled date unless the system demonstrates that collecting a replacement sample within this time frame is not feasible or the Director approves an alternative resampling date. The system must submit an explanation for the delayed sampling date to the Director concurrent with the shipment of the sample to the laboratory.

(c) Systems that fail to meet the criteria of paragraph (b) of this section for any source water sample required under R309-215-15(2) must revise their sampling schedules to add dates for collecting all missed samples. Systems must submit the revised schedule to the Director for approval prior to when the system begins collecting the missed samples.

(4) Sampling locations.

(a) Systems required to conduct source water monitoring under R309-215-15(2) must collect samples for each plant that treats a surface water or GWUDI source. Where multiple plants draw water from the same influent, such as the same pipe or intake, the Director may approve one set of monitoring results to be used to satisfy the requirements of R309-215-15(2) for all plants.

(b) (i) Systems must collect source water samples prior to chemical treatment, such as coagulants, oxidants and disinfectants, unless the system meets the condition of paragraph (b)(ii) of this section.

(ii) The Director may approve a system to collect a source water sample after chemical treatment. To grant this approval, the Director must determine that collecting a sample prior to chemical treatment is not feasible for the system and that the chemical treatment is unlikely to have a significant adverse effect on the analysis of the sample.

(c) Systems that recycle filter backwash water must collect source water samples prior to the point of filter backwash water addition.

(d) Bank filtration.

(i) Systems that receive Cryptosporidium treatment credit for bank filtration under R309-200-5(5)(a)(ii) must collect source water samples in the surface water prior to bank filtration.

(ii) Systems that use bank filtration as pretreatment to a filtration plant must collect source water samples from the well (i.e., after bank filtration). Use of bank filtration during monitoring must be consistent with routine operational practice. Systems collecting samples after a bank filtration process may not receive treatment credit for the bank filtration under R309-215-15(16)(c).

(e) Multiple sources. Systems with plants that use multiple water sources, including multiple surface water sources and blended surface water and ground water sources, must collect samples as specified in paragraph (e)(i) or (ii) of this section. The use of multiple sources during monitoring must be consistent with routine operational practice.

(i) If a sampling tap is available where the sources are combined prior to treatment, systems must collect samples from the tap.

(ii) If a sampling tap where the sources are combined prior to treatment is not available, systems must collect samples at each source near the intake on the same day and must follow either paragraph (e)(ii)(A) or (B) of this section for sample analysis.

(A) Systems may composite samples from each source into one sample prior to analysis. The volume of sample from each source must be weighted according to the proportion of the source in the total plant flow at the time the sample is collected.

(B) Systems may analyze samples from each source separately and calculate a weighted average of the analysis results for each sampling date. The weighted average must be calculated by multiplying the analysis result for each source by the fraction the source contributed to total plant flow at the time the sample was collected and then summing these values.

(f) Additional Requirements. Systems must submit a description of their sampling location(s) to the Director at the same time as the sampling schedule required under R309-215-15(3). This description must address the position of the sampling location in relation to the system's water source(s) and treatment processes, including pretreatment, points of chemical treatment, and filter backwash recycle. If the Director does not respond to a system regarding sampling location(s), the system must sample at the reported location(s).

(5) Analytical methods.

(a) Cryptosporidium. Systems must analyze for Cryptosporidium using Method 1623: Cryptosporidium and Giardia in Water by Filtration/IMS/FA, 2005, United States Environmental Protection Agency, EPA-815-R-05-002 or Method 1622: Cryptosporidium in Water by Filtration/IMS/FA, 2005, United States Environmental Protection Agency, EPA-815-R-05-001, which are incorporated by reference. You may obtain a copy of these methods online from http:// www.epa.gov/safewater/disinfection/lt2 or from the United States Environmental Protection Agency, Office of Ground Water and Drinking Water, 1201 Constitution Ave., NW, Washington, DC 20460 (Telephone: 800-426-4791). You may inspect a copy at the Water Docket in the EPA Docket Center, 1301 Constitution Ave., NW, Washington, DC, (Telephone: 202-566-2426) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. You may also obtain a copy of these methods by contacting the Division of Drinking Water at 801-536-4200.

(i) Systems must analyze at least a 10 L sample or a packed pellet volume of at least 2 mL as generated by the methods listed in paragraph (a) of this section. Systems unable to process a 10 L sample must analyze as much sample volume as can be filtered by two filters approved by EPA for the methods listed in paragraph (a) of this section, up to a packed pellet volume of at least 2 mL.

(ii) (A) Matrix spike (MS) samples, as required by the methods in paragraph (a) of this section, must be spiked and filtered by a laboratory approved for Cryptosporidium analysis under R309-215-15(6).

(B) If the volume of the MS sample is greater than 10 L, the system may filter all but 10 L of the MS sample in the field, and ship the filtered sample and the remaining 10 L of source water to the laboratory. In this case, the laboratory must spike the remaining 10 L of water and filter it through the filter used to collect the balance of the sample in the field.

(iii) Flow cytometer-counted spiking suspensions must be used for MS samples and ongoing precision and recovery (OPR) samples.

(b) E. coli. Systems must use methods for enumeration of E. coli in source water approved in R309-200-4(3) and (4).

(i) The time from sample collection to initiation of analysis may not exceed 30 hours unless the system meets the condition of paragraph (b)(ii) of this section.

(ii) The Director may approve on a case-by-case basis the holding of an E. coli sample for up to 48 hours between sample collection and initiation of analysis if the Director determines that analyzing an E. coli sample within 30 hours is not feasible. E. coli samples held between 30 to 48 hours must be analyzed by the Colilert reagent version of Standard Method 9223B as listed in R309-200-4(3) and (4).

(iii) Systems must maintain samples between 0 deg.C and 10 deg. C during storage and transit to the laboratory.

(c) Turbidity. Systems must use methods for turbidity measurement approved in R309-200-4(3) and (4).

(6) Approved laboratories.

(a) Cryptosporidium. Systems must have Cryptosporidium samples analyzed by a laboratory that is approved under EPA's Laboratory Quality Assurance Evaluation Program for Analysis of Cryptosporidium in Water or a laboratory that has been certified for Cryptosporidium analysis by an equivalent State laboratory certification program.

(b) E. coli. Any laboratory certified by the EPA, the National Environmental Laboratory Accreditation Conference or the State for total coliform or fecal coliform analysis under R309-200-4(3) and (4) is approved for E. coli analysis under this subpart when the laboratory uses the same technique for E. coli that the laboratory uses for R309-200-4(3), (4) and in R444-14-4(1).

(c) Turbidity. Measurements of turbidity must be made by a party approved by the State.

(7) Reporting source water monitoring results.

(a) Systems must report results from the source water monitoring required under R309-215-15(2) no later than 10 days after the end of the first month following the month when the sample is collected.

(b) (i) All systems serving at least 10,000 people must report the results from the initial source water monitoring required under R309-215-15(2)(a) to EPA electronically at https:// intranet.epa.gov/lt2/.

(ii) If a system is unable to report monitoring results electronically, the system may use an alternative approach for reporting monitoring results that EPA approves.

(c) Systems serving fewer than 10,000 people must report results from the initial source water monitoring required under R309-215-15(2)(a) to the Director.

(d) All systems must report results from the second round of source water monitoring required under R309-215-15(2)(b) to the Director.

(e) Systems must report the applicable information in paragraphs (e)(i) and (ii) of this section for the source water monitoring required under R309-215-15(2).

(i) Systems must report the following data elements for each Cryptosporidium analysis:

(A) PWS ID.

(B) Facility ID.
(C) Sample collection date.
(D) Sample type (field or matrix spike).
(E) Sample volume filtered (L), to nearest 1/4 L.
(F) Was 100% of filtered volume examined.
(G) Number of oocysts counted.
(H) For matrix spike samples, systems must also report the sample volume spiked and estimated number of oocysts spiked. These data are not required for field samples.
(I) For samples in which less than 10 L is filtered or less than 100% of the sample volume is examined, systems must also report the number of filters used and the packed pellet volume.
(J) For samples in which less than 100% of sample volume is examined, systems must also report the volume of resuspended concentrate and volume of this resuspension processed through immunomagnetic separation.
(ii) Systems must report the following data elements for each E. coli analysis:
(A) PWS ID.
(B) Facility ID.
(C) Sample collection date.
(D) Analytical method number.
(E) Method type.
(F) Source type (flowing stream, lake/reservoir, GWUDI).
(G) E. coli/100 mL.
(H) Turbidity. (Systems serving fewer than 10,000 people that are not required to monitor for turbidity under R309-215-15(2) are not required to report turbidity with their E. coli results.)
(8) Grandfathering previously collected data.
(a) (i) Systems may comply with the initial source water monitoring requirements of R309-215-15(2)(a) by grandfathering sample results collected before the system is required to begin monitoring (i.e., previously collected data). To be grandfathered, the sample results and analysis must meet the criteria in this section and the Director must approve.
(ii) A filtered system may grandfather Cryptosporidium samples to meet the requirements of R309-215-15(2)(a) when the system does not have corresponding E. coli and turbidity samples. A system that grandfathers Cryptosporidium samples without E. coli and turbidity samples is not required to collect E. coli and turbidity samples when the system completes the requirements for Cryptosporidium monitoring under R309-215-15(2)(a).
(b) E. coli sample analysis. The analysis of E. coli samples must meet the analytical method and approved laboratory requirements of R309-215-15(5) through R309-215-15(6).
(c) Cryptosporidium sample analysis. The analysis of Cryptosporidium samples must meet the criteria in this paragraph.
(i) Laboratories analyzed Cryptosporidium samples using one of the analytical methods in paragraphs (c)(i)(A) through (D) of this section, which are incorporated by reference. You may obtain a copy of these methods on-line from the United States Environmental Protection Agency, Office of Ground Water and Drinking Water, 1201 Constitution Ave, NW, Washington, DC 20460 (Telephone: 800-426-4791). You may inspect a copy at the Water Docket in the EPA Docket Center, 1301 Constitution Ave., NW, Washington, DC, (Telephone: 202-566-2426) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. You may also obtain a copy of these methods by contacting the Division of Drinking Water at 801-536-4200.
(A) Method 1623: Cryptosporidium and Giardia in Water by Filtration/IMS/ FA, 2005, United States Environmental Protection Agency, EPA-815-R-05-002.
(B) Method 1622: Cryptosporidium in Water by Filtration/IMS/FA, 2005, United States Environmental Protection Agency, EPA-815-R-05-001.
(C) Method 1623: Cryptosporidium and Giardia in Water by Filtration/IMS/ FA, 2001, United States Environmental Protection Agency, EPA-821-R-01-025.
(D) Method 1622: Cryptosporidium in Water by Filtration/IMS/FA, 2001, United States Environmental Protection Agency, EPA-821-R-01-026.
(E) Method 1623: Cryptosporidium and Giardia in Water by Filtration/IMS/ FA, 1999, United States Environmental Protection Agency, EPA-821-R-99-006.
(F) Method 1622: Cryptosporidium in Water by Filtration/IMS/FA, 1999, United States Environmental Protection Agency, EPA-821-R-99-001.
(ii) For each Cryptosporidium sample, the laboratory analyzed at least 10 L of sample or at least 2 mL of packed pellet or as much volume as could be filtered by 2 filters that EPA approved for the methods listed in paragraph (c)(1) of this section.
(d) Sampling location. The sampling location must meet the conditions in R309-215-15(4).
(e) Sampling frequency. Cryptosporidium samples were collected no less frequently than each calendar month on a regular schedule, beginning no earlier than January 1999. Sample collection intervals may vary for the conditions specified in R309-215-15(3)(b)(i) and (ii) if the system provides documentation of the condition when reporting monitoring results.
(i) The Director may approve grandfathering of previously collected data where there are time gaps in the sampling frequency if the system conducts additional monitoring the Director specifies to ensure that the data used to comply with the initial source water monitoring requirements of R309-215-15(2)(a) are seasonally representative and unbiased.
(ii) Systems may grandfather previously collected data where the sampling frequency within each month varied. If the Cryptosporidium sampling frequency varied, systems must follow the monthly averaging procedure in R309-215-15(11)(b)(v) when calculating the bin classification for filtered systems.
(f) Reporting monitoring results for grandfathering. Systems that request to grandfather previously collected monitoring results must report the following information by the applicable dates listed in this paragraph. Systems serving at least 10,000 people must report this information to EPA unless the Director approves reporting to the Director rather than EPA. Systems serving fewer than 10,000 people must report this information to the Director.
(i) Systems must report that they intend to submit previously collected monitoring results for grandfathering. This report must specify the number of previously collected results the system will submit, the dates of the first and last sample, and whether a system will conduct additional source water monitoring to meet the requirements of R309-215-15(2)(a). Systems must report this information no later than the date the sampling schedule under R309-215-15(3) is required.
(ii) Systems must report previously collected monitoring results for grandfathering, along with the associated documentation listed in paragraphs (f)(ii)(A) through (D) of this section, no later than two months after the applicable date listed in R309-215-15(2)(c).
(A) For each sample result, systems must report the applicable data elements in R309-215-15(7).
(B) Systems must certify that the reported monitoring results include all results the system generated during the time period beginning with the first reported result and ending with the final reported result. This applies to samples that were collected from the sampling location specified for source water

monitoring under this subpart, not spiked, and analyzed using the laboratory's routine process for the analytical methods listed in this section.

(C) Systems must certify that the samples were representative of a plant's source water(s) and the source water(s) have not changed. Systems must report a description of the sampling location(s), which must address the position of the sampling location in relation to the system's water source(s) and treatment processes, including points of chemical addition and filter backwash recycle.

(D) For Cryptosporidium samples, the laboratory or laboratories that analyzed the samples must provide a letter certifying that the quality control criteria specified in the methods listed in paragraph (c)(i) of this section were met for each sample batch associated with the reported results. Alternatively, the laboratory may provide bench sheets and sample examination report forms for each field, matrix spike, IPR, OPR, and method blank sample associated with the reported results.

(g) If the Director determines that a previously collected data set submitted for grandfathering was generated during source water conditions that were not normal for the system, such as a drought, the Director may disapprove the data. Alternatively, the Director may approve the previously collected data if the system reports additional source water monitoring data, as determined by the Director, to ensure that the data set used under R309-215-15(11) represents average source water conditions for the system.

(h) If a system submits previously collected data that fully meet the number of samples required for initial source water monitoring under R309-215-15(2)(a) and some of the data are rejected due to not meeting the requirements of this section, systems must conduct additional monitoring to replace rejected data on a schedule the Director approves. Systems are not required to begin this additional monitoring until two months after notification that data have been rejected and additional monitoring is necessary.

(9) Disinfection Profiling and Benchmarking Requirements - Requirements when making a significant change in disinfection practice.

(a) Following the completion of initial source water monitoring under R309-215-15(2)(a), a system that plans to make a significant change to its disinfection practice, as defined in paragraph (b) of this section, must develop disinfection profiles and calculate disinfection benchmarks for Giardia lamblia and viruses as described in R309-215-15(10). Prior to changing the disinfection practice, the system must notify the Director and must include in this notice the information in paragraphs (a)(i) through (iii) of this section.

(i) A completed disinfection profile and disinfection benchmark for Giardia lamblia and viruses as described in R309-215-15(10).

(ii) A description of the proposed change in disinfection practice.

(iii) An analysis of how the proposed change will affect the current level of disinfection.

(b) Significant changes to disinfection practice are defined as follows:

(i) Changes to the point of disinfection;

(ii) Changes to the disinfectant(s) used in the treatment plant;

(iii) Changes to the disinfection process; or

(iv) Any other modification identified by the Director as a significant change to disinfection practice.

(10) Developing the disinfection profile and benchmark.

(a) Systems required to develop disinfection profiles under R309-215-15(9) must follow the requirements of this section. Systems must monitor at least weekly for a period of 12 consecutive months to determine the total log inactivation for Giardia lamblia and viruses. If systems monitor more frequently, the monitoring frequency must be evenly spaced. Systems that operate for fewer than 12 months per year must monitor weekly during the period of operation. Systems must determine log inactivation for Giardia lamblia through the entire plant, based on $CT_{99.9}$ values in Tables 1.1 through 1.6, 2.1 and 3.1 of Section 141.74(b) in the code of Federal Regulations as applicable (available from the Division). Systems must determine log inactivation for viruses through the entire treatment plant based on a protocol approved by the Director.

(b) Systems with a single point of disinfectant application prior to the entrance to the distribution system must conduct the monitoring in paragraphs (b)(i) through (iv) of this section. Systems with more than one point of disinfectant application must conduct the monitoring in paragraphs (b)(i) through (iv) of this section for each disinfection segment. Systems must monitor the parameters necessary to determine the total inactivation ratio, using analytical methods in R309-200-4(3) and (4).

(i) For systems using a disinfectant other than UV, the temperature of the disinfected water must be measured at each residual disinfectant concentration sampling point during peak hourly flow or at an alternative location approved by the Director.

(ii) For systems using chlorine, the pH of the disinfected water must be measured at each chlorine residual disinfectant concentration sampling point during peak hourly flow or at an alternative location approved by the Director.

(iii) The disinfectant contact time(s) (t) must be determined during peak hourly flow.

(iv) The residual disinfectant concentration(s) (C) of the water before or at the first customer and prior to each additional point of disinfectant application must be measured during peak hourly flow.

(c) In lieu of conducting new monitoring under paragraph (b) of this section, systems may elect to meet the requirements of paragraphs (c)(i) or (ii) of this section.

(i) Systems that have at least one year of existing data that are substantially equivalent to data collected under the provisions of paragraph (b) of this section may use these data to develop disinfection profiles as specified in this section if the system has neither made a significant change to its treatment practice nor changed sources since the data were collected. Systems may develop disinfection profiles using up to three years of existing data.

(ii) Systems may use disinfection profile(s) developed under R309-215-14 in lieu of developing a new profile if the system has neither made a significant change to its treatment practice nor changed sources since the profile was developed. Systems that have not developed a virus profile under R309-251-14 must develop a virus profile using the same monitoring data on which the Giardia lamblia profile is based.

(d) Systems must calculate the total inactivation ratio for Giardia lamblia as specified in paragraphs (d)(i) through (iii) of this section.

(i) Systems using only one point of disinfectant application may determine the total inactivation ratio for the disinfection segment based on either of the methods in paragraph (d)(1)(i) or (ii) of this section.

(A) Determine one inactivation ratio ($CTcalc/CT_{99.9}$) before or at the first customer during peak hourly flow.

(B) Determine successive $CTcalc/ CT_{99.9}$ values, representing sequential inactivation ratios, between the point of disinfectant application and a point before or at the first customer during peak hourly flow. The system must calculate the total inactivation ratio by determining ($CTcalc/CT_{99.9}$) for each sequence and then adding the ($CTcalc/ CT_{99.9}$) values together to determine the sum of ($CTcalc/CT_{99.9}$).

(ii) Systems using more than one point of disinfectant

application before the first customer must determine the CT value of each disinfection segment immediately prior to the next point of disinfectant application, or for the final segment, before or at the first customer, during peak hourly flow. The (CTcalc/$CT_{99.9}$) value of each segment and the sum of (CTcalc/$CT_{99.9}$) must be calculated using the method in paragraph (d)(i)(B) of this section.

(iii) The system must determine the total logs of inactivation by multiplying the value calculated in paragraph (d)(i) or (d)(ii) of this section by 3.0.

(iv) Systems must calculate the log of inactivation for viruses using a protocol approved by the Director.

(e) Systems must use the procedures specified in paragraphs (e)(i) and (ii) of this section to calculate a disinfection benchmark.

(i) For each year of profiling data collected and calculated under paragraphs (a) through (d) of this section, systems must determine the lowest mean monthly level of both Giardia lamblia and virus inactivation. Systems must determine the mean Giardia lamblia and virus inactivation for each calendar month for each year of profiling data by dividing the sum of daily or weekly Giardia lamblia and virus log inactivation by the number of values calculated for that month.

(ii) The disinfection benchmark is the lowest monthly mean value (for systems with one year of profiling data) or the mean of the lowest monthly mean values (for systems with more than one year of profiling data) of Giardia lamblia and virus log inactivation in each year of profiling data.

(11) Treatment Technique Requirements - Bin classification for filtered systems.

(a) Following completion of the initial round of source water monitoring required under R309-215-15(2)(a), filtered systems must calculate an initial Cryptosporidium bin concentration for each plant for which monitoring was required. Calculation of the bin concentration must use the Cryptosporidium results reported under R309-215-15(2)(a) and must follow the procedures in paragraphs (b)(i) through (v) of this section.

(b)(i) For systems that collect a total of at least 48 samples, the bin concentration is equal to the arithmetic mean of all sample concentrations.

(ii) For systems that collect a total of at least 24 samples, but not more than 47 samples, the bin concentration is equal to the highest arithmetic mean of all sample concentrations in any 12 consecutive months during which Cryptosporidium samples were collected.

(iii) For systems that serve fewer than 10,000 people and monitor for Cryptosporidium for only one year (i.e., collect 24 samples in 12 months), the bin concentration is equal to the arithmetic mean of all sample concentrations.

(iv) For systems with plants operating only part of the year that monitor fewer than 12 months per year under R309-215-15(2)(e), the bin concentration is equal to the highest arithmetic mean of all sample concentrations during any year of Cryptosporidium monitoring.

(v) If the monthly Cryptosporidium sampling frequency varies, systems must first calculate a monthly average for each month of monitoring. Systems must then use these monthly average concentrations, rather than individual sample concentrations, in the applicable calculation for bin classification in paragraphs (b)(i) through (iv) of this section.

(c) Filtered systems must determine their initial bin classification from the following and using the Cryptosporidium bin concentration calculated under paragraphs (a) and (b) of this section:

(i) Systems that are required to monitor for Cryptosporidium under R309-215-15(2):

(A) with a cryptosporidium concentration of less than 0.075 oocyst/L, the bin classification is Bin 1.

(B) with a cryptosporidium concentration of 0.075 oocysts/L to less than 1.0 oocysts/L, the bin classification is Bin 2.

(C) with a cryptosporidium concentration of 1.0 oocysts/L to less than 3.0 oocysts/L, the bin classification is Bin 3.

(D) with a cryptosporidium concentration of equal to or greater than 3.0 oocysts/L, the bin classification is Bin 4.

(ii) Systems serving fewer than 10,000 people and not required to monitor for Cryptosporidium under R309-215-15(2)(a)(iii), the concentration of cryptosporidium is not applicable and their bin classification is Bin 1.

(iii) Based on calculations in paragraph (a) or (d) of this section, as applicable.

(d) Following completion of the second round of source water monitoring required under R309-215-15(2)(b), filtered systems must recalculate their Cryptosporidium bin concentration using the Cryptosporidium results reported under R309-215-15(2)(b) and following the procedures in paragraphs (b)(i) through (iv) of this section. Systems must then redetermine their bin classification using this bin concentration and the table in paragraph (c) of this section.

(e)(i) Filtered systems must report their initial bin classification under paragraph (c) of this section to the Director for approval no later than 6 months after the system is required to complete initial source water monitoring based on the schedule in R309-215-15(2)(c).

(ii) Systems must report their bin classification under paragraph (d) of this section to the Director for approval no later than 6 months after the system is required to complete the second round of source water monitoring based on the schedule in R309-215-15(2)(c).

(iii) The bin classification report to the Director must include a summary of source water monitoring data and the calculation procedure used to determine bin classification.

(f) Failure to comply with the conditions of paragraph (e) of this section is a violation of the treatment technique requirement.

(12) Filtered system additional Cryptosporidium treatment requirements.

(a) Filtered systems must provide the level of additional treatment for Cryptosporidium specified in this paragraph based on their bin classification as determined under R309-215-15(11) and according to the schedule in R309-215-15(13). The filtration treatment used by the system in this paragraph must be utilized in full compliance with the requirements of R309-200-5(5), R309-200-7, R309-215-8 and 9.

(i) If the system bin classification is Bin 1 and the system uses:

(A) Conventional filtration treatment including softening there is no additional cryptosporidium treatment required.

(B) Direct filtration there is no additional cryptosporidium treatment required.

(C) Slow sand or diatomaceous earth filtration there is no additional cryptosporidium treatment required.

(D) Alternative filtration technologies there is no additional cryptosporidium treatment required.

(ii) If the system bin classification is Bin 2 and the system uses:

(A) Conventional filtration treatment including softening there is an additional 1-log cryptosporidium treatment required.

(B) Direct filtration there is an additional 1.5-log cryptosporidium treatment required.

(C) Slow sand or diatomaceous earth filtration there is an additional 1-log cryptosporidium treatment required.

(D) Alternative filtration technologies there is an additional cryptosporidium treatment required as determined by the Director such that the total Cryptosporidium removal an inactivation is at least 4.0-log.

(iii) If the system bin classification is Bin 3 and the system

uses:

(A) Conventional filtration treatment including softening there is an additional 2-log cryptosporidium treatment required.

(B) Direct filtration there is an additional 2.5-log cryptosporidium treatment required.

(C) Slow sand or diatomaceous earth filtration there is an additional 2-log cryptosporidium treatment required.

(D) Alternative filtration technologies there is an additional cryptosporidium treatment required as determined by the Director such that the total Cryptosporidium removal an inactivation is at least 5.0-log.

(iv) If the system bin classification is Bin 4 and the system uses:

(A) Conventional filtration treatment including softening there is an additional 2.5-log cryptosporidium treatment required.

(B) Direct filtration there is an additional 3-log cryptosporidium treatment required.

(C) Slow sand or diatomaceous earth filtration there is an additional 2.5-log cryptosporidium treatment required.

(D) Alternative filtration technologies there is an additional cryptosporidium treatment required as determined by the Director such that the total Cryptosporidium removal an inactivation is at least 5.5-log.

(b)(i) Filtered systems must use one or more of the treatment and management options listed in R309-215-15(14), termed the microbial toolbox, to comply with the additional Cryptosporidium treatment required in paragraph (a) of this section.

(ii) Systems classified in Bin 3 and Bin 4 must achieve at least 1-log of the additional Cryptosporidium treatment required under paragraph (a) of this section using either one or a combination of the following: bag filters, bank filtration, cartridge filters, chlorine dioxide, membranes, ozone, or UV, as described in R309-215-15(15) through R309-215-15(19).

(c) Failure by a system in any month to achieve treatment credit by meeting criteria in R309-215-15(15) through R309-215-15(19) for microbial toolbox options that is at least equal to the level of treatment required in paragraph (a) of this section is a violation of the treatment technique requirement.

(d) If the Director determines during a sanitary survey or an equivalent source water assessment that after a system completed the monitoring conducted under R309-215-15(2)(a) or R309-215-15(2)(b), significant changes occurred in the system's watershed that could lead to increased contamination of the source water by Cryptosporidium, the system must take actions specified by the Director to address the contamination. These actions may include additional source water monitoring and/or implementing microbial toolbox options listed in R309-215-15(14).

(13) Schedule for compliance with Cryptosporidium treatment requirements.

(a) Following initial bin classification under R309-215-15(11)(c), filtered systems must provide the level of treatment for Cryptosporidium required under R309-215-15(12) according to the schedule in paragraph (c) of this section.

(b) Cryptosporidium treatment compliance dates.

(i) Systems that serve at least 100,000 people must comply with Cryptosporidium treatment requirements no later than April 1, 2012.

(ii) Systems that serve from 50,000 to 99,999 people must comply with Cryptosporidium treatment requirements no later than October 1, 2012.

(iii) Systems that serve from 10,000 to 49,999 people must comply with Cryptosporidium treatment requirements no later than October 1, 2013.

(iv) Systems that serve less than 10,000 people must comply with Cryptosporidium treatment requirements no later than October 1, 2014.

(v) The Director may allow up to an additional two years for complying with the treatment requirement for systems making capital improvements.

(c) If the bin classification for a filtered system changes following the second round of source water monitoring, as determined under R309-215-15(11)(d), the system must provide the level of treatment for Cryptosporidium required under R309-215-15(12) on a schedule the Director approves.

(14) Microbial toolbox options for meeting Cryptosporidium treatment requirements.

(a) Systems receive the treatment credits listed in the table in paragraph (b) of this section by meeting the conditions for microbial toolbox options described in R309-215-15(15) through R309-215-15(19). Systems apply these treatment credits to meet the treatment requirements in R309-215-15(12).

(b) The following sub-section summarizes options in the microbial toolbox and the Cryptosporidium treatment credit with design and implementation criteria.

(i) Source Protection and Management Toolbox Options:

(A) Watershed control program: 0.5-log credit for Director-approved program comprising required elements, annual program status report to Director, and regular watershed survey. Specific criteria are in R309-215-15(15) (a).

(B) Alternative source/intake management: No prescribed credit. Systems may conduct simultaneous monitoring for treatment bin classification at alternative intake locations or under alternative intake management strategies. Specific criteria are in R309-215-15(15) (b).

(ii) Pre Filtration Toolbox Options:

(A) Presedimentation basin with coagulation: 0.5-log credit during any month that presedimentation basins achieve a monthly mean reduction of 0.5-log or greater in turbidity or alternative Director-approved performance criteria. To be eligible, basins must be operated continuously with coagulant addition and all plant flow must pass through basins. Specific criteria are in R309-215-15(16) (a).

(B) Two-stage lime softening: 0.5-log credit for two-stage softening where chemical addition and hardness precipitation occur in both stages. All plant flow must pass through both stages. Single-stage softening is credited as equivalent to conventional treatment. Specific criteria are in R309-215-15(16) (b).

(C) Bank filtration: 0.5-log credit for 25-foot setback; 1.0-log credit for 50-foot setback; aquifer must be unconsolidated sand containing at least 10 percent fines; average turbidity in wells must be less than 1 NTU. Systems using wells followed by filtration when conducting source water monitoring must sample the well to determine bin classification and are not eligible for additional credit. Specific criteria are in R309-215-15(16) (c).

(iii) Treatment Performance Toolbox Options:

(A) Combined filter performance: 0.5-log credit for combined filter effluent turbidity less than or equal to 0.15 NTU in at least 95 percent of measurements each month. Specific criteria are in R309-215-15(17) (a).

(B) Individual filter performance: 0.5-log credit (in addition to 0.5-log combined filter performance credit) if individual filter effluent turbidity is less than or equal to 0.15 NTU in at least 95 percent of samples each month in each filter and is never greater than 0.3 NTU in two consecutive measurements in any filter. Specific criteria are in R309-215-15(17) (b).

(C) Demonstration of performance: Credit awarded to unit process or treatment train based on a demonstration to the Director with a Director-approved protocol. Specific criteria are in R309-215-15(17) (c).

(iv) Additional Filtration Toolbox Options:

(A) Bag or cartridge filters (individual filters): Up to 2-log credit based on the removal efficiency demonstrated during

challenge testing with a 1.0-log factor of safety. Specific criteria are in R309-215-15(18) (a).

(B) Bag or cartridge filters (in series): Up to 2.5-log credit based on the removal efficiency demonstrated during challenge testing with a 0.5-log factor of safety. Specific criteria are in R309-215-15(18) (a).

(C) Membrane filtration: Log credit equivalent to removal efficiency demonstrated in challenge test for device if supported by direct integrity testing. Specific criteria are in R309-215-15(18) (b).

(D) Second stage filtration: 0.5-log credit for second separate granular media filtration stage if treatment train includes coagulation prior to first filter. Specific criteria are in R309-215-15(18) (c).

(E) Slow sand filters: 2.5-log credit as a secondary filtration step; 3.0-log credit as a primary filtration process. No prior chlorination for either option. Specific criteria are in R309-215-15(18) (d).

(v) Inactivation Toolbox Options:

(A) Chlorine dioxide: Log credit based on measured CT in relation to CT table. Specific criteria in R309-215-15(19) (b).

(B) Ozone: Log credit based on measured CT in relation to CT table. Specific criteria in R309-215-15(19) (b).

(C) UV: Log credit based on validated UV dose in relation to UV dose table; reactor validation testing required to establish UV dose and associated operating conditions. Specific criteria in R309-215-15(19) (d).

(15) Source toolbox components.

(a) Watershed control program. Systems receive 0.5-log Cryptosporidium treatment credit for implementing a watershed control program that meets the requirements of this section.

(i) Systems that intend to apply for the watershed control program credit must notify the Director of this intent no later than two years prior to the treatment compliance date applicable to the system in R309-215-15(13).

(ii) Systems must submit to the Director a proposed watershed control plan no later than one year before the applicable treatment compliance date in R309-215-15(13). The Director must approve the watershed control plan for the system to receive watershed control program treatment credit. The watershed control plan must include the elements in paragraphs (a)(ii)(A) through (D) of this section.

(A) Identification of an "area of influence" outside of which the likelihood of Cryptosporidium or fecal contamination affecting the treatment plant intake is not significant. This is the area to be evaluated in future watershed surveys under paragraph (a)(v)(B) of this section.

(B) Identification of both potential and actual sources of Cryptosporidium contamination and an assessment of the relative impact of these sources on the system's source water quality.

(C) An analysis of the effectiveness and feasibility of control measures that could reduce Cryptosporidium loading from sources of contamination to the system's source water.

(D) A statement of goals and specific actions the system will undertake to reduce source water Cryptosporidium levels. The plan must explain how the actions are expected to contribute to specific goals, identify watershed partners and their roles, identify resource requirements and commitments, and include a schedule for plan implementation with deadlines for completing specific actions identified in the plan.

(iii) Systems with existing watershed control programs (i.e., programs in place on January 5, 2006) are eligible to seek this credit. Their watershed control plans must meet the criteria in paragraph (a)(ii) of this section and must specify ongoing and future actions that will reduce source water Cryptosporidium levels.

(iv) If the Director does not respond to a system regarding approval of a watershed control plan submitted under this section and the system meets the other requirements of this section, the watershed control program will be considered approved and 0.5 log Cryptosporidium treatment credit will be awarded unless and until the Director subsequently withdraws such approval.

(v) Systems must complete the actions in paragraphs (a)(v)(A) through (C) of this section to maintain the 0.5-log credit.

(A) Submit an annual watershed control program status report to the Director. The annual watershed control program status report must describe the system's implementation of the approved plan and assess the adequacy of the plan to meet its goals. It must explain how the system is addressing any shortcomings in plan implementation, including those previously identified by the Director or as the result of the watershed survey conducted under paragraph (a)(v)(B) of this section. It must also describe any significant changes that have occurred in the watershed since the last watershed sanitary survey. If a system determines during implementation that making a significant change to its approved watershed control program is necessary, the system must notify the Director prior to making any such changes. If any change is likely to reduce the level of source water protection, the system must also list in its notification the actions the system will take to mitigate this effect.

(B) Undergo a watershed sanitary survey every three years for community water systems and every five years for non-community water systems and submit the survey report to the Director. The survey must be conducted according to State guidelines and by persons the Director approves.

(I) The watershed sanitary survey must meet the following criteria: encompass the region identified in the Director-approved watershed control plan as the area of influence; assess the implementation of actions to reduce source water Cryptosporidium levels; and identify any significant new sources of Cryptosporidium.

(II) If the Director determines that significant changes may have occurred in the watershed since the previous watershed sanitary survey, systems must undergo another watershed sanitary survey by a date the Director requires, which may be earlier than the regular date in paragraph (a)(v)(B) of this section.

(C) The system must make the watershed control plan, annual status reports, and watershed sanitary survey reports available to the public upon request. These documents must be in a plain language style and include criteria by which to evaluate the success of the program in achieving plan goals. The Director may approve systems to withhold from the public portions of the annual status report, watershed control plan, and watershed sanitary survey based on water supply security considerations.

(vi) If the Director determines that a system is not carrying out the approved watershed control plan, the Director may withdraw the watershed control program treatment credit.

(b) Alternative source. (i) A system may conduct source water monitoring that reflects a different intake location (either in the same source or for an alternate source) or a different procedure for the timing or level of withdrawal from the source (alternative source monitoring). If the Director approves, a system may determine its bin classification under R309-215-15(11) based on the alternative source monitoring results.

(ii) If systems conduct alternative source monitoring under paragraph (b)(i) of this section, systems must also monitor their current plant intake concurrently as described in R309-215-15(2).

(iii) Alternative source monitoring under paragraph (b)(i) of this section must meet the requirements for source monitoring to determine bin classification, as described in R309-215-15(2)

through R309-215-15(7). Systems must report the alternative source monitoring results to the Director, along with supporting information documenting the operating conditions under which the samples were collected.

(iv) If a system determines its bin classification under R309-215-15(11) using alternative source monitoring results that reflect a different intake location or a different procedure for managing the timing or level of withdrawal from the source, the system must relocate the intake or permanently adopt the withdrawal procedure, as applicable, no later than the applicable treatment compliance date in R309-215-15(13).

(16) Pre-filtration treatment toolbox components.

(a) Presedimentation. Systems receive 0.5-log Cryptosporidium treatment credit for a presedimentation basin during any month the process meets the criteria in this paragraph.

(i) The presedimentation basin must be in continuous operation and must treat the entire plant flow taken from a surface water or GWUDI source.

(ii) The system must continuously add a coagulant to the presedimentation basin.

(iii) The presedimentation basin must achieve the performance criteria in paragraph (iii)(A) or (B) of this section.

(A) Demonstrates at least 0.5-log mean reduction of influent turbidity. This reduction must be determined using daily turbidity measurements in the presedimentation process influent and effluent and must be calculated as follows: log10(monthly mean of daily influent turbidity) minus log10(monthly mean of daily effluent turbidity).

(B) Complies with Director-approved performance criteria that demonstrate at least 0.5-log mean removal of micron-sized particulate material through the presedimentation process.

(b) Two-stage lime softening. Systems receive an additional 0.5-log Cryptosporidium treatment credit for a two-stage lime softening plant if chemical addition and hardness precipitation occur in two separate and sequential softening stages prior to filtration. Both softening stages must treat the entire plant flow taken from a surface water or GWUDI source.

(c) Bank filtration. Systems receive Cryptosporidium treatment credit for bank filtration that serves as pretreatment to a filtration plant by meeting the criteria in this paragraph. Systems using bank filtration when they begin source water monitoring under R309-215-15(2)(a) must collect samples as described in R309-215-15(4)(d) and are not eligible for this credit.

(i) Wells with a ground water flow path of at least 25 feet receive 0.5-log treatment credit; wells with a ground water flow path of at least 50 feet receive 1.0-log treatment credit. The ground water flow path must be determined as specified in paragraph (c)(iv) of this section.

(ii) Only wells in granular aquifers are eligible for treatment credit. Granular aquifers are those comprised of sand, clay, silt, rock fragments, pebbles or larger particles, and minor cement. A system must characterize the aquifer at the well site to determine aquifer properties. Systems must extract a core from the aquifer and demonstrate that in at least 90 percent of the core length, grains less than 1.0 mm in diameter constitute at least 10 percent of the core material.

(iii) Only horizontal and vertical wells are eligible for treatment credit.

(iv) For vertical wells, the ground water flow path is the measured distance from the edge of the surface water body under high flow conditions (determined by the 100 year floodplain elevation boundary or by the floodway, as defined in Federal Emergency Management Agency flood hazard maps) to the well screen. For horizontal wells, the ground water flow path is the measured distance from the bed of the river under normal flow conditions to the closest horizontal well lateral screen.

(v) Systems must monitor each wellhead for turbidity at least once every four hours while the bank filtration process is in operation. If monthly average turbidity levels, based on daily maximum values in the well, exceed 1 NTU, the system must report this result to the Director and conduct an assessment within 30 days to determine the cause of the high turbidity levels in the well. If the Director determines that microbial removal has been compromised, the Director may revoke treatment credit until the system implements corrective actions approved by the Director to remediate the problem.

(vi) Springs and infiltration galleries are not eligible for treatment credit under this section, but are eligible for credit under R309-215-15(17)(c).

(vii) Bank filtration demonstration of performance. The Director may approve Cryptosporidium treatment credit for bank filtration based on a demonstration of performance study that meets the criteria in this paragraph. This treatment credit may be greater than 1.0-log and may be awarded to bank filtration that does not meet the criteria in paragraphs (c)(i)-(v) of this section.

(A) The study must follow a Director-approved protocol and must involve the collection of data on the removal of Cryptosporidium or a surrogate for Cryptosporidium and related hydrogeologic and water quality parameters during the full range of operating conditions.

(B) The study must include sampling both from the production well(s) and from monitoring wells that are screened and located along the shortest flow path between the surface water source and the production well(s).

(17) Treatment performance toolbox components.

(a) Combined filter performance. Systems using conventional filtration treatment or direct filtration treatment receive an additional 0.5-log Cryptosporidium treatment credit during any month the system meets the criteria in this paragraph. Combined filter effluent (CFE) turbidity must be less than or equal to 0.15 NTU in at least 95 percent of the measurements. Turbidity must be measured as described in R309-200-4(3) and (4).

(b) Individual filter performance. Systems using conventional filtration treatment or direct filtration treatment receive 0.5-log Cryptosporidium treatment credit, which can be in addition to the 0.5-log credit under paragraph (a) of this section, during any month the system meets the criteria in this paragraph. Compliance with these criteria must be based on individual filter turbidity monitoring as described in R309-215-9(4) or (5), as applicable.

(i) The filtered water turbidity for each individual filter must be less than or equal to 0.15 NTU in at least 95 percent of the measurements recorded each month.

(ii) No individual filter may have a measured turbidity greater than 0.3 NTU in two consecutive measurements taken 15 minutes apart.

(iii) Any system that has received treatment credit for individual filter performance and fails to meet the requirements of paragraph (b)(i) or (ii) of this section during any month does not receive a treatment technique violation under R309-215-15(12)(c) if the Director determines the following:

(A) The failure was due to unusual and short-term circumstances that could not reasonably be prevented through optimizing treatment plant design, operation, and maintenance.

(B) The system has experienced no more than two such failures in any calendar year.

(c) Demonstration of performance. The Director may approve Cryptosporidium treatment credit for drinking water treatment processes based on a demonstration of performance study that meets the criteria in this paragraph. This treatment credit may be greater than or less than the prescribed treatment credits in R309-215-15(12) or R309-215-15(16) through R309-215-15(19) and may be awarded to treatment processes that do

not meet the criteria for the prescribed credits.

(i) Systems cannot receive the prescribed treatment credit for any toolbox box option in R309-215-15(16) through R309-215-15(19) if that toolbox option is included in a demonstration of performance study for which treatment credit is awarded under this paragraph.

(ii) The demonstration of performance study must follow a Director-approved protocol and must demonstrate the level of Cryptosporidium reduction the treatment process will achieve under the full range of expected operating conditions for the system.

(iii) Approval by the Director must be in writing and may include monitoring and treatment performance criteria that the system must demonstrate and report on an ongoing basis to remain eligible for the treatment credit. The Director may designate such criteria where necessary to verify that the conditions under which the demonstration of performance credit was approved are maintained during routine operation.

(18) Additional filtration toolbox components.

(a) Bag and cartridge filters. Systems receive Cryptosporidium treatment credit of up to 2.0-log for individual bag or cartridge filters and up to 2.5-log for bag or cartridge filters operated in series by meeting the criteria in paragraphs (a)(i) through (x) of this section. To be eligible for this credit, systems must report the results of challenge testing that meets the requirements of paragraphs (a)(ii) through (ix) of this section to the Director. The filters must treat the entire plant flow taken from a surface water source.

(i) The Cryptosporidium treatment credit awarded to bag or cartridge filters must be based on the removal efficiency demonstrated during challenge testing that is conducted according to the criteria in paragraphs (a)(ii) through (a)(ix) of this section. A factor of safety equal to 1-log for individual bag or cartridge filters and 0.5-log for bag or cartridge filters in series must be applied to challenge testing results to determine removal credit. Systems may use results from challenge testing conducted prior to January 5, 2006 if the prior testing was consistent with the criteria specified in paragraphs (a)(ii) through (ix) of this section.

(ii) Challenge testing must be performed on full-scale bag or cartridge filters, and the associated filter housing or pressure vessel, that are identical in material and construction to the filters and housings the system will use for removal of Cryptosporidium. Bag or cartridge filters must be challenge tested in the same configuration that the system will use, either as individual filters or as a series configuration of filters.

(iii) Challenge testing must be conducted using Cryptosporidium or a surrogate that is removed no more efficiently than Cryptosporidium. The microorganism or surrogate used during challenge testing is referred to as the challenge particulate. The concentration of the challenge particulate must be determined using a method capable of discreetly quantifying the specific microorganism or surrogate used in the test; gross measurements such as turbidity may not be used.

(iv) The maximum feed water concentration that can be used during a challenge test must be based on the detection limit of the challenge particulate in the filtrate (i.e., filtrate detection limit) and must be calculated using the following equation: Maximum Feed Concentration = 1×10^4 x (Filtrate Detection Limit).

(v) Challenge testing must be conducted at the maximum design flow rate for the filter as specified by the manufacturer.

(vi) Each filter evaluated must be tested for a duration sufficient to reach 100 percent of the terminal pressure drop, which establishes the maximum pressure drop under which the filter may be used to comply with the requirements of this subpart.

(vii) Removal efficiency of a filter must be determined from the results of the challenge test and expressed in terms of log removal values using the following equation: $LRV = LOG_{10}(C_f)-LOG_{10}(C_p)$ Where: LRV = log removal value demonstrated during challenge testing; C_f = the feed concentration measured during the challenge test; and C_p = the filtrate concentration measured during the challenge test. In applying this equation, the same units must be used for the feed and filtrate concentrations. If the challenge particulate is not detected in the filtrate, then the term C_p must be set equal to the detection limit.

(viii) Each filter tested must be challenged with the challenge particulate during three periods over the filtration cycle: within two hours of start-up of a new filter; when the pressure drop is between 45 and 55 percent of the terminal pressure drop; and at the end of the cycle after the pressure drop has reached 100 percent of the terminal pressure drop. An LRV must be calculated for each of these challenge periods for each filter tested. The LRV for the filter (LRV_{filter}) must be assigned the value of the minimum LRV observed during the three challenge periods for that filter.

(ix) If fewer than 20 filters are tested, the overall removal efficiency for the filter product line must be set equal to the lowest LRV_{filter} among the filters tested. If 20 or more filters are tested, the overall removal efficiency for the filter product line must be set equal to the 10th percentile of the set of LRV_{filter} values for the various filters tested. The percentile is defined by (i/(n+1)) where i is the rank of n individual data points ordered lowest to highest. If necessary, the 10th percentile may be calculated using linear interpolation.

(x) If a previously tested filter is modified in a manner that could change the removal efficiency of the filter product line, challenge testing to demonstrate the removal efficiency of the modified filter must be conducted and submitted to the Director.

(b) Membrane filtration.

(i) Systems receive Cryptosporidium treatment credit for membrane filtration that meets the criteria of this paragraph. Membrane cartridge filters that meet the definition of membrane filtration in R309-110 are eligible for this credit. The level of treatment credit a system receives is equal to the lower of the values determined under paragraph (b)(i)(A) and (B) of this section.

(A) The removal efficiency demonstrated during challenge testing conducted under the conditions in paragraph (b)(ii) of this section.

(B) The maximum removal efficiency that can be verified through direct integrity testing used with the membrane filtration process under the conditions in paragraph (b)(iii) of this section.

(ii) Challenge Testing. The membrane used by the system must undergo challenge testing to evaluate removal efficiency, and the system must report the results of challenge testing to the Director. Challenge testing must be conducted according to the criteria in paragraphs (b)(ii)(A) through (G) of this section. Systems may use data from challenge testing conducted prior to January 5, 2006 if the prior testing was consistent with the criteria in paragraphs (b)(ii)(A) through (G) of this section.

(A) Challenge testing must be conducted on either a full-scale membrane module, identical in material and construction to the membrane modules used in the system's treatment facility, or a smaller-scale membrane module, identical in material and similar in construction to the full-scale module. A module is defined as the smallest component of a membrane unit in which a specific membrane surface area is housed in a device with a filtrate outlet structure.

(B) Challenge testing must be conducted using Cryptosporidium oocysts or a surrogate that is removed no more efficiently than Cryptosporidium oocysts. The organism or surrogate used during challenge testing is referred to as the challenge particulate. The concentration of the challenge

particulate, in both the feed and filtrate water, must be determined using a method capable of discretely quantifying the specific challenge particulate used in the test; gross measurements such as turbidity may not be used.

(C) The maximum feed water concentration that can be used during a challenge test is based on the detection limit of the challenge particulate in the filtrate and must be determined according to the following equation: Maximum Feed Concentration = 3.16×10^6 x (Filtrate Detection Limit).

(D) Challenge testing must be conducted under representative hydraulic conditions at the maximum design flux and maximum design process recovery specified by the manufacturer for the membrane module. Flux is defined as the throughput of a pressure driven membrane process expressed as flow per unit of membrane area. Recovery is defined as the volumetric percent of feed water that is converted to filtrate over the course of an operating cycle uninterrupted by events such as chemical cleaning or a solids removal process (i.e., backwashing).

(E) Removal efficiency of a membrane module must be calculated from the challenge test results and expressed as a log removal value according to the following equation: $LRV = LOG_{10}(C_f) - LOG_{10}(C_p)$ Where: LRV = log removal value demonstrated during the challenge test; C_f = the feed concentration measured during the challenge test; and C_p = the filtrate concentration measured during the challenge test. Equivalent units must be used for the feed and filtrate concentrations. If the challenge particulate is not detected in the filtrate, the term C_p is set equal to the detection limit for the purpose of calculating the LRV. An LRV must be calculated for each membrane module evaluated during the challenge test.

(F) The removal efficiency of a membrane filtration process demonstrated during challenge testing must be expressed as a log removal value ($LRV_{C\text{-}Test}$). If fewer than 20 modules are tested, then $LRV_{C\text{-}Test}$ is equal to the lowest of the representative LRVs among the modules tested. If 20 or more modules are tested, then $LRV_{C\text{-}Test}$ is equal to the 10th percentile of the representative LRVs among the modules tested. The percentile is defined by (i/(n+1)) where i is the rank of n individual data points ordered lowest to highest. If necessary, the 10th percentile may be calculated using linear interpolation.

(G) The challenge test must establish a quality control release value (QCRV) for a non-destructive performance test that demonstrates the Cryptosporidium removal capability of the membrane filtration module. This performance test must be applied to each production membrane module used by the system that was not directly challenge tested in order to verify Cryptosporidium removal capability. Production modules that do not meet the established QCRV are not eligible for the treatment credit demonstrated during the challenge test.

(H) If a previously tested membrane is modified in a manner that could change the removal efficiency of the membrane or the applicability of the non-destructive performance test and associated QCRV, additional challenge testing to demonstrate the removal efficiency of, and determine a new QCRV for, the modified membrane must be conducted and submitted to the Director.

(iii) Direct integrity testing. Systems must conduct direct integrity testing in a manner that demonstrates a removal efficiency equal to or greater than the removal credit awarded to the membrane filtration process and meets the requirements described in paragraphs (b)(iii)(A) through (F) of this section. A direct integrity test is defined as a physical test applied to a membrane unit in order to identify and isolate integrity breaches (i.e., one or more leaks that could result in contamination of the filtrate).

(A) The direct integrity test must be independently applied to each membrane unit in service. A membrane unit is defined as a group of membrane modules that share common valving that allows the unit to be isolated from the rest of the system for the purpose of integrity testing or other maintenance.

(B) The direct integrity method must have a resolution of 3 micrometers or less, where resolution is defined as the size of the smallest integrity breach that contributes to a response from the direct integrity test.

(C) The direct integrity test must have a sensitivity sufficient to verify the log treatment credit awarded to the membrane filtration process by the Director, where sensitivity is defined as the maximum log removal value that can be reliably verified by a direct integrity test. Sensitivity must be determined using the approach in either paragraph (b)(iii)(C)(I) or (II) of this section as applicable to the type of direct integrity test the system uses.

(I) For direct integrity tests that use an applied pressure or vacuum, the direct integrity test sensitivity must be calculated according to the following equation: $LRV_{DIT} = LOG_{10}(Q_p /(VCF \times Q_{breach}))$ Where: LRV_{DIT} = the sensitivity of the direct integrity test; Q_p = total design filtrate flow from the membrane unit; Q_{breach} = flow of water from an integrity breach associated with the smallest integrity test response that can be reliably measured, and VCF = volumetric concentration factor. The volumetric concentration factor is the ratio of the suspended solids concentration on the high pressure side of the membrane relative to that in the feed water.

(II) For direct integrity tests that use a particulate or molecular marker, the direct integrity test sensitivity must be calculated according to the following equation: $LRV_{DIT} = LOG_{10}(C_f)\text{-}LOG_{10}(C_p)$ Where: LRVDIT = the sensitivity of the direct integrity test; Cf = the typical feed concentration of the marker used in the test; and Cp = the filtrate concentration of the marker from an integral membrane unit.

(D) Systems must establish a control limit within the sensitivity limits of the direct integrity test that is indicative of an integral membrane unit capable of meeting the removal credit awarded by the Director.

(E) If the result of a direct integrity test exceeds the control limit established under paragraph (b)(iii)(D) of this section, the system must remove the membrane unit from service. Systems must conduct a direct integrity test to verify any repairs, and may return the membrane unit to service only if the direct integrity test is within the established control limit.

(F) Systems must conduct direct integrity testing on each membrane unit at a frequency of not less than once each day that the membrane unit is in operation. The Director may approve less frequent testing, based on demonstrated process reliability, the use of multiple barriers effective for Cryptosporidium, or reliable process safeguards.

(iv) Indirect integrity monitoring. Systems must conduct continuous indirect integrity monitoring on each membrane unit according to the criteria in paragraphs (b)(iv)(A) through (E) of this section. Indirect integrity monitoring is defined as monitoring some aspect of filtrate water quality that is indicative of the removal of particulate matter. A system that implements continuous direct integrity testing of membrane units in accordance with the criteria in paragraphs (b)(iii)(A) through (E) of this section is not subject to the requirements for continuous indirect integrity monitoring. Systems must submit a monthly report to the Director summarizing all continuous indirect integrity monitoring results triggering direct integrity testing and the corrective action that was taken in each case.

(A) Unless the Director approves an alternative parameter, continuous indirect integrity monitoring must include continuous filtrate turbidity monitoring.

(B) Continuous monitoring must be conducted at a frequency of no less than once every 15 minutes.

(C) Continuous monitoring must be separately conducted on each membrane unit.

(D) If indirect integrity monitoring includes turbidity and

if the filtrate turbidity readings are above 0.15 NTU for a period greater than 15 minutes (i.e., two consecutive 15-minute readings above 0.15 NTU), direct integrity testing must immediately be performed on the associated membrane unit as specified in paragraphs (b)(iii)(A) through (E) of this section.

(E) If indirect integrity monitoring includes a Director-approved alternative parameter and if the alternative parameter exceeds a Director-approved control limit for a period greater than 15 minutes, direct integrity testing must immediately be performed on the associated membrane units as specified in paragraphs (b)(iii)(A) through (E) of this section.

(c) Second stage filtration. Systems receive 0.5-log Cryptosporidium treatment credit for a separate second stage of filtration that consists of sand, dual media, GAC, or other fine grain media following granular media filtration if the Director approves. To be eligible for this credit, the first stage of filtration must be preceded by a coagulation step and both filtration stages must treat the entire plant flow taken from a surface water or GWUDI source. A cap, such as GAC, on a single stage of filtration is not eligible for this credit. The Director must approve the treatment credit based on an assessment of the design characteristics of the filtration process.

(d) Slow sand filtration (as secondary filter). Systems are eligible to receive 2.5-log Cryptosporidium treatment credit for a slow sand filtration process that follows a separate stage of filtration if both filtration stages treat entire plant flow taken from a surface water or GWUDI source and no disinfectant residual is present in the influent water to the slow sand filtration process. The Director must approve the treatment credit based on an assessment of the design characteristics of the filtration process. This paragraph does not apply to treatment credit awarded to slow sand filtration used as a primary filtration process.

(19) Inactivation toolbox components.

(a) Calculation of CT values. (i) CT is the product of the disinfectant contact time (T, in minutes) and disinfectant concentration (C, in milligrams per liter). Systems with treatment credit for chlorine dioxide or ozone under paragraph (b) or (c) of this section must calculate CT at least once each day, with both C and T measured during peak hourly flow as specified in R309-200-4(3) and (4).

(ii) Systems with several disinfection segments in sequence may calculate CT for each segment, where a disinfection segment is defined as a treatment unit process with a measurable disinfectant residual level and a liquid volume. Under this approach, systems must add the Cryptosporidium CT values in each segment to determine the total CT for the treatment plant.

(b) CT values for chlorine dioxide and ozone. (i) Systems receive the Cryptosporidium treatment credit listed in this paragraph by meeting the corresponding chlorine dioxide CT value for the applicable water temperature, as described in paragraph (a) of this section.

(i) CT values ((MG)(MIN)/L) for Cryptosporidium inactivation by Chlorine Dioxide listed by the log credit with inactivation listed by water temperature in degrees Celsius.

(A) 0.25 Log Credit:
(I) less than or equal to 0.5 degrees: 159;
(II) 1 degree: 153;
(III) 2 degrees: 140;
(IV) 3 degrees: 128;
(V) 5 degrees: 107;
(VI) 7 degrees: 90;
(VII) 10 degrees: 69;
(VIII) 15 degrees: 45;
(IX) 20 degrees: 29;
(X) 25 degrees: 19; and
(XI) 30 degrees: 12.
(B) 0.5 Log Credit:
(I) less than or equal to 0.5 degrees: 319;
(II) 1 degree: 305;
(III) 2 degrees: 279;
(IV) 3 degrees: 256;
(V) 5 degrees: 214;
(VI) 7 degrees: 180;
(VII) 10 degrees: 138;
(VIII) 15 degrees: 89;
(IX) 20 degrees: 58;
(X) 25 degrees: 38; and
(XI) 30 degrees: 24.
(C) 1.0 Log Credit:
(I) less than or equal to 0.5 degrees: 637;
(II) 1 degree: 610;
(III) 2 degrees: 558;
(IV) 3 degrees: 511;
(V) 5 degrees: 429;
(VI) 7 degrees: 360;
(VII) 10 degrees: 277;
(VIII) 15 degrees: 179;
(IX) 20 degrees: 116;
(X) 25 degrees: 75; and
(XI) 30 degrees: 49.
(D) 1.5 Log Credit:
(I) less than or equal to 0.5 degrees: 956;
(II) 1 degree: 915;
(III) 2 degrees: 838;
(IV) 3 degrees: 767;
(V) 5 degrees: 643;
(VI) 7 degrees: 539;
(VII) 10 degrees: 415;
(VIII) 15 degrees: 268;
(IX) 20 degrees: 174;
(X) 25 degrees: 113; and
(XI) 30 degrees: 73.
(E) 2.0 Log Credit:
(I) less than or equal to 0.5 degrees: 1275;
(II) 1 degree: 1220;
(III) 2 degrees: 1117;
(IV) 3 degrees: 1023;
(V) 5 degrees: 858;
(VI) 7 degrees: 719;
(VII) 10 degrees: 553;
(VIII) 15 degrees: 357;
(IX) 20 degrees: 232;
(X) 25 degrees: 150; and
(XI) 30 degrees: 98.
(F) 2.5 Log Credit:
(I) less than or equal to 0.5 degrees: 1594;
(II) 1 degree: 1525;
(III) 2 degrees: 1396;
(IV) 3 degrees: 1278;
(V) 5 degrees: 1072;
(VI) 7 degrees: 899;
(VII) 10 degrees: 691;
(VIII) 15 degrees: 447;
(IX) 20 degrees: 289;
(X) 25 degrees: 188; and
(XI) 30 degrees: 122.
(G) 3.0 Log Credit:
(I) less than or equal to 0.5 degrees: 1912;
(II) 1 degree: 1830;
(III) 2 degrees: 1675;
(IV) 3 degrees: 1534;
(V) 5 degrees: 1286;
(VI) 7 degrees: 1079;
(VII) 10 degrees: 830;
(VIII) 15 degrees: 536;
(IX) 20 degrees: 347;

(X) 25 degrees: 226; and
(XI) 30 degrees: 147.
(F) Systems may use this equation to determine log credit between the indicated values above: Log credit = (0.001506 x $(1.09116)^{Temp}$) x CT.
(ii) Systems receive the Cryptosporidium treatment credit listed in this paragraph by meeting the corresponding ozone CT values for the applicable water temperature, as described in paragraph (a) of this section. CT values ((MG)(MIN)/L) for Cryptosporidium inactivation by Ozone listed by the log credit with inactivation listed by water temperature in degrees Celsius.
(A) 0.25 Log Credit:
(I) less than or equal to 0.5 degrees: 6.0;
(II) 1 degree: 5.8;
(III) 2 degrees: 5.2;
(IV) 3 degrees: 4.8;
(V) 5 degrees: 4.0;
(VI) 7 degrees: 3.3;
(VII) 10 degrees: 2.5;
(VIII) 15 degrees: 1.6;
(IX) 20 degrees: 1.0;
(X) 25 degrees: 0.6; and
(XI) 30 degrees: 0.39.
(B) 0.5 Log Credit:
(I) less than or equal to 0.5 degrees: 12;
(II) 1 degree: 12;
(III) 2 degrees: 10;
(IV) 3 degrees: 9.5;
(V) 5 degrees: 7.9;
(VI) 7 degrees: 6.5;
(VII) 10 degrees: 4.9;
(VIII) 15 degrees: 3.1;
(IX) 20 degrees: 2.0;
(X) 25 degrees: 1.2; and
(XI) 30 degrees: 0.78.
(C) 1.0 Log Credit:
(I) less than or equal to 0.5 degrees: 24;
(II) 1 degree: 23;
(III) 2 degrees: 21;
(IV) 3 degrees: 19;
(V) 5 degrees: 16;
(VI) 7 degrees: 13;
(VII) 10 degrees: 9.9;
(VIII) 15 degrees: 6.2;
(IX) 20 degrees: 3.9;
(X) 25 degrees: 2.5; and
(XI) 30 degrees: 1.6.
(D) 1.5 Log Credit:
(I) less than or equal to 0.5 degrees: 36;
(II) 1 degree: 35;
(III) 2 degrees: 31;
(IV) 3 degrees: 29;
(V) 5 degrees: 24;
(VI) 7 degrees: 20;
(VII) 10 degrees: 15;
(VIII) 15 degrees: 9.3;
(IX) 20 degrees: 5.9;
(X) 25 degrees: 3.7; and
(XI) 30 degrees: 2.4.
(E) 2.0 Log Credit:
(I) less than or equal to 0.5 degrees: 48;
(II) 1 degree: 46;
(III) 2 degrees: 42;
(IV) 3 degrees: 38;
(V) 5 degrees: 32;
(VI) 7 degrees: 26;
(VII) 10 degrees: 20;
(VIII) 15 degrees: 12;
(IX) 20 degrees: 7.8;
(X) 25 degrees: 4.9; and
(XI) 30 degrees: 3.1.
(F) 2.5 Log Credit:
(I) less than or equal to 0.5 degrees: 60;
(II) 1 degree: 58;
(III) 2 degrees: 52;
(IV) 3 degrees: 48;
(V) 5 degrees: 40;
(VI) 7 degrees: 33;
(VII) 10 degrees: 25;
(VIII) 15 degrees: 16;
(IX) 20 degrees: 9.8;
(X) 25 degrees: 6.2; and
(XI) 30 degrees: 3.9.
(G) 3.0 Log Credit:
(I) less than or equal to 0.5 degrees: 72;
(II) 1 degree: 69;
(III) 2 degrees: 63;
(IV) 3 degrees: 57;
(V) 5 degrees: 47;
(VI) 7 degrees: 39;
(VII) 10 degrees: 30;
(VIII) 15 degrees: 19;
(IX) 20 degrees: 12;
(X) 25 degrees: 7.4; and
(XI) 30 degrees: 4.7.
(F) Systems may use this equation to determine log credit between the indicated values: Log credit = (0.0397 x $(1.09757)^{Temp}$) x CT.
(c) Site-specific study. The Director may approve alternative chlorine dioxide or ozone CT values to those listed in paragraph (b) above on a site-specific basis. The Director must base this approval on a site-specific study a system conducts that follows a protocol approved by the Director.
(d) Ultraviolet light. Systems receive Cryptosporidium, Giardia lamblia, and virus treatment credits for ultraviolet (UV) light reactors by achieving the corresponding UV dose values shown in paragraph (d)(i) of this section. Systems must validate and monitor UV reactors as described in paragraph (d)(ii) and (iii) of this section to demonstrate that they are achieving a particular UV dose value for treatment credit.
(i) UV dose table. The treatment credits listed in Table 215-5 are for UV light at a wavelength of 254 nm as produced by a low pressure mercury vapor lamp. To receive treatment credit for other lamp types, systems must demonstrate an equivalent germicidal dose through reactor validation testing, as described in paragraph (d)(ii). The UV dose values in Table 215-5 are applicable only to post-filter applications of UV in filtered systems.

TABLE 215-5

UV Dose Table for Cryptosporidium, Giardia lamblia, and Virus Inactivation Credit

Log credit	Cryptosporidium UV dose (mJ/cm^2)	Giardia lamblia UV dose (mJ/cm^2)	Virus UV dose (mJ/cm^2)
0.5	1.6	1.5	39
1.0	2.5	2.1	58
1.5	3.9	3.0	79
2.0	5.8	5.2	100
2.5	8.5	7.7	121
3.0	12	11	143
3.5	15	15	163
4.0	22	22	186

(ii) Reactor validation testing. Systems must use UV reactors that have undergone validation testing to determine the operating conditions under which the reactor delivers the UV dose required in paragraph (d)(i) of this section (i.e., validated operating conditions). These operating conditions must include flow rate, UV intensity as measured by a UV sensor, and UV

lamp status.

(A) When determining validated operating conditions, systems must account for the following factors: UV absorbance of the water; lamp fouling and aging; measurement uncertainty of on-line sensors; UV dose distributions arising from the velocity profiles through the reactor; failure of UV lamps or other critical system components; and inlet and outlet piping or channel configurations of the UV reactor.

(B) Validation testing must include the following: Full scale testing of a reactor that conforms uniformly to the UV reactors used by the system and inactivation of a test microorganism whose dose response characteristics have been quantified with a low pressure mercury vapor lamp.

(C) The Director may approve an alternative approach to validation testing.

(iii) Reactor monitoring.

(A) Systems must monitor their UV reactors to determine if the reactors are operating within validated conditions, as determined under paragraph (d)(ii) of this section. This monitoring must include UV intensity as measured by a UV sensor, flow rate, lamp status, and other parameters the Director designates based on UV reactor operation. Systems must verify the calibration of UV sensors and must recalibrate sensors in accordance with a protocol the Director approves.

(B) To receive treatment credit for UV light, systems must treat at least 95 percent of the water delivered to the public during each month by UV reactors operating within validated conditions for the required UV dose, as described in paragraphs (d)(i) and (ii) of this section. Systems must demonstrate compliance with this condition by the monitoring required under paragraph (d)(iii)(A) of this section.

(20) Reporting requirements.

(a) Systems must report sampling schedules under R309-215-15(3) and source water monitoring results under R309-215-15(7) unless they notify the Director that they will not conduct source water monitoring due to meeting the criteria of R309-215-15(2)(d).

(b) Filtered systems must report their Cryptosporidium bin classification as described in R309-215-15(11).

(c) Systems must report disinfection profiles and benchmarks to the Director as described in R309-215-15(9) through R309-215-15(10) prior to making a significant change in disinfection practice.

(d) Systems must report to the Director in accordance with the following information on the following schedule for any microbial toolbox options used to comply with treatment requirements under R309-215-15(12). Alternatively, the Director may approve a system to certify operation within required parameters for treatment credit rather than reporting monthly operational data for toolbox options.

(i) Watershed control program (WCP).

(A) Notice of intention to develop a new or continue an existing watershed control program no later than two years before the applicable treatment compliance date in R309-215-15(13).

(B) Watershed control plan no later than one year before the applicable treatment compliance date in R309-215-15(13).

(C) Annual watershed control program status report every 12 months, beginning one year after the applicable treatment compliance date in R309-215-15(13).

(D) Watershed sanitary survey report:

(I) For community water systems, every three years beginning three years after the applicable treatment compliance date in R309-215-15(13).

(II) For noncommunity water systems, every five years beginning five years after the applicable treatment compliance date in R309-215-15(13).

(ii) Alternative source/intake management:

(A) Verification that system has relocated the intake or adopted the intake withdrawal procedure reflected in monitoring results No later than the applicable treatment compliance date in R309-215-15(13).

(iii) Presedimentation: Monthly verification of the following:

(A) Continuous basin operation

(B) Treatment of 100% of the flow

(C) Continuous addition of a coagulant

(D) At least 0.5-log mean reduction of influent turbidity or compliance with alternative Director-approved performance criteria.

(E) Monthly reporting within 10 days following the month in which the monitoring was conducted, beginning on the applicable treatment compliance date in R309-215-15(13).

(iv) Two-stage lime softening: Monthly verification of the following:

(A) Chemical addition and hardness precipitation occurred in two separate and sequential softening stages prior to filtration.

(B) Both stages treated 100% of the plant flow.

(C) Monthly reporting within 10 days following the month in which the monitoring was conducted, beginning on the applicable treatment compliance date in R309-215-15(13).

(v) Bank filtration:

(A) Initial demonstration of the following no later than the applicable treatment compliance date in R309-215-15(13).

(I) Unconsolidated, predominantly sandy aquifer

(II) Setback distance of at least 25 ft. (0.5-log credit) or 50 ft. (1.0-log credit).

(B) If monthly average of daily max turbidity is greater than 1 NTU then system must report result and submit an assessment of the cause. The report is due within 30 days following the month in which the monitoring was conducted, beginning on the applicable treatment compliance date in R309-215-15(13).

(vi) Combined filter performance:

(A) Monthly verification of combined filter effluent (CFE) turbidity levels less than or equal to 0.15 NTU in at least 95 percent of the 4 hour CFE measurements taken each month.

(B) Monthly reporting within 10 days following the month in which the monitoring was conducted, beginning on the applicable treatment compliance date in R309-215-15(13).

(vii) Individual filter performance. Monthly verification of the following:

(A) Individual filter effluent (IFE) turbidity levels less than or equal to 0.15 NTU in at least 95 percent of samples each month in each filter.

(B) No individual filter greater than 0.3 NTU in two consecutive readings 15 minutes apart.

(C) Monthly reporting within 10 days following the month in which the monitoring was conducted, beginning on the applicable treatment compliance date in R309-215-15(13).

(viii) Demonstration of performance.

(A) Results from testing following a Director approved protocol no later than the applicable treatment compliance date in R309-215-15(13).

(B) As required by the Director, monthly verification of operation within conditions of Director approval for demonstration of performance credit within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in R309-215-15(13).

(ix) Bag filters and cartridge filters.

(A) Demonstration that the following criteria are met no later than the applicable treatment compliance date in R309-215-15(13).

(I) Process meets the definition of bag or cartridge filtration;

(II) Removal efficiency established through challenge testing that meets criteria in this subpart.

(B) Monthly verification that 100% of plant flow was filtered within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in R309-215-15(13).

(x) Membrane filtration.

(A) Results of verification testing demonstrating the following no later than the applicable treatment compliance date in R309-215-15(13).

(I) Removal efficiency established through challenge testing that meets criteria in this subpart;

(II) Integrity test method and parameters, including resolution, sensitivity, test frequency, control limits, and associated baseline.

(B) Monthly report summarizing the following within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in R309-215-15(13).

(I) All direct integrity tests above the control limit;

(II) If applicable, any turbidity or alternative Director-approved indirect integrity monitoring results triggering direct integrity testing and the corrective action that was taken.

(xi) Second stage filtration: Monthly verification that 100% of flow was filtered through both stages and that first stage was preceded by coagulation step within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in R309-215-15(13).

(xii) Slow sand filtration (as secondary filter): Monthly verification that both a slow sand filter and a preceding separate stage of filtration treated 100% of flow from surface water sources within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in R309-215-15(13).

(xiii) Chlorine dioxide: Summary of CT values for each day as described in R309-215-15(19) within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in R309-215-15(13).

(xiv) Ozone: Summary of CT values for each day as described in R309-215-15(19) within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in R309-215-15(13).

(xv) UV:

(A) Validation test results demonstrating operating conditions that achieve required UV dose no later than the applicable treatment compliance date in R309-215-15(13).

(B) Monthly report summarizing the percentage of water entering the distribution system that was not treated by UV reactors operating within validated conditions for the required dose as specified in R309-215-15(19) (d) within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in R309-215-15(13).

(21) Recordkeeping requirements.

(a) Systems must keep results from the initial round of source water monitoring under R309-215-15(2)(a) and the second round of source water monitoring under R309-215-15(2)(b) until 3 years after bin classification under R309-215-15(11) for filtered systems for the particular round of monitoring.

(b) Systems must keep any notification to the Director that they will not conduct source water monitoring due to meeting the criteria of R309-215-15(2)(d) for 3 years.

(c) Systems must keep the results of treatment monitoring associated with microbial toolbox options under R309-215-15(15) through R309-215-15(19) for 3 years.

(22) Requirements for Sanitary Surveys Performed by EPA. Requirements to respond to significant deficiencies identified in sanitary surveys performed by EPA.

(a) A sanitary survey is an onsite review of the water source (identifying sources of contamination by using results of source water assessments where available), facilities, equipment, operation, maintenance, and monitoring compliance of a PWS to evaluate the adequacy of the PWS, its sources and operations, and the distribution of safe drinking water.

(b) For the purposes of this section, a significant deficiency includes a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that EPA determines to be causing, or has the potential for causing the introduction of contamination into the water delivered to consumers.

(c) For sanitary surveys performed by EPA, systems must respond in writing to significant deficiencies identified in sanitary survey reports no later than 45 days after receipt of the report, indicating how and on what schedule the system will address significant deficiencies noted in the survey.

(d) Systems must correct significant deficiencies identified in sanitary survey reports according to the schedule approved by EPA, or if there is no approved schedule, according to the schedule reported under paragraph (c) of this section if such deficiencies are within the control of the system.

R309-215-16. Groundwater Rule.

(1) Applicability: This subpart applies to all public water systems that use ground water except that it does not apply to public water systems that combine all of their ground water with surface water or with ground water under the direct influence of surface water prior to treatment. For the purposes of this subpart, "ground water system" is defined as any public water system meeting this applicability, including consecutive systems receiving finished ground water.

(a) General requirements: Systems subject to this subpart must comply with the following requirements:

(i) Sanitary survey information requirements for all ground water systems as described in R309-100-7.

(ii) Microbial source water monitoring requirements for ground water systems that do not treat all of their ground water to at least 99.99 percent (4-log) treatment of viruses (using inactivation, removal, or an Director-approved combination of 4-log virus inactivation and removal) before or at the first customer as described in R309-215-16(2).

(iii) Treatment technique requirements, described in R309-215-16(3), that apply to ground water systems that have fecally contaminated source waters, as determined by source water monitoring conducted under R309-215-16(2), or that have significant deficiencies that are identified by the Director or that are identified by EPA under SDWA section 1445. A ground water system with fecally contaminated source water or with significant deficiencies subject to the treatment technique requirements of this subpart must implement one or more of the following corrective action options: correct all significant deficiencies; provide an alternate source of water; eliminate the source of contamination; or provide treatment that reliably achieves at least 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer.

(b) Ground water systems that provide at least 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer are required to conduct compliance monitoring to demonstrate treatment effectiveness, as described in R309-215-16(3)(b).

(c) If requested by the Director, ground water systems must provide the Director with any existing information that will enable the Director to perform a hydrogeologic sensitivity assessment. For the purposes of this subpart, "hydrogeologic sensitivity assessment" is a determination of whether ground water systems obtain water from hydrogeologically sensitive settings.

(d) Compliance date: Ground water systems must comply, unless otherwise noted, with the requirements of this subpart beginning December 1, 2009.

(2) Ground water source microbial monitoring and analytical methods.

(a) Triggered source water monitoring.

(i) General requirements. A ground water system must conduct triggered source water monitoring if the conditions identified in paragraphs (a)(i)(A) and (a)(i)(B) of this section exist.

(A) The system does not provide at least 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer for each ground water source; and

(B) The system is notified that a sample collected under R309-211 is total coliform-positive and the sample is not invalidated under R309-211-10.

(ii) Sampling Requirements. A ground water system must collect, within 24 hours of notification of the total coliform-positive sample, at least one ground water source sample from each ground water source in use at the time the total coliform-positive sample was collected under R309-211, except as provided in paragraph (a)(ii)(B) of this section.

(A) The Director may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the ground water source water sample within 24 hours due to circumstances beyond its control. In the case of an extension, the Director must specify how much time the system has to collect the sample.

(B) If approved by the Director, systems with more than one ground water source may meet the requirements of this paragraph (a)(ii) by sampling a representative ground water source or sources. Systems must submit for Director approval a triggered source water monitoring plan that identifies one or more ground water sources that are representative of each monitoring site in the system's sample site plan under R309-211- 4(1) and that the system intends to use for representative sampling under this paragraph.

(C) A ground water system serving 1,000 or fewer people may use a repeat sample collected from a ground water source to meet both the requirements of R309-211 and to satisfy the monitoring requirements of paragraph (a)(ii) of this section for that ground water source only if the Director approves the use of E. coli as a fecal indicator for source water monitoring under this paragraph (a) and approves the use of a single sample for meeting both the triggered source water monitoring requirements in this paragraph (a) and the repeat monitoring requirements in R309-211-7. If the repeat sample collected from the ground water source is E.coli positive, the system must comply with paragraph (a)(iii) of this section.

(iii) Additional Requirements. If the Director does not require corrective action under R309-215-16(3)(a)(ii) for a fecal indicator-positive source water sample collected under paragraph (a)(ii) of this section that is not invalidated under paragraph (c) of this section, the system must collect five additional source water samples from the same source within 24 hours of being notified of the fecal indicator-positive sample.

(iv) Consecutive and Wholesale Systems.

(A) In addition to the other requirements of this paragraph (a), a consecutive ground water system that has a total coliform-positive sample collected under R309-211 must notify the wholesale system(s) within 24 hours of being notified of the total coliform-positive sample.

(B) In addition to the other requirements of this paragraph (a), a wholesale ground water system must comply with paragraphs (a)(iv)(B)(I) and (a)(iv)(B)(II) of this section.

(I) A wholesale ground water system that receives notice from a consecutive system it serves that a sample collected under R309-211-5 and 6 is total coliform-positive must, within 24 hours of being notified, collect a sample from its ground water source(s) under paragraph (a)(ii) of this section and analyze it for a fecal indicator under paragraph (b) of this section.

(II) If the sample collected under paragraph (a)(iv)(B)(I) of this section is fecal indicator-positive, the wholesale ground water system must notify all consecutive systems served by that ground water source of the fecal indicator source water positive within 24 hours of being notified of the ground water source sample monitoring result and must meet the requirements of paragraph (a)(iii) of this section.

(v) Exceptions to the Triggered Source Water Monitoring Requirements. A ground water system is not required to comply with the source water monitoring requirements of paragraph (2)(a) of this section if either of the following conditions exists:

(A) The Director determines, and documents in writing, that the total coliform-positive sample collected under R309-211-5 and 6 is caused by a distribution system deficiency; or

(B) The total coliform-positive sample collected under R309-211-5 and 6 is collected at a location that meets Director criteria for distribution system conditions that will cause total coliform-positive samples.

(b) Assessment Source Water Monitoring. If directed by the Director, ground water systems must conduct assessment source water monitoring that meets Director-determined requirements for such monitoring. A ground water system conducting assessment source water monitoring may use a triggered source water sample collected under paragraph (a)(ii) of this section to meet the requirements of paragraph (b) of this section. Director-determined assessment source water monitoring requirements may include:

(i) collection of a total of 12 ground water source samples that represent each month the system provides ground water to the public,

(ii) collection of samples from each well unless the system obtains written Director approval to conduct monitoring at one or more wells within the ground water system that are representative of multiple wells used by that system and that draw water from the same hydrogeologic setting,

(iii) collection of a standard sample volume of at least 100 mL for fecal indicator analysis regardless of the fecal indicator or analytical method used,

(iv) analysis of all ground water source samples in accordance with R309-210-4(1) and R309-200-4(3) for the presence of E. coli, enterococci, or coliphage,

(v) collection of ground water source samples at a location prior to any treatment of the ground water source unless the Director approves a sampling location after treatment, and

(vi) collection of ground water source samples at the well itself unless the system's configuration does not allow for sampling at the well itself and the Director approves an alternate sampling location that is representative of the water quality of that well.

(c) Invalidation of a fecal indicator-positive ground water source sample.

(i) A ground water system may obtain Director invalidation of a fecal indicator-positive ground water source sample collected under paragraph (a) of this section only under the conditions specified in paragraphs (c)(i)(A) and (B) of this section.

(A) The system provides the Director with written notice from the laboratory that improper sample analysis occurred; or

(B) The Director determines and documents in writing that there is substantial evidence that a fecal indicator-positive ground water source sample is not related to source water quality.

(ii) If the Director invalidates a fecal indicator-positive ground water source sample, the ground water system must collect another source water sample under paragraph (a) of this

section within 24 hours of being notified by the Director of its invalidation decision and have it analyzed for the same fecal indicator using the analytical methods in paragraph (c) of this section. The Director may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the source water sample within 24 hours due to circumstances beyond its control. In the case of an extension, the Director must specify how much time the system has to collect the sample.

(d) Sampling location.

(i) Any ground water source sample required under paragraph (a) of this section must be collected at a location prior to any treatment of the ground water source unless the Director approves a sampling location after treatment.

(ii) If the system's configuration does not allow for sampling at the well itself, the system may collect a sample at a Director-approved location to meet the requirements of paragraph (a) of this section if the sample is representative of the water quality of that well.

(e) New Sources. If directed by the Director, a ground water system that places a new ground water source into service after November 30, 2009, must conduct assessment source water monitoring under paragraph (b) of this section. If directed by the Director, the system must begin monitoring before the ground water source is used to provide water to the public.

(f) Public Notification. A ground water system with a ground water source sample collected under paragraph (a) or (b) of this section that is fecal indicator-positive and that is not invalidated under paragraph (d) of this section, including consecutive systems served by the ground water source, must conduct public notification under R309-220-5.

(g) Monitoring Violations. Failure to meet the requirements of paragraphs (a)-(f) of this section is a monitoring violation and requires the ground water system to provide public notification under R309-220-7.

(3) Treatment technique requirements for ground water systems.

(a) Ground water systems with significant deficiencies or source water fecal contamination.

(i) The treatment technique requirements of this section must be met by ground water systems when a significant deficiency is identified or when a ground water source sample collected under R309-215-16(2)(a)(iii) is fecal indicator-positive.

(ii) If directed by the Director, a ground water system with a ground water source sample collected under R309-215-16(2)(a)(ii), R309-215-16(2)(a)(iv), or R309-215-16(2)(b) that is fecal indicator-positive must comply with the treatment technique requirements of this section.

(iii) When a significant deficiency is identified at a public water system that uses both ground water and surface water or ground water under the direct influence of surface water, the system must comply with provisions of this paragraph except in cases where the Director determines that the significant deficiency is in a portion of the distribution system that is served solely by surface water or ground water under the direct influence of surface water.

(iv) Unless the Director directs the ground water system to implement a specific corrective action, the ground water system must consult with the Director regarding the appropriate corrective action within 30 days of receiving written notice from the Director of a significant deficiency, written notice from a laboratory that a ground water source sample collected under R309-215-16(2)(a)(iii) was found to be fecal indicator-positive, or direction from the Director that a fecal indicator-positive collected under R309-215-16(2)(a)(ii), R309-215-16(2)(a)(iv), or R309-215-16(2)(b) requires corrective action. For the purposes of this subpart, significant deficiencies include, but are not limited to, defects in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the Director determines to be causing, or have potential for causing, the introduction of contamination into the water delivered to consumers.

(v) Within 120 days (or earlier if directed by the Director) of receiving written notification from the Director of a significant deficiency, written notice from a laboratory that a ground water source sample collected under R309-215-16(2)(a)(iii) was found to be fecal indicator-positive, or direction from the Director that a fecal indicator-positive sample collected under R309-215-16(2)(a)(ii), R309-215-16(2)(a)(iv), or R309-215-16(2)(b) requires corrective action, the ground water system must either:

(A) have completed corrective action in accordance with applicable Director plan review processes or other Director guidance or direction, if any, including Director-specified interim measures; or

(B) be in compliance with a Director-approved corrective action plan and schedule subject to the conditions specified in paragraphs (a)(v)(B)(I) and (a)(v)(B)(II) of this section.

(I) Any subsequent modifications to a Director-approved corrective action plan and schedule must also be approved by the Director.

(II) If the Director specifies interim measures for protection of the public health pending Director approval of the corrective action plan and schedule or pending completion of the corrective action plan, the system must comply with these interim measures as well as with any schedule specified by the Director.

(vi) Corrective Action Alternatives. Ground water systems that meet the conditions of paragraph (a)(i) or (a)(ii) of this section must implement one or more of the following corrective action alternatives:

(A) correct all significant deficiencies;

(B) provide an alternate source of water;

(C) eliminate the source of contamination; or

(D) provide treatment that reliably achieves at least 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer for the ground water source.

(vii) Special notice to the public of significant deficiencies or source water fecal contamination.

(A) In addition to the applicable public notification requirements of R309-220-5, a community ground water system that receives notice from the Director of a significant deficiency or notification of a fecal indicator-positive ground water source sample that is not invalidated by the Director under R309-215-16(2)(d) must inform the public served by the water system under R309-225-5(8)of the fecal indicator-positive source sample or of any significant deficiency that has not been corrected. The system must continue to inform the public annually until the significant deficiency is corrected or the fecal contamination in the ground water source is determined by the Director to be corrected under paragraph (a)(v) of this section.

(B) In addition to the applicable public notification requirements of R309-220-5, a non-community ground water system that receives notice from the Director of a significant deficiency must inform the public served by the water system in a manner approved by the Director of any significant deficiency that has not been corrected within 12 months of being notified by the Director, or earlier if directed by the Director. The system must continue to inform the public annually until the significant deficiency is corrected. The information must include:

(I) The nature of the significant deficiency and the date the significant deficiency was identified by the Director;

(II) The Director-approved plan and schedule for correction of the significant deficiency, including interim measures, progress to date, and any interim measures completed; and

(III) For systems with a large proportion of non-English speaking consumers, as determined by the Director, information in the appropriate language(s) regarding the importance of the notice or a telephone number or address where consumers may contact the system to obtain a translated copy of the notice or assistance in the appropriate language.

(C) If directed by the Director, a non-community water system with significant deficiencies that have been corrected must inform its customers of the significant deficiencies, how the deficiencies were corrected, and the dates of correction under paragraph (a)(vii)(B) of this section.

(b) Compliance monitoring.

(i) Existing ground water sources. A ground water system that is not required to meet the source water monitoring requirements of this subpart for any ground water source because it provides at least 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer for any ground water source before December 1, 2009, must notify the Director in writing that it provides at least 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer for the specified ground water source and begin compliance monitoring in accordance with paragraph (b)(iii) of this section by December 1, 2009. Notification to the Director must include engineering, operational, or other information that the Director requests to evaluate the submission. If the system subsequently discontinues 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer for a ground water source, the system must conduct ground water source monitoring as required under R309-215-16(2).

(ii) New ground water sources. A ground water system that places a ground water in service after November 30, 2009, that is not required to meet the source water monitoring requirements of this subpart because the system provides at least 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer for the ground water source must comply with the requirements of paragraphs (b)(ii)(A), (b)(ii)(B) and (b)(ii)(C) of this section.

(A) The system must notify the Director in writing that it provides at least 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer for the ground water source. Notification to the Director must include engineering, operational, or other information that the Director requests to evaluate the submission.

(B) The system must conduct compliance monitoring as required under R309-215-16(3)(b)(iii) of this subpart within 30 days of placing the source in service.

(C) The system must conduct ground water source monitoring under R309-215-16(2) if the system subsequently discontinues 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer for the ground water source.

(iii) Monitoring requirements. A ground water system subject to the requirements of paragraph (b)(i) or (b)(ii) of this section must monitor the effectiveness and reliability of treatment for that ground water source before or at the first customer as follows:

(A) Chemical disinfection.

(I) Ground water systems serving greater than 3,300 people. A ground water system that serves greater than 3,300 people must continuously monitor the residual disinfectant concentration using analytical methods specified in R444-14-4 at a location approved by the Director and must record the lowest residual disinfectant concentration each day that water from the ground water source is served to the public. The ground water system must maintain the Director-determined residual disinfectant concentration every day the ground water system serves water from the ground water source to the public. If there is a failure in the continuous monitoring equipment, the ground water system must conduct grab sampling every four hours until the continuous monitoring equipment is returned to service. The system must resume continuous residual disinfectant monitoring within 14 days.

(II) Ground water systems serving 3,300 or fewer people. A ground water system that serves 3,300 or fewer people must monitor the residual disinfectant concentration using analytical methods specified in R444-14-4 at a location approved by the Director and record the residual disinfection concentration each day that water from the ground water source is served to the public. The ground water system must maintain the Director-determined residual disinfectant concentration every day the ground water system serves water from the ground water source to the public. The ground water system must take a daily grab sample during the hour of peak flow or at another time specified by the Director. If any daily grab sample measurement falls below the Director-determined residual disinfectant concentration, the ground water system must take follow-up samples every four hours until the residual disinfectant concentration is restored to the Director-determined level. Alternatively, a ground water system that serves 3,300 or fewer people may monitor continuously and meet the requirements of paragraph (b)(iii)(A)(I) of this section.

(B) Membrane filtration. A ground water system that uses membrane filtration to meet the requirements of this subpart must monitor the membrane filtration process in accordance with all Director-specified monitoring requirements and must operate the membrane filtration in accordance with all Director-specified compliance requirements. A ground water system that uses membrane filtration is in compliance with the requirement to achieve at least 4-log removal of viruses when:

(I) The membrane has an absolute molecular weight cut-off (MWCO), or an alternate parameter that describes the exclusion characteristics of the membrane, that can reliably achieve at least 4-log removal of viruses;

(II) The membrane process is operated in accordance with Director-specified compliance requirements; and

(III) The integrity of the membrane is intact.

(C) Alternative treatment. A ground water system that uses a Director-approved alternative treatment to meet the requirements of this subpart by providing at least 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer must:

(I) Monitor the alternative treatment in accordance with all Director-specified monitoring requirements; and

(II) Operate the alternative treatment in accordance with all compliance requirements that the Director determines to be necessary to achieve at least 4-log treatment of viruses.

(c) Discontinuing treatment. A ground water system may discontinue 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer for a ground water source if the Director determines and documents in writing that 4-log treatment of viruses is no longer necessary for that ground water source. A system that discontinues 4-log treatment of viruses is subject to the source water monitoring and analytical methods requirements of R309-215-16(2) of this subpart.

(d) Failure to meet the monitoring requirements of paragraph (b) of this section is a monitoring violation and requires the ground water system to provide public notification under R309-220-7.

(4) Treatment technique violations for ground water systems.

(a) A ground water system with a significant deficiency is in violation of the treatment technique requirement if, within 120 days (or earlier if directed by the Director) of receiving written notice from the Director of the significant deficiency, the system:

(i) Does not complete corrective action in accordance with any applicable Director plan review processes or other Director guidance and direction, including Director specified interim actions and measures, or

(ii) Is not in compliance with a Director-approved corrective action plan and schedule.

(b) Unless the Director invalidates a fecal indicator-positive ground water source sample under R309-215-16(2)(d), a ground water system is in violation of the treatment technique requirement if, within 120 days (or earlier if directed by the Director) of meeting the conditions of R309-215-16(3)(a)(i) or R309-215-16(3)(a)(ii), the system:

(i) Does not complete corrective action in accordance with any applicable Director plan review processes or other Director guidance and direction, including Director-specified interim measures, or

(ii) Is not in compliance with a Director-approved corrective action plan and schedule.

(c) A ground water system subject to the requirements of R309-215-16(3)(b)(iii) that fails to maintain at least 4-log treatment of viruses (using inactivation, removal, or a Director-approved combination of 4-log virus inactivation and removal) before or at the first customer for a ground water source is in violation of the treatment technique requirement if the failure is not corrected within four hours of determining the system is not maintaining at least 4-log treatment of viruses before or at the first customer.

(d) Ground water system must give public notification under R309-220-6 for the treatment technique violations specified in paragraphs (a), (b) and (c) of this section.

(5) Reporting and recordkeeping for ground water systems.

(a) Reporting. In addition to the requirements of R309-105-16, a ground water system regulated under this subpart must provide the following information to the Director:

(i) A ground water system conducting compliance monitoring under R309-215-16(3)(b) must notify the Director any time the system fails to meet any Director-specified requirements including, but not limited to, minimum residual disinfectant concentration, membrane operating criteria or membrane integrity, and alternative treatment operating criteria, if operation in accordance with the criteria or requirements is not restored within four hours. The ground water system must notify the Director as soon as possible, but in no case later than the end of the next business day.

(ii) After completing any corrective action under R309-215-16(3)(a), a ground water system must notify the Director within 30 days of completion of the corrective action.

(iii) If a ground water system subject to the requirements of R309-215-16(2)(a) does not conduct source water monitoring under R309-215-16(2)(a)(v)(B), the system must provide documentation to the Director within 30 days of the total coliform positive sample that it met the Director criteria.

(b) Recordkeeping. In addition to the requirements of R309-105-17, a ground water system regulated under this subpart must maintain the following information in its records:

(i) Documentation of corrective actions. Documentation shall be kept for a period of not less than ten years.

(ii) Documentation of notice to the public as required under R309-215-16(3)(a)(vii). Documentation shall be kept for a period of not less than three years.

(iii) Records of decisions under R309-215-16(2)(a)(v)(B) and records of invalidation of fecal indicator-positive ground water source samples under R309-215-16(2)(d). Documentation shall be kept for a period of not less than five years.

(iv) For consecutive systems, documentation of notification to the wholesale system(s) of total-coliform positive samples that are not invalidated under R309-211-10. Documentation shall be kept for a period of not less than five years.

(v) For systems, including wholesale systems, that are required to perform compliance monitoring under R309-215-16(3)(b):

(A) Records of the Director-specified minimum disinfectant residual. Documentation shall be kept for a period of not less than ten years.

(B) Records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the Director-prescribed minimum residual disinfectant concentration for a period of more than four hours. Documentation shall be kept for a period of not less than five years.

(C) Records of Director-specified compliance requirements for membrane filtration and of parameters specified by the Director for Director-approved alternative treatment and records of the date and duration of any failure to meet the membrane operating, membrane integrity, or alternative treatment operating requirements for more than four hours. Documentation shall be kept for a period of not less than five years.

KEY: drinking water, surface water treatment plant monitoring, disinfection monitoring, compliance determinations
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R309. Environmental Quality, Drinking Water.
R309-220. Monitoring and Water Quality: Public Notification Requirements.
R309-220-1. Purpose.

The purpose of this rule is to outline the public notification requirements for public water systems.

R309-220-2 Authority.
R309-220-3 Definitions.
R309-220-4 General public notification requirements.
R309-220-5 Tier 1 Public Notice - Form, manner, and frequency of notice.
R309-220-6 Tier 2 Public Notice - Form, manner, and frequency of notice.
R309-220-7 Tier 3 Public Notice - Form, manner, and frequency of notice.
R309-220-8 Content of the public notice.
R309-220-9 Notice to new billing units or new customers.
R309-220-10 Special notice of the availability of unregulated contaminant monitoring results.
R309-220-11 Special notice for exceedance of the SMCL for fluoride.
R309-220-12 Special notice for nitrate exceedances above MCL by non-community water systems (NCWS), where granted permission by the Director.
R309-220-13 Special Notice for Repeated Failure to Conduct Monitoring of the Source Water for Cryptosporidium and for Failure to Determine Bin Classification or Mean Cryptospridium Level.
R309-220-14 Notice by Director on behalf of the public water system.
R309-220-15 Standard Health Effects Language.

R309-220-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63G-3 of the same, known as the Administrative Rulemaking Act.

R309-220-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-220-4. General Public Notification Requirements.

(1) Violation Categories and Other Situations Requiring a Public Notice:

Each owner or operator of a public water system (community water systems, non-transient non-community water systems, and transient non-community water systems) must give notice for all violations of these rules and for other situations, as listed below. The term "UPDWR violations" is used in this subpart to include violations of the maximum contaminant level (MCL), maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures contained in R309-100 through R309-215.

(a) UPDWR Violations:

(i) Failure to comply with an applicable maximum contaminant level (MCL) or maximum residual disinfectant level (MRDL).

(ii) Failure to comply with a prescribed treatment technique (TT).

(iii) Failure to perform water quality monitoring, as required by the drinking water regulations.

(iv) Failure to comply with testing procedures as prescribed by a drinking water regulation.

(b) Variance and Exemptions Under R309-10 and R309-11.

(i) Operation under a variance or an exemption.

(ii) Failure to comply with the requirements of any schedule that has been set under a variance or exemption.

(c) Special Public Notices

(i) Occurrence of a waterborne disease outbreak or other waterborne emergency.

(ii) Exceedance of the nitrate MCL by non-community water systems (NCWS), where granted permission by the Director under R309-200-5(1)(c), Table 200-1, note (4)(b).

(iii) Exceedance of the secondary maximum contaminant level (SMCL) for fluoride.

(iv) Availability of unregulated contaminant monitoring data.

(v) Other violations and situations determined by the Director to require a public notice under this subpart.

(2) Definition of Public Notice Tiers:

Public notice requirements are divided into three tiers, to take into account the seriousness of the violation or situation and of any potential adverse health effects that may be involved. The public notice requirements for each violation or situation listed in paragraph (1) of this section are determined by the tier to which it is assigned. Each tier is defined below:

(a) Tier 1 public notice -- required for UPDWR violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure.

(b) Tier 2 public notice -- required for all other UPDWR violations and situations with potential to have serious adverse effects on human health.

(c) Tier 3 public notice -- required for all other UPDWR violations and situations not included in Tier 1 and Tier 2.

(3) Required Distribution of Notice

(a) Each public water system must provide public notice to persons served by the water system, in accordance with this rule. Public water systems that sell or otherwise provide drinking water to other public water systems (i.e., to consecutive systems) are required to give public notice to the owner or operator of the consecutive system; the consecutive system is responsible for providing public notice to the persons it serves.

(b) If a public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the Director may allow the system to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance. Permission by the Director for limiting distribution of the notice must be granted in writing.

(c) A copy of the notice must also be sent to the Director, in accordance with the requirements under R309-105-16.

(4) Utah Division of Drinking Water adopts 40 CFR, Part 141, Subpart Q, Appendix A and B as published on July 1, 2018.

R309-220-5. Tier 1 Public Notice -- Form, Manner and Frequency of Notice.

(1) Violation Categories and Other Situations Requiring a Tier 1 Public Notice:

(a) Violation of the MCL for total coliforms when E. coli are present, as defined in R309-211-9(1);

(b) Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, as defined in R309-200-5(1)(c), Table 200-1, or when the water system fails to take a confirmation sample within 24 hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL, as specified in R309-205-5(1)(e)(ii);

(c) Exceedance of the nitrate MCL by non-community water systems, where permitted to exceed the MCL by the Director under R309-200-5(1)(c), Table 200-1, note (4)(b), as required under R309-220-12;

(d) Violation of the MRDL for chlorine dioxide, as defined in 40 CFR section 141.65(a), when one or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system exceed

the MRDL, or when the water system does not take the required samples in the distribution system, as specified in 40 CFR section 141.133(c)(2)(i);

(e) Violation of the turbidity MCL under R309-200-5(5)(a), where the Director determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;

(f) Violation of the Surface Water Treatment Rule (SWTR), Interim Enhanced Surface Water Treatment rule (IESWTR) or the Long Term 1 Enhanced Surface Water Treatment rule (LT1ESWTR) treatment technique requirement resulting from a single exceedance of the maximum allowable turbidity limit, where the Director determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;

(g) Occurrence of a waterborne disease outbreak, as defined in R309-110, or other waterborne emergency (such as a failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination);

(h) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure, as determined by the Director either in its rules or on a case-by-case basis.

(i) Detection of E. coli, enterococci, or coliphage in source water samples as specified in R309-215-16(2)(a) and R309-215-16(2)(b).

(2) Frequency of the Tier 1 Public Notice and Additional Steps Required:

Public water systems must:

(a) Provide a public notice as soon as practical but no later than 24 hours after the system learns of the violation;

(b) Initiate consultation with the Director as soon as practical, but no later than 24 hours after the public water system learns of the violation or situation, to determine additional public notice requirements; and

(c) Comply with any additional public notification requirements (including any repeat notices or direction on the duration of the posted notices) that are established as a result of the consultation with the Director. Such requirements may include the timing, form, manner, frequency, and content of repeat notices (if any) and other actions designed to reach all persons served.

(3) Form and Manner of the Public Notice:

Public water systems must provide the notice within 24 hours in a form and manner reasonably calculated to reach all persons served. The form and manner used by the public water system are to fit the specific situation, but must be designed to reach residential, transient, and non-transient users of the water system. In order to reach all persons served, water systems are to use, at a minimum, one or more of the following forms of delivery:

(a) Appropriate broadcast media (such as radio and television);

(b) Posting of the notice in conspicuous locations throughout the area served by the water system;

(c) Hand delivery of the notice to persons served by the water system; or

(d) Another delivery method approved in writing by the Director.

R309-220-6. Tier 2 Public Notice -- Form, Manner and Frequency of Notice.

(1) Violation Categories And Other Situations Requiring a Tier 2 Public Notice:

(a) All violations of the MCL, MRDL, seasonal system treatment technique requirements, and treatment technique requirements, except where a Tier 1 notice is required under R309-220-5(1) or where the Director determines that a Tier 1 notice is required;

(b) Violations of the monitoring and testing procedure requirements, where the Director determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation; and

(c) Failure to comply with the terms and conditions of any variance or exemption in place.

(d) Failure to take corrective action or failure to maintain at least 4-log treatement of viruses (using inactivation, removal, or an Director-approved combination of 4-log virus inactiviation and removal) before or at the first customer under R309-215-16(3)(a).

(2) Frequency of the Tier 2 Public Notice:

(a) Public water systems must provide the public notice as soon as practical, but no later than 30 days after the system learns of the violation. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but in no case for less than seven days, even if the violation or situation is resolved. The Director may, in appropriate circumstances, allow additional time for the initial notice of up to three months from the date the system learns of the violation. It is not appropriate for the Director to grant an extension to the 30-day deadline for any unresolved violation or to allow across-the-board extensions by rule or policy for other violations or situations requiring a Tier 2 public notice. Extensions granted by the Director must be in writing.

(b) The public water system must repeat the notice every three months as long as the violation or situation persists, unless the Director determines that appropriate circumstances warrant a different repeat notice frequency. In no circumstance may the repeat notice be given less frequently than once per year. It is not appropriate for the Director to allow less frequent repeat notice for an MCL or treatment technique violation under the Total Coliform Rule or R309-211 or a treatment technique violation under the Surface Water Treatment Rule, Interim Enhanced Surface Water Treatment Rule or Filter Backwash Recycling Rule. It is also not appropriate for the Director to allow through its rules or policies across-the-board reductions in the repeat notice frequency for other ongoing violations requiring a Tier 2 repeat notice. Director determinations allowing repeat notices to be given less frequently than once every three months must be in writing.

(c) For the turbidity violations specified in this paragraph, public water systems must consult with the Director as soon as practical but no later than 24 hours after the public water system learns of the violation, to determine whether a Tier 1 public notice under R309-220-5(1) is required to protect public health. When consultation does not take place within the 24-hour period, the water system must distribute a Tier 1 notice of the violation within the next 24 hours (i.e., no later than 48 hours after the system learns of the violation), following the requirements under R309-220-5(2) and (3). Consultation with the Director is required for:

(i) Violation of the turbidity MCL under R309-200-5(5)(a); or

(ii) Violation of the SWTR, IESWTR or LT1ESWTR treatment technique requirement resulting from a single exceedance of the maximum allowable turbidity limit.

(3) Form and Manner of the Public Notice:

Public water systems must provide the initial public notice and any repeat notices in a form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

(a) Unless directed otherwise by the Director in writing,

community water systems must provide notice by:

(i) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(ii) Any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice required in paragraph (3)(a)(i) of this section. Such persons may include those who do not pay water bills or do not have service connection addresses (e.g., house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). Other methods may include: publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others (e.g., apartment building owners or large private employers); posting in public places served by the system or on the Internet; or delivery to community organizations.

(b) Unless directed otherwise by the Director in writing, non-community water systems must provide notice by:

(i) Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known); and

(ii) Any other method reasonably calculated to reach other persons served by the system if they would not normally be reached by the notice required in paragraph (3)(b)(i) of this section. Such persons may include those served who may not see a posted notice because the posted notice is not in a location they routinely pass by. Other methods may include: publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations (e.g., community centers).

R309-220-7. Tier 3 Public Notice -- Form, Manner and Frequency of Notice.

(1) Violation Categories And Other Situations Requiring a Tier 3 Public Notice:

(a) Monitoring violations under R309-205, R309-210 and R309-215, except where a Tier 1 notice is required under R309-220-5(1) or where the Director determines that a Tier 2 notice is required;

(b) Failure to comply with a testing procedure established in R309-205, R309-210 and R309-215, except where a Tier 1 notice is required under R309-220-5(1) or where the Director determines that a Tier 2 notice is required;

(c) Operation under a variance granted under R309-100-10;

(d) Availability of unregulated contaminant monitoring results, as required under R309-220-10; and

(e) Exceedance of the fluoride secondary maximum contaminant level (SMCL), as required under R309-220-11; and

(f) Reporting and Recordkeeping violations under R309-211.

(2) Frequency of the Tier 3 Public Notice:

(a) Public water systems must provide the public notice not later than one year after the public water system learns of the violation or situation or begins operating under a variance or exemption. Following the initial notice, the public water system must repeat the notice annually for as long as the violation, variance, exemption, or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, exemption, or other situation persists, but in no case less than seven days (even if the violation or situation is resolved).

(b) Instead of individual Tier 3 public notices, a public water system may use an annual report detailing all violations and situations that occurred during the previous twelve months, as long as the timing requirements of paragraph (2)(a) of this section are met.

(3) Form and Manner of the Public Notice:

Public water systems must provide the initial notice and any repeat notices in a form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

(a) Unless directed otherwise by the Director in writing, community water systems must provide notice by:

(i) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(ii) Any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice required in paragraph (3)(a)(i) of this section. Such persons may include those who do not pay water bills or do not have service connection addresses (e.g., house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). Other methods may include: publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others (e.g., apartment building owners or large private employers); posting in public places or on the Internet; or delivery to community organizations.

(b) Unless directed otherwise by the Director in writing, non-community water systems must provide notice by:

(i) Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known); and

(ii) Any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice required in paragraph (3)(b)(i) of this section. Such persons may include those who may not see a posted notice because the notice is not in a location they routinely pass by. Other methods may include: publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations (e.g., community centers).

(4) Use of the Consumer Confidence Report to meet the Tier 3 public notice requirements:

For community water systems, the Consumer Confidence Report (CCR) required under R309-225 may be used as a vehicle for the initial Tier 3 public notice and all required repeat notices, as long as:

(a) The CCR is provided to persons served no later than 12 months after the system learns of the violation or situation as required under R309-220-7(2);

(b) The Tier 3 notice contained in the CCR follows the content requirements under R309-220-8; and

(c) The CCR is distributed following the delivery requirements under R309-220-7(3).

R309-220-8. Content of the Public Notice.

(1) When a public water system violates a UPDWR or has a situation requiring public notification, each public notice must include the following elements:

(a) A description of the violation or situation, including the contaminant(s) of concern, and (as applicable) the contaminant level(s);

(b) When the violation or situation occurred;

(c) Any potential adverse health effects from the violation or situation, including the standard language under paragraph (4)(a) or (4)(b) of this section, whichever is applicable;

(d) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;

(e) Whether alternative water supplies should be used;

(f) What actions consumers should take, including when they should seek medical help, if known;

(g) What the system is doing to correct the violation or situation;

(h) When the water system expects to return to compliance or resolve the situation;

(i) The name, business address, and phone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice; and

(j) A statement to encourage the notice recipient to distribute the public notice to other persons served, using the standard language under paragraph (4)(c) of this section, where applicable.

(2) Required elements to be included in the public notice for public water systems operating under a variance or exemption:

(a) If a public water system has been granted a variance or an exemption, the public notice must contain:

(i) An explanation of the reasons for the variance or exemption;

(ii) The date on which the variance or exemption was issued;

(iii) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption; and

(iv) A notice of any opportunity for public input in the review of the variance or exemption.

(b) If a public water system violates the conditions of a variance or exemption, the public notice must contain the ten elements listed in paragraph (1) of this section.

(3) Presentation of the public notice.

(a) Each public notice required by this section:

(i) Must be displayed in a conspicuous way when printed or posted;

(ii) Must not contain overly technical language or very small print;

(iii) Must not be formatted in a way that defeats the purpose of the notice;

(iv) Must not contain language which nullifies the purpose of the notice.

(b) Each public notice required by this section must comply with multilingual requirements, as follows:

(i) For public water systems serving a large proportion of non-English speaking consumers, as determined by the Director, the public notice must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate language.

(ii) In cases where the Director has not determined what constitutes a large proportion of non-English speaking consumers, the public water system must include in the public notice the same information as in paragraph (3)(b)(i) of this section, where appropriate to reach a large proportion of non-English speaking persons served by the water system.

(4) Public water systems are required to include the following standard language in their public notice:

(a) Standard health effects language for MCL or MRDL violations, treatment technique violations, and violations of the condition of a variance or exemption. Public water systems must include in each public notice the health effects language specified in R309-220-14 corresponding to each MCL, MRDL, and treatment technique violation and for each violation of a condition of a variance or exemption.

(b) Standard language for monitoring and testing procedure violations.

Public water systems must include the following language in their notice, including the language necessary to fill in the blanks, for all monitoring and testing procedure violations: "We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During (compliance period), we ('did not monitor or test' or 'did not complete all monitoring or testing') for (contaminant(s)), and therefore cannot be sure of the quality of your drinking water during that time."

(c) Standard language to encourage the distribution of the public notice to all persons served. Public water systems must include in their notice the following language (where applicable): "Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail."

R309-220-9. Notice to New Billing Units or New Customers.

(1) Community water systems must give a copy of the most recent public notice for any continuing violation, the existence of a variance or exemption, or other ongoing situations requiring a public notice to all new billing units or new customers prior to or at the time service begins.

(2) Non-community water systems must continuously post the public notice in conspicuous locations in order to inform new consumers of any continuing violation, variance or exemption, or other situation requiring a public notice for as long as the violation, variance, exemption, or other situation persists.

R309-220-10. Special Notice of the Availability of Unregulated Contaminant Monitoring Results.

(1) Applicability of the special notice: The owner or operator of a community water system or non-transient, non-community water system required to monitor under 40 CFR section 141.40 must notify persons served by the system of the availability of the results of such sampling no later than 12 months after the monitoring results are known.

(2) Required form and manner of the special notice: The form and manner of the public notice must follow the requirements for a Tier 3 public notice prescribed in R309-220-7(3), (4)(a), and (4)(c). The notice must also identify a person and provide the telephone number to contact for information on the monitoring results.

R309-220-11. Special Notice for Exceedance of the Secondary MCL for Fluoride.

(1) Applicability of the special notice: Community water systems that exceed the fluoride secondary maximum contaminant level (SMCL) of 2 mg/l as specified in R309-200-6 (determined by the last single sample taken in accordance with R309-205-5), but do not exceed the maximum contaminant level (MCL) of 4 mg/l for fluoride (as specified in R309-200-5), must provide the public notice in paragraph (3) of this section to persons served. Public notice must be provided as soon as practical but no later than 12 months from the day the water system learns of the exceedance. A copy of the notice must also be sent to all new billing units and new customers at the time service begins and to the State public health officer. The public water system must repeat the notice at least annually for as long as the SMCL is exceeded. If the public notice is posted, the notice must remain in place for as long as the SMCL is exceeded, but in no case less than seven days (even if the exceedance is eliminated). On a case-by-case basis, the Director may require an initial notice sooner than 12 months and repeat notices more frequently than annually.

(2) Required form and manner of the special notice: The form and manner of the public notice (including repeat notices) must follow the requirements for a Tier 3 public notice in R309-

220-7(3), (4)(a), and (4)(c).

(3) Required mandatory language to be contained in the special notice: The notice must contain the following language, including the language necessary to fill in the blanks:

This is an alert about your drinking water and a cosmetic dental problem that might affect children under nine years of age. At low levels, fluoride can help prevent cavities, but children drinking water containing more than 2 milligrams per liter (mg/l) of fluoride may develop cosmetic discoloration of their permanent teeth (dental fluorosis). The drinking water provided by your community water system (name) has a fluoride concentration of (insert value) mg/l.

Dental fluorosis, in its moderate or severe forms, may result in a brown staining and/or pitting of the permanent teeth. This problem occurs only in developing teeth, before they erupt from the gums. Children under nine should be provided with alternative sources of drinking water or water that has been treated to remove the fluoride to avoid the possibility of staining and pitting of their permanent teeth. You may also want to contact your dentist about proper use by young children of fluoride-containing products. Older children and adults may safely drink the water.

Drinking water containing more than 4 mg/l of fluoride (the U.S. Environmental Protection Agency's drinking water standard) can increase your risk of developing bone disease. Your drinking water does not contain more than 4 mg/l of fluoride, but we're required to notify you when we discover that the fluoride levels in your drinking water exceed 2 mg/l because of this cosmetic dental problem.

For more information, please call (name of water system contact) of (name of community water system) at (phone number). Some home water treatment units are also available to remove fluoride from drinking water. To learn more about available home water treatment units, you may call NSF International at 1-877-8-NSF-HELP.

R309-220-12. Special Notice for Nitrate Exceedances above MCL by Non-Community Water Wystems (NCWS), where Granted Permission by the Director.

(1) Applicability of the special notice: The owner or operator of a non-community water system granted permission by the Director under R309-200-5(1)(c), Table 200-1, note (4)(b) to exceed the nitrate MCL must provide notice to persons served according to the requirements for a Tier 1 notice under R309-220-5 (1) and (2).

(2) Required form and manner of the special notice: Non-community water systems granted permission by the Director to exceed the nitrate MCL under R309-200-5(1)(c), Table 200-1, note (4)(b) must provide continuous posting of the fact that nitrate levels exceed 10 mg/l and the potential health effects of exposure, according to the requirements for Tier 1 notice delivery under R309-220-5(3) and the content requirements under R309-220-8.

R309-220-13. Special Notice for Repeated Failure to Conduct Monitoring of the Source Water for Cryptosporidium and for Failure to Determine Bin Classification or Mean Cryptospridium Level.

(1) Applicability of the special notice for repeated failure to monitor: The owner or operator of a community or non-community water system that is required to monitor source water under R309-215-15(2) must notify persons served by the water system that monitoring has not been completed as specified no later than 30 days after the system has failed to collect any 3 months of monitoring as specified in R309-215-15(2)(c). The notice must be repeated as specified in R309-220-6(2).

(2) Applicability of the special notice for failure to determine bin classification: The owner or operator of a community or non-community water system that is required to determine a bin classification under R309-215-15(11) must notify persons served by the water system that the determination has not been made as required no later than 30 days after the system has failed report the determination as specified in R309-215-15(11)(e). The notice must be repeated as specified in R309-220-6(2). The notice is not required if the system is complying with a Director-approved schedule to address the violation.

(3) Required form and manner of the special notice: The form and manner of the public notice must follow the requirements for a Tier 2 public notice prescribed in R309-220-6(3). The public notice must be presented as required in R309-220-8(3).

(4) Required mandatory language to be contained in the special notice: The notice must contain the following language, including the language necessary to fill in the blanks.

(a) The special notice for repeated failure to conduct monitoring must contain the following language: We are required to monitor the source of your drinking water for Cryptosporidium. Results of the monitoring are to be used to determine whether water treatment at the (treatment plant name) is sufficient to adequately remove Cryptosporidium from your drinking water. We are required to complete this monitoring and make this determination by (required bin determination date). We "did not monitor or test" or "did not complete all monitoring or testing on schedule" and, therefore, we may not be able to determine by the required date what treatment modifications, if any, must be made to ensure adequate Cryptosporidium removal. Missing this deadline may, in turn, jeopardize our ability to have the required treatment modifications, if any, completed by the deadline required, (date). For more information, please call (name of water system contact) of (name of water system) at (phone number).

(b) The special notice for failure to determine bin classification or mean Cryptosporidium level must contain the following language: We are required to monitor the source of your drinking water for Cryptosporidium in order to determine by (date) whether water treatment at the (treatment plant name) is sufficient to adequately remove Cryptosporidium from your drinking water. We have not made this determination by the required date. Our failure to do this may jeopardize our ability to have the required treatment modifications, if any, completed by the required deadline of (date). For more information, please call (name of water system contact) of (name of water system) at (phone number).

(c) Each special notice must also include a description of what the system is doing to correct the violation and when the system expects to return to compliance or resolve the situation.

R309-220-14. Notice by Director on behalf of the Public Water System.

(1) The Director may give the notice required by this rule on behalf of the owner and operator of the public water system if the Director complies with the requirements of this rule.

(2) The owner or operator of the public water system remains responsible for ensuring that the requirements of this rule are met.

R309-220-15. Standard Health Effects Language.

Microbiological Contaminants:

(1) Total Coliform. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems

and to correct any problems that were found during these assessments.

(2) Coliform Assessment and/or Corrective Action Violation. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that are found. (THE SYSTEM MUST USE THE FOLLOWING APPLICABLE SENTENCES.) We failed to conduct the required assessment. We failed to correct all identified sanitary defects that were found during the assessment(s).

(3) E.Coli Assessment and/or Corrective Action Violations. E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. We violated the standard for E. coli, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct a detailed assessment to identify problems and to correct any problems that are found. (THE SYSTEM MUST USE THE FOLLOWING APPLICABLE SENTENCES.) We failed to conduct the required assessment. We failed to correct all identified sanitary defects that were found during the assessment that we conducted.

(4) E. coli. E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems

(5) Seasonal System TT Violations. When this violation includes the failure to monitor for total coliforms or E. coli prior to serving water to the public, the mandatory language found at R309-220-8(4)(b) must be used. When this violation includes failure to complete other actions, the appropriate elements found in R309-220-8(1) to describe the violation must be used.

(6) Total organic carbon. Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection byproducts. These byproducts include trihalomethanes (THMs) and haloacetic acides (HAAs). Drinking water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.

(7) Turbidity. Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. Surface Water Treatment Rule (SWTR), Interim Enhanced Surface Water Treatment Rule (IESWTR), Long Term 1 Enhanced Surface Water Treatment Rule (LT1) and Filter Backwash Recycling Rule (FBRR) violations.

(8) Giardia lamblia. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(9) Viruses. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(10) Heterotrophic plate count (HPC) bacteria. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(11) Legionella. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(12) Cryptosporidium. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(13) Fecal Indicators. Fecal indicators are microbes whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these waste can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

Radioactive Contaminants:

(14) Alpha emitters. Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(15) Beta/photon emitters. Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(16) Combined Radium 226/228. Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.

(17) Uranium. Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity.

Inorganic Contaminants:

(18) Antimony. Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.

(19) Arsenic. Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.

(20) Asbestos. Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.

(21) Barium. Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.

(22) Beryllium. Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.

(23) Cadmium. Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.

(24) Chromium. Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.

(25) Copper. Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's

Disease should consult their personal doctor.

(26) Cyanide. Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.

(27) Fluoride. Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorisis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.

(28) Lead. Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.

(29) Mercury (inorganic). Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.

(30) Nitrate. Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.

(31) Nitrite. Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.

(32) Selenium. Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.

(33) Thallium. Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.

Synthetic organic contaminants including pesticides and herbicides:

(34) 2,4-D. Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.

(35) 2,4,5-TP (Silvex). Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.

(36) Acrylamide. Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.

(37) Alachlor. Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.

(38) Atrazine. Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.

(39) Benzo(a)pyrene (PAH). Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.

(40) Carbofuran. Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.

(41) Chlordane. Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.

(42) Dalapon. Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.

(43) Di (2-ethylhexyl) adipate. Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience general toxic effects or reproductive difficulties.

(44) Di (2-ethylhexyl) phthalate. Some people who drink water containing di (2-ethylhexyl) phthalate in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.

(45) Dibromochloropropane (DBCP). Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(46) Dinoseb. Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.

(47) Dioxin (2,3,7,8-TCDD). Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(48) Diquat. Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.

(49) Endothall. Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.

(50) Endrin. Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.

(51) Epichlorohydrin. Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.

(52) Ethylene dibromide. Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.

(53) Glyphosate. Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.

(54) Heptachlor. Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

(55) Heptachlor epoxide. Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.

(56) Hexachlorobenzene. Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.

(57) Hexachlorocyclopentadiene. Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.

(58) Lindane. Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.

(59) Methoxychlor. Some people who drink water containing methoxychlor in excess of the MCL over many years

could experience reproductive difficulties.

(60) Oxamyl (Vydate). Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.

(61) PCBs (Polychlorinated biphenyls). Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.

(62) Pentachlorophenol. Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.

(63) Picloram. Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver.

(64) Simazine. Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.

(65) Toxaphene. Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.

Volatile Organic Contaminants:

(66) Benzene. Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.

(67) Bromate. Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.

(68) Carbon Tetrachloride. Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(69) Chloramines. Some people who use water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.

(70) Chlorine. Some people who use water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.

(71) Chlorite. Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia.

(72) Chlorine dioxide. Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.

(73) Chlorobenzene. Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.

(74) o-Dichlorobenzene. Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.

(75) p-Dichlorobenzene. Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.

(76) 1,2-Dichloroethane. Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.

(77) 1,1-Dichloroethylene. Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(78) cis-1,2-Dichloroethylene. Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(79) trans-1,2-Dicholoroethylene. Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.

(80) Dichloromethane. Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.

(81) 1,2-Dichloropropane. Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.

(82) Ethylbenzene. Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.

(83) Haloacetic Acids (HAA). Some piple who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.

(84) Styrene. Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.

(85) Tetrachloroethylene. Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.

(86) 1,2,4-Trichlorobenzene. Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.

(87) 1,1,1,-Trichloroethane. Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.

(88) 1,1,2-Trichloroethane. Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.

(89) Trichloroethylene. Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(90) TTHMs (Total Trihalomethanes). Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer.

(91) Toluene. Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.

(92) Vinyl Chloride. Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.

(93) Xylenes. Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.

KEY: drinking water, public notification, health effects
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Notice of Continuation March 13, 2015

R309. Environmental Quality, Drinking Water.
R309-225. Monitoring and Water Quality: Consumer Confidence Reports.
R309-225-1. Purpose.

This rule establishes the minimum requirements for the content of annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner.

R309-225-2 Authority.
R309-225-3 Definitions.
R309-225-4 General Requirements.
R309-225-5 Content of the reports.
R309-225-6 Required additional health information.
R309-225-7 Report delivery and recordkeeping.
R309-225-8 Major Sources of Contaminants in Drinking Water.

R309-225-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63G-3 of the same, known as the Administrative Rulemaking Act.

R309-225-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

(1) For the purpose of R309-225, customers are defined as billing units or service connections to which water is delivered by a community water system.

(2) For the purpose of R309-225, detected means: at or above the levels prescribed by R444-14-4(2).

R309-225-4. General Requirements.

(1) This rule applies only to community water systems.

(2) Effective dates.

(a) Each existing community water system must deliver its first report by October 19, 1999, its second report by July 1, 2000, and subsequent reports by July 1 annually thereafter. The first report must contain data collected during, or prior to, calendar year 1998 as prescribed in R309-225-5(4)(c). Each report thereafter must contain data collected during, or prior to, the previous calendar year.

(b) A new community water system must deliver its first report by July 1 of the year after its first full calendar year in operation and annually thereafter.

(c) A community water system that sells water to another community water system must deliver the applicable information required in R309-225-5 to the buyer system:

(i) no later than April 19, 1999, by April 1, 2000, and by April 1 annually thereafter or

(ii) on a date mutually agreed upon by the seller and the purchaser, and specifically included in a contract between the parties.

(3) Utah Division of Drinking Water adopts 40 CFR, Part 141, Subpart O, Appendix A as published on July 1, 2018.

R309-225-5. Content of the Reports.

(1) Each community water system must provide to its customers an annual report that contains the information specified in this section and R309-225-6.

(2) Information on the source of the water delivered.

(a) Each report must identify the source(s) of the water delivered by the community water system by providing information on:

(i) The type of the water: e.g., surface water, ground water; and

(ii) The commonly used name (if any) and location of the body (or bodies) of water.

(b) If a source water assessment has been completed, the report must notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant sources of contamination in the source water area if they have readily available information. Where a system has received a source water assessment from the Director, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the Director or written by the operator.

(3) Definitions.

(a) Each report must include the following definitions:

(i) Maximum Contaminant Level Goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

(ii) Maximum Contaminant Level or MCL: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(b) A report for a community water system operating under a variance or an exemption issued under R309-100-10 or R309-100-11 must include the following definition: Variances and Exemptions: Director or EPA permission not to meet an MCL or a treatment technique under certain conditions.

(c) A report which contains data on a contaminant that EPA regulates using any of the following terms must include the applicable definitions:

(i) Treatment Technique: A required process intended to reduce the level of a contaminant in drinking water.

(ii) Action Level: The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(iii) Maximum residual disinfectant level goal or MRDLG: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

(iv) Maximum residual disinfectant level or MRDL: The highest level of a disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

(d) After April 1, 2016, a report that contains information regarding a Level 1 or Level 2 Assessment required under R309-211 must include the applicable definitions:

(i) Level 1 Assessment: A Level 1 assessment is a study of the water system to identify potential problems and determine (if possible) why total coliform bacteria have been found in our water system.

(ii) Level 2 Assessment: A Level 2 assessment is a very detailed study of the water system to identify potential problems and determine (if possible) why an E. coli MCL violation has occurred and/or why total coliform bacteria have been found in our water system on multiple occasions.

(4) Information on Detected Contaminants.

(a) This sub-section specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring (except Cryptosporidium). It applies to:

(i) Contaminants subject to an MCL, action level, maximum residual disinfectant level, or treatment technique (regulated contaminants);

(ii) Contaminants for which monitoring is required by 40 CFR section 141.40 (unregulated contaminants); and

(iii) Disinfection by-products or microbial contaminants for which monitoring is required by R309-210, R309-215 and

R309-211, except as provided under paragraph (e)(1) of this section, and which are detected in the finished water.

(b) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(c) The data must be derived from data collected to comply with EPA and State monitoring and analytical requirements during calendar year 1998 for the first report and subsequent calendar years thereafter except that:

(i) Where a system is allowed to monitor for regulated contaminants less often than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than 5 years need be included.

(ii) Results of monitoring in compliance with federal Information Collection Rule, (40 CFR sections 141.142 and 141.143) need only be included for 5 years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.

(d) For detected regulated contaminants, the table(s) must contain:

(i) The MCL for that contaminant expressed as a number equal to or greater than 1.0;

(ii) The MCLG for that contaminant expressed in the same units as the MCL;

(iii) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph(3)(c) of this section;

(iv) For contaminants subject to an MCL, except turbidity, total coliform, fecal coliform and E. coli, the highest contaminant level used to determine compliance with the quality standards listed in R309-200 and the range of detected levels, as follows:

(A) When compliance with the MCL is determined annually or less frequently: the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL.

(B) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: the highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL. For the MCLs for TTHM and HAA5 in R309-200-5(3)(c)(vi), systems must include the highest locational running annual average for TTHM and HAA5 and the range of individual sample results for all monitoring locations expressed in the same units as the MCL. If more than one location exceeds the TTHM and HAA5 MCL, the system must include the locational running annual averages for all locations that exceed the MCL.

(C) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all monitoring locations: the average and range of detection expressed in the same units as the MCL. The system is required to include individual sample results for the IDSE conducted under R309-210-9 when determining the range of TTHM and HAA5 results to be reported in the annual consumer confidence report for the calendar year that the IDSE samples were taken.

(D) When rounding of results to determine compliance with the MCL is allowed by the rules, rounding should be done prior to converting the number in order to express it as a number equal to or greater than 1.0.

(v) For turbidity.

(A) When it is reported pursuant to R309-205-8 and R309-215-9: the highest average monthly value.

(B) When it is reported pursuant to R309-215-9: the highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in R309-200-5(5)(a) and (b) for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity.

(vi) For lead and copper: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level.

(vii) Before March 31, 2016, For total coliform:

(A) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

(B) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month.

(viii) Before March 31, 2016, For fecal coliform: the total number of positive samples.

(vii) After April 1, 2016, for E. coli analytical results under R309-211: The total number of positive samples.

(viii) The likely source(s) of detected contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in R309-225-8 that is most applicable to the system.

(e) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(f) The table(s) must clearly identify any data indicating violations of MCLs, MRDLs or treatment techniques and the report must contain a clear and readily understandable explanation of the violation including: the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language in R309-220-15.

(g) For detected unregulated contaminants for which monitoring is required (except Cryptosporidium), the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

(5) Information on Cryptosporidium, radon, and other contaminants.

(a) If the system has performed any monitoring for Cryptosporidium, including monitoring performed to satisfy the requirements of the federal Information Collection Rule (40 CFR section 141.143), which indicates that Cryptosporidium may be present in the source water or the finished water, the report must include:

(i) A summary of the results of the monitoring; and

(ii) An explanation of the significance of the results.

(b) If the system has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results.

(c) If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, EPA strongly encourages systems to report any results which may indicate a health concern. To determine if results may indicate a health concern, EPA recommends that

systems find out if EPA has proposed a regulation or issued a health advisory for that contaminant by calling the Safe Drinking Water Hotline (800-426-4791). EPA considers detects above a proposed MCL or health advisory level to indicate possible health concerns. For such contaminants, EPA recommends that the report include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

(6) Compliance with UPDWR. In addition to the requirements of R309-225-5(4)(f), the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

(a) Monitoring and reporting of compliance data;

(b) Filtration and disinfection prescribed by R309-505 of this part. For systems which have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of such equipment or processes which constitutes a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(c) Lead and copper control requirements prescribed by R309-210-6. For systems which fail to take one or more actions prescribed by R309-210-6(1)(c), R309-210-6(2), or R309-210-6(4), the report must include the applicable language in R309-220-14 for lead, copper, or both.

(d) Treatment techniques for Acrylamide and Epichlorohydrin prescribed by R309-215-8. For systems which violate the requirements of R309-215-8, the report must include the relevant language from R309-220-14.

(e) Recordkeeping of compliance data.

(f) Special monitoring requirements prescribed by 40 CFR section 141.40 (unregulated contaminants); and

(g) Violation of the terms of a variance, an exemption, or an administrative or judicial order.

(7) Variances and Exemptions. If a system is operating under the terms of a variance or an exemption issued under R309-100-10 or R309-100-11, the report must contain:

(a) An explanation of the reasons for the variance or exemption;

(b) The date on which the variance or exemption was issued;

(c) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption; and

(d) A notice of any opportunity for public input in the review, or renewal, of the variance or exemption.

(8) Additional information.

(a) The report must contain a brief explanation regarding contaminants which may reasonably be expected to be found in drinking water including bottled water. This explanation may include the language of paragraphs (8)(a)(i) through (iii) or systems may use their own comparable language. The report also must include the language of paragraph (8)(a)(iv) of this section.

(i) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity.

(ii) Contaminants that may be present in source water include:

(A) Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.

(B) Inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.

(C) Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses.

(D) Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems.

(E) Radioactive contaminants, which can be naturally-occurring or be the result of oil and gas production and mining activities.

(iii) In order to ensure that tap water is safe to drink, EPA prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. FDA regulations establish limits for contaminants in bottled water which must provide the same protection for public health.

(iv) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800-426-4791).

(b) The report must include the telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report.

(c) In communities with a large proportion of non-English speaking residents, as determined by the Director, the report must contain information in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language.

(d) The report must include information (e.g., time and place of regularly scheduled board meetings) about opportunities for public participation in decisions that may affect the quality of the water.

(e) The systems may include such additional information as they deem necessary for public education consistent with, and not detracting from, the purpose of the report.

(f) Systems required to comply with R309-215-16.

(i) Any ground water system that receives notice from the Director of a significant deficiency or notice from a laboratory of a fecal indicator-positive ground water source sample that is not invalidated by the Director under R309-215-16(2)(d) must inform its customers of any significant deficiency that is uncorrected at the time of the next report or of any fecal indicator-positive ground water source sample in the next report. The system must continue to inform the public annually until the Director determines that particular significant deficiency is corrected or the fecal contamination in the ground water source is addressed under R309-215-16(3)(a). Each report must include the following elements.

(A) The nature of the particular significant deficiency or the source of the fecal contamination (if the source is known) and the date the significant deficiency was identified by the Director or the dates of the fecal indicator-positive ground water source samples;

(B) If the fecal contamination in the ground water source has been addressed under R309-215-16(3)(a) and the date of

such action;

(C) For each significant deficiency or fecal contamination in the ground water source that has not been addressed under R309-215-16(3)(a), the Director-approved plan and schedule for correction, including interim measures, progress to date, and any interim measures completed; and

(D) If the system receives notice of a fecal indicator-positive ground water source sample that is not invalidated by the Director under R309-215-16(2)(d), the potential health effects using the health effects language of Appendix A of subpart O.

(ii) If directed by the Director, a system with significant deficiencies that have been corrected before the next report is issued must inform its customers of the significant deficiency, how the deficiency was corrected, and the date of correction under paragraph (8)(f)(i) of this section.

R309-225-6. Required Additional Health Information.

(1) All reports must prominently display the following language:

Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/CDC guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791).

(2) A system which detects arsenic at levels above 5 micrograms per liter, but below the MCL:

(a) Must include in its report a short informational statement about arsenic, using language such as: While your drinking water meets EPA's standard for arsenic, it does contain low levels of arsenic. EPA's standard balances the current understanding of arsenic's possible health effects against the costs of removing arsenic from drinking water. EPA continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects such as skin damage and circulatory problems.

(b) May write its own educational statement, but only in consultation with the Director.

(3) A system which detects nitrate at levels above 5 mg/L, but below the MCL:

(a) Must include a short informational statement about the impacts of nitrate on children using language such as: Nitrate in drinking water at levels above 10 ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider.

(b) May write its own educational statement, but only in consultation with the Director.

(4) Every report must include the following lead-specific information:

(a) A short informational statement about lead in drinking water and its effects on children. The statement must include the following information:

If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. (NAME OF UTILITY) is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at http://www.epa.gov/safewater/lead.

(b) A system may write its own educational statement, but only in consultation with the Director.

(5) Community water systems that detect TTHM above 0.080 mg/L (milligrams per liter), but below the MCL in R309-200-5(3)(c), as an annual average, monitored and calculated under the provisions of R309-210-8, must include health effects language for TTHMs prescribed in R309-220-14.

(6) Beginning in the report due by July 1, 2002 and ending January 22, 2006, a community water system that detects arsenic above 0.01 milligrams per liter and up to and including 0.05 milligrams per liter must include the arsenic health effects language prescribed in R309-220-14.

(7) After April 1, 2016, Systems required to comply with R309-211.

(a) Any system required to comply with the Level 1 assessment requirement or a Level 2 assessment requirement that is not due to an E. coli MCL violation must include in the report the text found in paragraph (7)(a)(i) and paragraphs (7)(a)(ii) and (iii) of this section as appropriate, filling in the blanks accordingly and the text found in paragraphs (7)(a)(iv)(A) and (B) of this section if appropriate.

(i) Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments.

(ii) During the past year we were required to conduct (INSERT NUMBER OF LEVEL 1 ASSESSMENTS) Level 1 assessment(s). (INSERT NUMBER OF LEVEL 1 ASSESSMENTS) Level 1 assessment(s) were completed. In addition, we were required to take (INSERT NUMBER OF CORRECTIVE ACTIONS) corrective actions and we completed (INSERT NUMBER OF CORRECTIVE ACTIONS) of these actions.

(iii) During the past year (INSERT NUMBER OF LEVEL 2 ASSESSMENTS) Level 2 assessments were required to be completed for our water system. (INSERT NUMBER OF LEVEL 2 ASSESSMENTS) Level 2 assessments were completed. In addition, we were required to take (INSERT NUMBER OF CORRECTIVE ACTIONS) corrective actions and we completed (INSERT NUMBER OF CORRECTIVE ACTIONS) of these actions.

(iv) Any system that has failed to complete all the required assessments or correct all identified sanitary defects, is in violation of the treatment technique requirement and must also include one or both of the following statements, as appropriate:

(A) During the past year we failed to conduct all of the required assessment(s).

(B) During the past year we failed to correct all identified defects that were found during the assessment.

(b) Any system required to conduct a Level 2 assessment due to an E. coli MCL violation must include in the report the text found in paragraphs (7)(b)(i) and (ii) of this section, filling in the blanks accordingly and the text found in paragraphs (7)(b)(iii)(A) and (B) of this section, if appropriate.

(i) E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes.

Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. We found E. coli bacteria, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments.

(ii) We were required to complete a Level 2 assessment because we found E. coli in our water system. In addition, we were required to take (INSERT NUMBER OF CORRECTIVE ACTIONS) corrective actions and we completed (INSERT NUMBER OF CORRECTIVE ACTIONS) of these actions.

(iii) Any system that has failed to complete the required assessment or correct all identified sanitary defects, is in violation of the treatment technique requirement and must also include one or both of the following statements, as appropriate:

(A) We failed to conduct the required assessment.

(B) We failed to correct all sanitary defects that were identified during the assessment that we conducted.

(c) If a system detects E. coli and has violated the E. coli MCL, in addition to completing the table as required in R309-225-5(4)(d), the system must include one or more of the following statements to describe any noncompliance, as applicable:

(i) We had an E. coli-positive repeat sample following a total coliform-positive routine sample.

(ii) We had a total coliform-positive repeat sample following an E. coli-positive routine sample.

(iii) We failed to take all required repeat samples following an E. coli-positive routine sample.

(iv) We failed to test for E. coli when any repeat sample tests positive for total coliform.

(d) If a system detects E. coli and has not violated the E. coli MCL, in addition to completing the table as required in R309-225-5(4)(d), the system may include a statement that explains that although they have detected E. coli, they are not in violation of the E. coli MCL.

R309-225-7. Report Delivery and Recordkeeping.

(1) Except as provided in paragraph (7) of this section, each community water system must mail or otherwise directly deliver one copy of the report to each customer.

(2) The system must make a good faith effort to reach consumers who do not get water bills, using means recommended by the Director. EPA expects that an adequate good faith effort will be tailored to the consumers who are served by the system but are not bill-paying customers, such as renters or workers. A good faith effort to reach consumers would include a mix of methods appropriate to the particular system such as: Posting the reports on the Internet; mailing to postal patrons in metropolitan areas; advertising the availability of the report in the news media; publication in a local newspaper; posting in public places such as cafeterias or lunch rooms of public buildings; delivery of multiple copies for distribution by single-biller customers such as apartment buildings or large private employers; delivery to community organizations.

(3) No later than the date the system is required to distribute the report to its customers, each community water system must mail a copy of the report to the Director, followed within 3 months by a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the Director.

(4) No later than the date the system is required to distribute the report to its customers, each community water system must deliver the report to any other agency or clearinghouse identified by the Director.

(5) Each community water system must make its reports available to the public upon request.

(6) Each community water system serving 100,000 or more persons must post its current year's report to a publicly-accessible site on the Internet.

(7) The Governor has waived the requirement of paragraph (a) of this section for community water systems serving fewer than 10,000 persons.

(a) Such systems must:

(i) Publish the reports in one or more local newspapers serving the area in which the system is located;

(ii) Inform the customers that the reports will not be mailed, either in the newspapers in which the reports are published or by other means approved by the Director; and

(iii) Make the reports available to the public upon request.

(b) Systems serving 500 or fewer persons may forego the requirements of paragraphs (7)(a)(i) and (ii) of this section if they provide notice at least once per year to their customers by mail, door-to-door delivery or by posting in an appropriate location that the report is available upon request.

(8) Any system subject to this rule must retain copies of its consumer confidence report for no less than 3 years.

R309-225-8. Major Sources of Contaminants in Drinking Water.

Microbiological Contaminants

(1) Total Coliform Bacteria - Naturally present in the environment.

(2) E. coli - Human and animal fecal waste.

(3) Fecal Indicators (enterococci or coliphage) - Human and animal fecal waste.

(4) Turbidity- Soil runoff.

(5) Total organic carbon - Naturally present in the environment.

Radioactive Contaminants

(6) Alpha emitters (pCi/l) - Erosion of natural deposits.

(7) Beta/photon emitters (mrem/yr) - Decay of natural and man-made deposits.

(8) Combined radium (pCi/l) - Erosion of natural deposits.

(9) Uranium (ug/l) - Erosion of natural deposits.

Inorganic Contaminants

(10) Antimony (ppb) - Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder.

(11) Arsenic (ppb) - Erosion of natural deposits; Runoff from orchards; Runoff from glass and electronics production wastes.

(12) Asbestos (MFL) - Decay of asbestos cement water mains; Erosion of natural deposits.

(13) Barium (ppm) - Discharge of drilling wastes; Discharge from metal refineries; Erosion of natural deposits.

(14) Beryllium (ppb) - Discharge from metal refineries and coal-burning factories; Discharge from electrical, aerospace, and defense industries.

(15) Cadmium (ppb) - Corrosion of galvanized pipes; Erosion of natural deposits; Discharge from metal refineries; runoff from waste batteries and paints.

(16) Chromium (ppb) - Discharge from steel and pulp mills; Erosion of natural deposits.

(17) Copper (ppm) - Corrosion of household plumbing systems; Erosion of natural deposits; Leaching from wood preservatives.

(18) Cyanide (ppb) - Discharge from steel/metal factories; Discharge from plastic and fertilizer factories.

(19) Fluoride (ppm) - Erosion of natural deposits; Water additive which promotes strong teeth; Discharge from fertilizer and aluminum factories.

(20) Lead (ppb) - Corrosion of household plumbing systems; Erosion of natural deposits.

(21) Mercury (inorganic) (ppb) - Erosion of natural deposits; Discharge from refineries and factories; Runoff from landfills; Runoff from cropland.

(22) Nitrate (as Nitrogen) (ppm) - Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits.

(23) Nitrite (as Nitrogen) (ppm) - Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits.

(24) Selenium (ppb) - Discharge from petroleum and metal refineries; Erosion of natural deposits; Discharge from mines.

(25) Thallium (ppb) - Leaching from ore-processing sites; Discharge from electronics, glass, and drug factories. Synthetic Organic Contaminants including Pesticides and Herbicides

(26) 2,4-D (ppb) - Runoff from herbicide used on row crops.

(27) 2,4,5-TP (Silvex)(ppb) - Residue of banned herbicide.

(28) Acrylamide - Added to water during sewage/wastewater treatment.

(29) Alachlor (ppb) - Runoff from herbicide used on row crops.

(30) Atrazine (ppb) - Runoff from herbicide used on row crops.

(31) Benzo(a)pyrene (PAH) (nanograms/l) -Leaching from linings of water storage tanks and distribution lines.

(32) Carbofuran (ppb) - Leaching of soil fumigant used on rice and alfalfa.

(33) Chlordane (ppb) - Residue of banned termiticide.

(34) Dalapon (ppb) - Runoff from herbicide used on rights of way.

(35) Di(2-ethylhexyl) adipate (ppb) - Discharge from chemical factories.

(36) Di(2-ethylhexyl) phthalate (ppb) - Discharge from rubber and chemical factories.

(37) Dibromochloropropane (ppt) - Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards.

(38) Dinoseb (ppb) - Runoff from herbicide used on soybeans and vegetables.

(39) Diquat (ppb) - Runoff from herbicide use.

(40) Dioxin (2,3,7,8-TCDD) (ppq) - Emissions from waste incineration and other combustion; Discharge from chemical factories.

(41) Endothall (ppb) - Runoff from herbicide use.

(42) Endrin (ppb) - Residue of banned insecticide.

(43) Epichlorohydrin - Discharge from industrial chemical factories; An impurity of some water treatment chemicals.

(44) Ethylene dibromide (ppt) - Discharge from petroleum refineries.

(45) Glyphosate (ppb) - Runoff from herbicide use.

(46) Heptachlor (ppt) - Residue of banned pesticide.

(47) Heptachlor epoxide (ppt) - Breakdown of heptachlor.

(48) Hexachlorobenzene (ppb) - Discharge from metal refineries and agricultural chemical factories.

(49) Hexachlorocyclopentadiene (ppb) - Discharge from chemical factories.

(50) Lindane (ppt) - Runoff/leaching from insecticide used on cattle, lumber, gardens.

(51) Methoxychlor (ppb) - Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, livestock.

(52) Oxamyl (Vydate)(ppb) - Runoff/leaching from insecticide used on apples, potatoes and tomatoes.

(53) PCBs (Polychlorinated biphenyls) (ppt) - Runoff from landfills; Discharge of waste chemicals.

(54) Pentachlorophenol (ppb) - Discharge from wood preserving factories.

(55) Picloram (ppb) - Herbicide runoff.

(56) Simazine (ppb) - Herbicide runoff.

(57) Toxaphene (ppb) - Runoff/leaching from insecticide used on cotton and cattle. Volatile Organic Contaminants

(58) Benzene (ppb) - Discharge from factories; Leaching from gas storage tanks and landfills.

(59) Bromate (ppb) - By-product of drinking water chlorination.

(60) Carbon tetrachloride (ppb) - Discharge from chemical plants and other industrial activities.

(61) Chloramines (ppm) - Water additive used to control microbes.

(62) Chlorine (ppm) - Water additive used to control microbes.

(63) Chlorite (ppm) - By-product of drinking water chlorination.

(64) Chlorine dioxide (ppb) - Water additive used to control microbes.

(65) Chlorobenzene (ppb) - Discharge from chemical and agricultural chemical factories.

(66) o-Dichlorobenzene (ppb) - Discharge from industrial chemical factories.

(67) p-Dichlorobenzene (ppb) - Discharge from industrial chemical factories.

(68) 1,2-Dichloroethane (ppb) - Discharge from industrial chemical factories.

(69) 1,1-Dichloroethylene (ppb) - Discharge from industrial chemical factories.

(70) cis-1,2-Dichloroethylene (ppb) - Discharge from industrial chemical factories.

(71) trans-1,2-Dichloroethylene (ppb) - Discharge from industrial chemical factories.

(72) Dichloromethane (ppb) - Discharge from pharmaceutical and chemical factories.

(73) 1,2-Dichloropropane (ppb) - Discharge from industrial chemical factories.

(74) Ethylbenzene (ppb) - Discharge from petroleum refineries.

(75) Haloacetic Acids (HAA) (ppb) - By-product of drinking water disinfection.

(76) Styrene (ppb)- Discharge from rubber and plastic factories; Leaching from landfills.

(77) Tetrachloroethylene (ppb) - Discharge from factories and dry cleaners.

(78) 1,2,4-Trichlorobenzene (ppb) - Discharge from textile-finishing factories.

(79) 1,1,1-Trichloroethane (ppb) - Discharge from metal degreasing sites and other factories.

(80) 1,1,2-Trichloroethane (ppb) - Discharge from industrial chemical factories.

(81) Trichloroethylene (ppb) - Discharge from metal degreasing sites and other factories.

(82) TTHMs (Total trihalomethanes)(ppb) - By-product of drinking water chlorination.

(83) Toluene (ppm) - Discharge from petroleum factories.

(84) Vinyl Chloride (ppb) - Leaching from PVC piping; Discharge from plastics factories.

(85) Xylenes (ppm) - Discharge from petroleum factories; Discharge from chemical factories.

KEY: drinking water, consumer confidence report, water quality

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Notice of Continuation March 13, 2015

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.
R313-28. Use of X-Rays in the Healing Arts.
R313-28-10. Purpose and Scope.

(1) The purpose of the rules in R313-28 is to prescribe the requirements for the use of x-rays in the healing arts.

(2) The rules set forth herein are adopted pursuant to the provisions of Sections 19-3-104(4) and 19-3-104(7).

R313-28-20. Definitions.

As used in 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 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 automatically controls one or more technique factors in order to obtain, 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 provides a means to restrict the dimensions of the x-ray field.

"Certified components" means components of x-ray systems which 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 which 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 the switches, knobs, push buttons, and other hardware necessary for setting the technique factors.

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

"CT" means computed tomography.

"CT gantry" means the tube housing assemblies, beam-limiting devices, detectors, and the supporting structures and frames which 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 uses an x-ray tube in which 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 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 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 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 that which might be present initially in the beam concerned, is deemed to be excluded.

"Healing arts screening" means the use of x-ray equipment to examine individuals who are asymptomatic for the disease for which 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" refer to "half value layer."

"Image intensifier" means a device installed in its housing which 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 transforms incident x-ray photons to produce a visible image or stores the information in a form which can be made into a visible image. In those cases where 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, 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 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 maximum-rated 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 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".

"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) The individual responsible for insuring that the appropriate technique factors are set on the x-ray equipment, or

(b) The individual who makes the radiation exposure.

"Patient" means an individual subjected to healing arts 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".

"Position indicating device (PID)" means a device, on dental x-ray equipment which indicates 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 semi-automatic adjustment of an x-ray beam to the size of the selected image receptor, whereby exposures cannot be made without such adjustment.

"Primary beam scatter" means scattered radiation which 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 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 the image is created directly or indirectly 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 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 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 can intercept the entire cross sectional area of the useful beam and which 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 is designed for irradiation of specific body parts.

"Spot film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which 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 making 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".

"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, or

(ii) the product of tube current and exposure time in mAs.

"Termination of irradiation" means the stopping of irradiation in a fashion which 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 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 they are contained within the tube housing.

"Tube rating chart" means the set of curves which 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 incident x-ray photons are producing a visible image.

"X-ray exposure control" means a device, switch, button, or other similar means by which an operator initiates or terminates 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. Types of x-ray equipment are as follows:

(a) "Mobile" means x-ray equipment mounted on a permanent base with wheels or casters 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 the EXPOSURE rate is one-fourth of the maximum in the intersection.

"X-ray high-voltage generator" means a device which 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 function with the system are considered integral parts of the system.

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

R313-28-31. General and Administrative Requirements.

(1) Persons shall not make, sell, lease, transfer, lend, or install x-ray equipment or the accessories used in connection with x-ray equipment unless the accessories and equipment, when properly placed in operation and properly used, will meet the applicable requirements of these rules.

(a) X-ray equipment shall be FDA approved for use in the United States and shall be certified in accordance with 21 CFR 1010.2 and identified in accordance with 21 CFR 1010.3.

(2) The registrant shall be responsible for directing the operation of the x-ray machines which are under the registrant's administrative control. The registrant or registrant's agent shall assure that the requirements of R313-28-31(2)(a) through R313-28-31(2)(i) are met in the operation of the x-ray machines.

(a) An x-ray machine which does not meet the provisions of these rules shall not be operated for diagnostic purposes, when directed by the Director.

(b) Individuals who will be operating the x-ray equipment shall be instructed in the registrant's written radiation safety program and be qualified in the safe use of the equipment. Required operator qualifications are listed in R313-28-350.

(c) The registrant of a facility shall create and make available to x-ray operators written safety procedures, including patient holding and restrictions of the operating technique required for the safe operation of the x-ray systems. Individuals who operate x-ray systems shall be responsible for complying with these rules.

(d) Except for individuals who cannot be moved out of the room and the patient being examined, only the staff and ancillary personnel or other individuals needed for the medical procedure or training shall be present in the room during the radiographic exposure and shall be positioned as follows:

(i) individuals other than the patient shall be positioned so that no part of the body will be struck by the useful beam unless protected by not less than 0.5 mm lead equivalent material;

(ii) the x-ray operator, other staff, ancillary personnel and other individuals needed for the medical procedure shall be protected from primary beam scatter by protective aprons or barriers unless it can be shown that by virtue of distances employed, EXPOSURE levels are reduced to the limits specified in R313-15-201; and

(iii) patients who are not being examined and cannot be removed from the room shall be protected from the primary beam scatter by whole body protective barriers of not less than 0.25 mm lead equivalent material or shall be so positioned that the nearest portion of the body is at least two meters from both the tube head and nearest edge of the image receptor.

(e) For patients who have not passed reproductive age, gonad shielding of not less than 0.5 mm lead equivalent material shall be used during radiographic procedures in which the gonads are in the useful beam, except for cases in which this would interfere with the diagnostic procedure.

(f) Individuals shall be exposed to the useful beam for healing arts purposes only when the exposure has been specifically ordered and authorized by a licensed practitioner of the healing arts after a medical consultation. Deliberate exposures for the following purposes are prohibited:

(i) exposure of an individual for training, demonstration or other non-healing arts purposes; and

(ii) exposure of an individual for the purpose of healing arts screening except as authorized by R313-28-31(2)(i).

(g) When a patient or film must be provided with auxiliary support during a radiation exposure:

(i) mechanical holding devices shall be used when the technique permits. The written procedures, required by R313-28-31(2)(c), shall list individual projections where mechanical holding devices can be utilized;

(ii) written safety procedures, as required by R313-28-31(2)(c), shall indicate the requirements for selecting an individual to hold patients or films and the procedure that individual shall follow;

(iii) the individual holding patients or films during radiographic examinations shall be instructed in personal radiation safety and protected as required by R313-28-31(2)(d)(i);

(iv) Individuals shall not be used routinely to hold film or patients;

(v) In those cases where the patient must hold the film, except during intraoral examinations, portions of the body other than the area of clinical interest struck by the useful beam shall be protected by not less than 0.5 mm lead equivalent material; and

(vi) Facilities shall have protective aprons and gloves available in sufficient numbers to provide protection to personnel who are involved with x-ray operations and who are otherwise not shielded.

(h) Personnel monitoring. Individuals who are associated with the operation of an x-ray system are subject to the applicable requirements of R313-15.

(i) Healing arts screening. Persons proposing to conduct

a healing arts screening program shall not initiate the program without prior approval of the Director. When requesting approval, that person shall submit the information outlined in R313-28-400. If information submitted becomes invalid or outdated, the Director shall be notified immediately.

(3) Maintenance of records and information. The registrant shall maintain at least the following information for each x-ray machine:

(a) model numbers of major components;

(b) record of surveys or calculations to demonstrate compliance with R313-15-302, calibration, maintenance and modifications performed on the x-ray machine; and

(c) a shielding design report for the x-ray suite which states assumed values for workload and use factors and includes a drawing of surrounding areas showing assumed values for occupancy factors.

(4) X-ray records. Facilities shall maintain an x-ray record containing the patient's name, the types of examinations, and the dates the examinations were performed. When the patient or film must be provided with human auxiliary support, the name of the human holder shall be recorded. The registrant shall retain these records for three years after the record is made.

(5) Portable or mobile equipment shall be used only for examinations where it is impractical to transfer the patient to a stationary radiographic installation.

(6) Hand-held medical x-ray systems. X-ray equipment designed to be hand-held shall comply with Section R313-28-31, excluding Subsection R313-28-31(5), and R313-28-52, excluding Subsections R313-28-52(8)(b)(i) and (ii).

(a) When operating hand-held equipment for which it is not possible for the operator to remain at least six feet from the x-ray machine during x-ray exposure, protective aprons of at least 0.5 millimeter lead equivalence shall be provided for the operator to protect the operator's torso and gonads from backscatter radiation;

(b) In addition to the dose limits in R313-15-301, operators of hand-held x-ray equipment shall ensure that members of the public that may be exposed to scatter radiation or primary beam transmission from the hand-held device are not exposed above 2 milliroentgen per hour;

(i) Operators will ensure that members of the public likely to be exposed to greater than 2 milliroentgen per hour will be provided protective aprons of at least 0.5 millimeter lead equivalence or are moved to a distance such that the exposure rate to the individual is below 2 milliroentgen per hour; and

(c) In addition to the requirements of Subsection R313-28-350(1), each operator of hand-held x-ray equipment shall complete the training program supplied by the manufacturer prior to using the x-ray unit. Records of training shall be maintained on file for examination by an authorized representative of the Director.

(7) Procedures and auxiliary equipment designed to minimize patient and personnel exposure commensurate with the needed diagnostic information shall be utilized.

(a) The speed of the screen and film combinations used shall be the fastest speed consistent with the diagnostic objective of the examinations. Film cassettes without intensifying screens shall not be used for routine diagnostic radiological imaging, with the exception of standard film packets for intra-oral use in dental radiography. If the requirements of R313-28-31(6)(a) cannot be met, an exemption may be requested pursuant to R313-12-55.

(b) The radiation exposure to the patient shall be the minimum exposure required to produce images of good diagnostic quality.

(c) X-ray systems, other than fluoroscopic, computed tomography, dental or veterinary units, shall not be utilized in procedures where the source to patient distance is less than 30 centimeters.

R313-28-32. Plan Review.

(1) Prior to construction, the floor plans, shielding specifications and equipment arrangement of all new installations, or modifications of existing installations, utilizing ionizing radiation shall be submitted to a Qualified Expert for review. The required information is denoted in R313-28-200 and R313-28-450.

(2) A copy of the Qualified Expert's conclusions regarding shielding specifications must be submitted to the Director within 14 working days.

(3) The Director may require additional modifications should a subsequent analysis of operating conditions, for example, a change in workload or use and occupancy factors, indicate the possibility of an individual receiving a dose in excess of the limits prescribed in R313-15.

R313-28-35. General Requirements for Diagnostic X-Ray Systems.

In addition to other requirements of R313-28, all diagnostic x-ray systems shall meet the following requirements:

(1) Warning label. The control panel containing the main power switch shall bear the warning statement, legible and accessible to view: "WARNING: This x-ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed."

(2) Battery charge indicator. On battery powered generators, visual means shall be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation.

(3) Leakage radiation from the diagnostic source assembly. The leakage radiation from the diagnostic source assembly measured at a distance of one meter in any direction from the source shall not exceed 25.8 uC/kg (100 milliroentgens) in one hour when the x-ray tube is operated at its leakage technique factors.

(4) Radiation from components other than the diagnostic source assembly. The radiation emitted by a component other than the diagnostic source assembly shall not exceed 0.516 uC/kg (two milliroentgens) in one hour at five centimeters from accessible surfaces of the component when it is operated in an assembled x-ray system under the conditions for which it was designed. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(5) Beam quality.

(a) The half value layer of the useful beam for a given x-ray tube potential shall not be less than the values shown in R313-28-35, Table I. If it is necessary to determine such half-value layer at an x-ray tube potential which is not listed in Table I, linear interpolation or extrapolation may be made.

TABLE I

DESIGN OPERATING RANGE (KILO VOLTS PEAK	MEASURED POTENTIAL (KILOVOLTS PEAK)	DENTAL INTRA-ORAL MANUFACTURED BEFORE AUGUST 1, 1974 AND ON OR AFTER DECEMBER 1, 1980	ALL OTHER DIAGNOSTIC X-RAY SYSTEMS
Below 51	30	(use prohibited)	0.3
	40	(use prohibited)	0.4
	50	1.5	0.5
	51	1.5	1.2
	60	1.5	1.3
	70	1.5	1.5
Above 70	71	2.1	2.1
	80	2.3	2.3
	90	2.5	2.5
	100	2.7	2.7
	110	3.0	3.0
	120	3.2	3.2
	130	3.5	3.5
	140	3.8	3.8
	150	4.1	4.1

(b) For capacitor discharge equipment, compliance with the requirements of R313-28-35(5)(a) shall be determined with the system fully charged and a setting of 10 mAs for exposures.

(c) The required minimal half-value layer of the useful beam shall include the filtration contributed by materials which are permanently present between the focal spot of the tube and the patient.

(d) Filtration control. For x-ray systems which have variable kVp and variable filtration for the useful beam, a device shall link the kVp selector with the filters and shall prevent an exposure unless the minimum amount of filtration necessary to produce the HVL required by R313-28-35(5)(a) is in the useful beam for the given kVp which has been selected.

(6) Multiple tubes. When two or more radiographic tubes are controlled by one exposure switch, the tube or tubes which have been selected shall be clearly indicated prior to initiation of the exposure. For equipment manufactured after August 1, 1974, indications shall be both on the x-ray control panel and at or near the tube housing assembly which has been selected.

(7) Mechanical support of tube head. The tube housing assembly supports shall be adjusted so that the tube housing assembly will remain stable during an exposure unless the tube housing movement during exposure is a designed function of the x-ray system.

(8) Technique indicators.

(a) The technique factors to be used during an exposure shall be indicated before the exposure begins, except when automatic EXPOSURE controls are used, in which case the technique factors which are set prior to the exposure shall be indicated.

(b) On equipment having fixed technique factors, the requirements, in R313-28-35(8)(a) may be met by permanent markings. Indication of technique factors shall be visible from the operator's position except in the case of spot films made by the fluoroscopist.

(9) Maintaining compliance. Diagnostic x-ray systems and their associated components certified pursuant to the provisions of 21 CFR Part 1020 (2006) shall be maintained in compliance with applicable requirements of that standard.

(10) Locks. All position locking, holding, and centering devices on x-ray system components and systems shall function as intended.

(11) X-ray systems which have been granted a variance by the Director, Center for Devices and Radiological Health, Food and Drug Administration (Director), from the performance standards for ionizing radiation emitting products, in accordance with 21 CFR 1010.4 (2006) shall be deemed to satisfy the requirements in R313-28 that correspond to the variance granted by the Director. The registrant shall insure that labeling pursuant to 21 CFR 1010.5(f) (2006) remains legible and visible on the x-ray system.

R313-28-40. Fluoroscopic X-Ray Systems.

All fluoroscopic x-ray systems used shall be image intensified and meet the following requirements:

(1) Primary barrier.

(a) The fluoroscopic imaging assembly shall be provided with a primary protective barrier which intercepts the entire cross section of the useful beam at SIDs for which the unit was designed.

(b) The x-ray tube used for fluoroscopy shall not produce x-rays unless the barrier is in position to intercept the entire useful beam.

(2) Fluoroscopic beam limitation.

(a) For certified fluoroscopic systems with or without a spot film device neither the length nor the width of the x-ray field in the plane of the image receptor shall exceed that of the visible area of the image receptor by more than three percent of the SID. The sum of the excess length and the excess width shall be no greater than four percent of the SID.

(b) For uncertified fluoroscopic systems with a spot film device, the x-ray beam with the shutters fully open, during fluoroscopy or spot filming, shall be no larger than the largest image receptor size for which the device is designed. Measurements shall be made at the minimum SID available but at no less than 20 centimeters table top to the film plane distance.

(c) For uncertified fluoroscopic systems without a spot film device, the requirements of R313-28-40(1) apply.

(d) Other requirements for fluoroscopic beam limitation:

(i) means shall be provided to permit further limitation of the field. Beam-limiting devices manufactured after May 22, 1979, and incorporated in equipment with a variable SID or visible area of greater than 300 square centimeters shall be provided with means for stepless adjustment of the x-ray field;

(ii) equipment with a fixed SID and a visible area of 300 square centimeters or less shall be provided with either stepless adjustment of the x-ray field or with means to further limit the x-ray field size at the plane of the image receptor to 125 square centimeters or less;

(iii) if provided, stepless adjustment shall at the greatest SID, provide continuous field sizes from the maximum attainable to a field size of five centimeters by five centimeters or less;

(iv) for equipment manufactured after February 25, 1978, when the angle between the image receptor and beam axis is variable, means shall be provided to indicate when the axis of the x-ray beam is perpendicular to the plane of the image receptor; and

(v) for non-circular x-ray fields used with circular image receptors, the error in alignment shall be determined along the length and width dimensions of the x-ray field which pass through the center of the visible area of the image receptor.

(3) Spot-film beam limitation. Spot-film devices shall meet the following requirements:

(a) means shall be provided between the source and the patient for adjustment of the x-ray field size in the plane of the film to the size of that portion of the film which has been selected on the spot film selector. Adjustments shall be automatically accomplished except when the x-ray field size in the plane of the film is smaller than that of the selected portion of the film. For spot film devices manufactured after June 21, 1979, if the x-ray field size is less than the size of the selected portion of the film, the means for adjustment of the field size shall be only at the operator's option;

(b) neither the length nor the width of the x-ray field in the plane of the image receptor shall differ from the corresponding dimensions of the selected portion of the image receptor by more than three percent of the SID when adjusted for full coverage of the selected portion of the image receptor. The sum, without regard to sign, of the length and width differences shall not exceed four percent of the SID;

(c) it shall be possible to adjust the x-ray field size in the plane of the film to a size smaller than the selected portion of the film. The minimum field size at the greatest SID shall be equal to, or less than, five by five centimeters;

(d) the center of the x-ray field in the plane of the film shall be aligned with the center of the selected portion of the film to within two percent of the SID; and

(e) on spot film devices manufactured after February 25, 1978, if the angle between the plane of the image receptor and beam axis is variable, means shall be provided to indicate when the axis of the x-ray beam is perpendicular to the plane of the image receptor, and compliance shall be determined with the beam axis indicated to be perpendicular to the plane of the image receptor.

(4) Override. If a means exists to override the automatic x-ray field size adjustments required in R313-28-40(2) and (3),

that means:

(a) shall be designed for use only in the event of system failure;

(b) shall incorporate a signal visible at the fluoroscopist's position which will indicate whenever the automatic field size adjustment is overridden; and

(c) shall be clearly and durably labeled as follows: FOR X-RAY FIELD LIMITATION SYSTEM FAILURE.

(5) Activation of the fluoroscopic tube. X-ray production in the fluoroscopic mode shall be controlled by a dead-man switch. When recording serial fluoroscopic images, the fluoroscopist shall be able to terminate the x-ray exposure immediately, but means may be provided to permit completion of a single exposure of the series in process.

(6) Entrance EXPOSURE rate allowable limits.

(a) For fluoroscopic equipment manufactured before May 19, 1995, the following requirements apply:

(i) fluoroscopic equipment which is provided with automatic exposure rate control shall not be operable at combinations of tube potential and current which will result in an EXPOSURE rate in excess of 2.58 mC/kg (ten roentgens) per minute at the point where the center of the useful beam enters the patient, except:

(A) during recording of fluoroscopic images, or

(B) when an optional high level control is provided. When so provided, the equipment shall not be operable at combinations of tube potential and current which will result in an EXPOSURE rate in excess of 1.29 mC/kg (five roentgens) per minute at the point where the center of the useful beam enters the patient unless the high level control is activated. Special means of activation of high level controls shall be required. The high level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(ii) fluoroscopic equipment which is not provided with automatic exposure rate control shall not be operable at combinations of tube potential and current which will result in a EXPOSURE rate in excess of 1.29 mC/kg (five roentgens) per minute at the point where the center of the useful beam enters the patient, except:

(A) during recording of fluoroscopic images, or

(B) when an optional high level control is activated. Special means of activation of high level controls shall be required. The high level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(iii) fluoroscopic equipment which is provided with both automatic exposure rate control and a manual mode shall not be operable at combinations of tube potential and current that will result in an exposure rate of 2.58 mC/kg (ten roentgens) per minute in either mode at the point where the center of the useful beam enters the patient except:

(A) during recording of fluoroscopic images, or

(B) when an optional high level control is provided. When so provided, the equipment shall not be operable at combinations of tube potential and current which will result in an EXPOSURE rate in excess of 1.29 mC/kg (five roentgens) per minute at the point where the center of the useful beam enters the patient unless the high level control is activated. Special means of activation of high level controls shall be required. The high level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(b) For fluoroscopic equipment manufactured on and after May 19, 1995, the following requirements apply:

(i) fluoroscopic equipment operable at combinations of tube potential and current which will result in an EXPOSURE rate greater than 1.29 mC/kg (five roentgens) per minute at the point where the center of the useful beam enters the patient shall be equipped with automatic exposure rate control. Provision for manual selection of technique factors may be provided.

(ii) fluoroscopic equipment shall not be operable at combinations of tube potential and current which will result in an EXPOSURE rate in excess of 2.58 mC/kg (ten roentgens) per minute at the point where the center of the useful beam enters the patient except:

(A) during recording of images from an x-ray image-intensifier tube using photographic film or a video camera when the x-ray source is operated in pulsed mode, or

(B) when an optional high level control is activated. When the high level control is activated, the equipment shall not be operable at combinations of tube potential and current which will result in an EXPOSURE rate in excess of 5.16 mC/kg (20 roentgens) per minute at the point where the center of the useful beam enters the patient. Special means of activation of high level controls shall be required. The high level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(c) Compliance with the requirements of R313-28-40(6) shall be determined as follows:

(i) if the source is below the x-ray table, the EXPOSURE rate shall be measured one centimeter above the tabletop or cradle;

(ii) if the source is above the x-ray table, the EXPOSURE rate shall be measured at 30 centimeters above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement;

(iii) for a C-arm type of fluoroscope, the exposure rate shall be measured 30 centimeters from the input surface of the fluoroscopic imaging assembly, with the source positioned at available SID's, provided that the end of the beam-limiting device or spacer is no closer than 30 centimeters from the input surface of the fluoroscopic imaging assembly; or

(iv) for a lateral type fluoroscope, the exposure rate shall be measured at a point 15 centimeters from the centerline of the x-ray table and in the direction of the x-ray source with the end of the beam-limiting device or spacer positioned as close as possible to the point of measurement. If the tabletop is movable, it shall be positioned as close as possible to the lateral x-ray source with the end of the beam-limiting device or spacer no closer than 15 centimeters to the x-ray table.

(d) Fluoroscopic radiation therapy simulation systems are exempt from the requirements of R313-28-40(6).

(7) Measurement of entrance EXPOSURE rates shall be performed for both maximum and typical values as follows:

(a) measurements shall be made annually or after maintenance of the system which might affect the EXPOSURE rate;

(b) results of these measurements shall be posted where the fluoroscopist may have ready access to the results while using the fluoroscope and in the record required in R313-28-31(3)(b). The measurement results shall be stated in roentgens per minute and include the machine settings used in determining results. The name of the person performing the measurements and the date the measurements were performed shall be included in the results;

(c) conditions of the annual measurement of maximum entrance EXPOSURE rate shall be performed as follows:

(i) the measurement shall be made under the conditions that satisfy the requirements of R313-28-40(6)(c);

(ii) the kVp, mA, and other selectable parameters shall be adjusted to those settings which give the maximum entrance EXPOSURE rate; and

(iii) x-ray systems that incorporate automatic exposure rate control shall have sufficient attenuative material placed in the useful beam to produce the maximum output of that system; and

(d) conditions of the annual measurement of typical entrance EXPOSURE rate are as follows:

(i) the measurement shall be made under the conditions that satisfy the requirements of R313-28-40(6)(c);

(ii) the kVp, mA, and other selectable parameters shall be those settings typical of clinical use of the x-ray system; and

(iii) the x-ray system that incorporates automatic EXPOSURE rate control shall have an appropriate phantom placed in the useful beam to produce a milliamperage and kilovoltage typical of the use of the x-ray system.

(8) Barrier transmitted radiation rate limits.

(a) The EXPOSURE rate due to transmission through the primary protective barrier with the attenuation block in the useful beam, combined with radiation from the image intensifier, if provided, shall not exceed 0.516 uC/kg (two milliroentgens) per hour at ten centimeters from accessible surfaces of the fluoroscopic imaging assembly beyond the plane of the image receptor for each mC/kg (roentgen) per minute of entrance EXPOSURE rate.

(b) Measuring compliance of barrier transmission.

(i) The EXPOSURE rate due to transmission through the primary protective barrier combined with radiation from the image intensifier shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(ii) If the source is below the tabletop, the measurement shall be made with the input surface of the fluoroscopic imaging assembly positioned 30 centimeters above the tabletop.

(iii) If the source is above the tabletop and the SID is variable, the measurement shall be made with the end of the beam-limiting device or spacer as close to the tabletop as it can be placed, provided that it shall not be closer than 30 centimeters.

(iv) Movable grids and compression devices shall be removed from the useful beam during the measurement.

(9) Indication of potential and current. During fluoroscopy and cinefluorography, x-ray tube potential and current shall be continuously indicated.

(10) Source-skin distance. The source to skin distance shall not be less than:

(a) 38 centimeters on stationary fluoroscopic systems manufactured on or after August 1, 1974;

(b) 35.5 centimeters on stationary fluoroscopic systems manufactured prior to August 1, 1974;

(c) 30 centimeters on all mobile fluoroscopes; or

(d) 20 centimeters for all mobile fluoroscopes when used for specific surgical applications.

(11) Fluoroscopic timer.

(a) Means shall be provided to preset the cumulative on-time of the fluoroscopic x-ray tube. The maximum cumulative time of the timing device shall not exceed five minutes without resetting.

(b) A signal audible to the fluoroscopist shall indicate the completion of a preset cumulative on-time. The signal shall continue to sound while x-rays are produced until the timing device is reset.

(12) Control of scatter radiation.

(a) The tables of fluoroscopic assemblies when combined with normal operating procedures shall provide protection from scatter radiation so that unprotected parts of a staff or ancillary individual's body shall not be exposed to unattenuated scattered radiation which originates from under the table. The attenuation required shall be not less than 0.25 mm lead equivalent.

(b) Equipment configuration when combined with procedures shall not allow portions of a staff member's or ancillary person's body, except the extremities, to be exposed to unattenuated scattered radiation emanating from above the tabletop unless:

(i) the radiation has passed through not less than 0.25 mm lead equivalent material including, but not limited to, drapes, bucky-slot cover panel, or self supporting curtains, in addition to the lead equivalency provided by the protective apron referred to in R313-28-31(2)(d),

(ii) that individual is at least 120 centimeters from the center of the useful beam, or

(iii) it is not feasible to attach shielding to special procedures equipment and personnel are wearing protective aprons.

(13) Spot film exposure reproducibility. Fluoroscopic systems equipped with radiographic spot film mode shall meet the exposure reproducibility requirements of R313-28-54.

(14) Radiation therapy simulation systems. Radiation therapy simulation systems shall be exempt from all the requirements R313-28-40(1), (8), and (11) provided that:

(a) the systems are designed and used in such a manner that no individual other than the patient is in the x-ray room during periods of time when the system is producing x-rays; and

(b) the systems which do not meet the requirements of R313-28-40(11) are provided with a means of indicating the cumulative time that an individual patient has been exposed to x-rays. Procedures shall require, in these cases, that the timer be reset between examinations.

R313-28-51. Radiographic Systems Other than Fluoroscopic, Dental Intraoral, or Computed Tomography -- Beam Limitation.

The useful beam shall be limited to the area of clinical interest and show evidence of collimation. This shall be deemed to have been met if a positive beam limiting device meeting the manufacturer's specifications or the requirements of R313-28-300 has been properly used or if evidence of collimation is shown on at least three sides or three corners of the film, for example, projections of the shutters of the collimator, cone cutting at the corners or a border at the film's edge.

(1) General purpose stationary and mobile x-ray systems.

(a) Only x-ray systems provided with a means for independent stepless adjustment of at least two dimensions of the x-ray field shall be used.

(b) A method shall be provided for visually defining the perimeter of the x-ray field. The total misalignment of the edges of the visually defined field with the respective edges of the x-ray field along either the length or width of the visually defined field shall not exceed two percent of the distance from the source to the center of the visually defined field when the surface upon which it appears is perpendicular to the axis of the x-ray beam.

(c) The Board may grant an exemption on non-certified x-ray systems to R313-28-51(1)(a) and (b) provided the registrant makes a written application for the exemption and in that application:

(i) demonstrates it is impractical to comply with R313-28-51(1)(a) and (b); and

(ii) demonstrates the purpose of R313-28-51(1)(a) and (b) will be met by other methods.

(2) In addition to the requirements of R313-28-51(1) above, stationary general purpose x-ray systems, both certified and non-certified shall meet the following requirements:

(a) a method shall be provided to indicate when the axis of the x-ray beam is perpendicular to the plane of the image receptor, to align the center of the x-ray field with respect to the center of the image receptor to within two percent of the SID, and to indicate the SID to within two percent;

(b) the beam-limiting device shall numerically indicate the field size in the plane of the image receptor to which it is adjusted; and

(c) indication of field size dimensions and SID's shall be specified in inches or centimeters and shall be such that aperture adjustments result in x-ray field dimensions in the plane of the image receptor which correspond to those of the image receptor to within two percent of the SID when the beam axis is perpendicular to the plane of the image receptor.

(3) Radiographic equipment designed for only one image receptor size at a fixed SID shall be provided with means to limit the field at the plane of the image receptor to dimensions no greater than those of the image receptor, and to align the center of the x-ray field with the center of the image receptor to within two percent of the SID, or shall be provided with means to both size and align the x-ray field so that the x-ray field at the plane of the image receptor does not extend beyond the edges of the image receptor.

(4) Special purpose x-ray systems.

(a) Means shall be provided to limit the x-ray field in the plane of the image receptor so that the x-ray field does not exceed each dimension of the image receptor by more than two percent of the SID when the axis of the x-ray beam is perpendicular to the plane of the image receptor.

(b) Means shall be provided to align the center of the x-ray field with the center of the image receptor to within two percent of the SID, or means shall be provided to both size and align the x-ray field so that the x-ray field at the plane of the image receptor does not extend beyond the edges of the image receptor. Compliance shall be determined with the axis of the x-ray beam perpendicular to the plane of the image receptor.

(c) R313-28-51(4)(a) and R313-28-51(4)(b) may be met with a system that meets the requirements for a general purpose x-ray system as specified in R313-28-51(1) or, when alignment means are also provided, may be met with either;

(i) an assortment of removable, fixed-aperture, beam-limiting devices sufficient to meet the requirements for the combination of image receptor sizes and SID's for which the unit is designed with the beam limiting device having clear and permanent markings to indicate the image receptor size and SID for which it is designed; or

(ii) a beam-limiting device having multiple fixed apertures sufficient to meet the requirement for the combinations of image receptor sizes and SID's for which the unit is designed. Permanent, clearly legible markings shall indicate the image receptor size and SID for which the aperture is designed and shall indicate which aperture is in position for use.

R313-28-52. Radiographic Systems Other Than Fluoroscopic, Dental Intraoral, or Computed Tomography -- Radiation Exposure Control Devices.

(1) Exposure Initiation. Means shall be provided to initiate the radiation exposure by a deliberate action on the part of the operator, for example, the depression of a switch. Radiation exposure shall not be initiated without a deliberate action. In addition, it shall not be possible to initiate an exposure when the timer is set to a "zero" or "off" position if either position is provided.

(2) Exposure termination. Means shall be provided to terminate the exposure at a preset time interval, preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor. Except for dental panoramic systems, termination of an exposure shall cause automatic resetting of the timer to its initial setting or to "zero."

(3) Manual Exposure Control: An x-ray control shall be incorporated into x-ray systems so that an exposure can be terminated at times except for:

(a) exposure of one-half second or less; or

(b) during serial radiography when means shall be provided to permit completion of a single exposure of the series in process.

(4) Automatic EXPOSURE controls, phototimers. When automatic EXPOSURE control is provided:

(a) indication shall be made on the control panel when this mode of operation is selected;

(b) when the x-ray tube potential is equal to or greater than 51 kVp, the minimum exposure time for field emission equipment rated for pulsed operation shall be equal to or less than the interval equivalent to two pulses; and

(c) the minimum exposure time for all equipment other than that specified in R313-28-52(4)(b) shall be equal to or less than 1/60 second or a time interval required to deliver five mAs, whichever is greater.

(5) Exposure Indication. Means shall be provided for visual indication observable at or from the operator's protected position whenever x-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(6) Exposure Duration, Timer, Linearity. For systems having independent selection of exposure time settings, the average ratio of exposure to the indicated milliampere-seconds product obtained at two consecutive timer settings or at two settings not differing by more than a factor of two shall not differ by more than 0.10 times their sum.

(7) Exposure Control Location. The x-ray exposure control shall be placed so that the operator can view the patient while making the exposure.

(8) Operator Protection.

(a) Stationary x-ray systems shall be required to have the x-ray exposure switch permanently mounted in a protected area.

(b) Mobile and portable x-ray systems which are:

(i) used continuously for greater than one week at the same location, one room or suite, shall meet the requirements of R313-28-52(8)(a); or

(ii) used for less than one week at one location, one room, or suite shall be provided with either a protective barrier at least two meters (6.5 feet) high for operator protection during exposures, or means shall be provided to allow the operator to be at least 2.7 meters (nine feet) from the tube housing assembly during the exposure.

R313-28-53. Radiographic Systems Other Than Fluoroscopic, or Dental Intraoral Systems -- Source-to-Skin or Receptor Distance.

Mobile or portable radiographic systems shall be provided with a means to limit the source-to-skin distance to 30 or more centimeters.

R313-28-54. Radiographic Systems Other Than Fluoroscopic, or Dental Intraoral Systems -- Exposure Reproducibility.

When technique factors, including control panel selections associated with automatic exposure control systems, are held constant the coefficient of variation of exposure for both manual and automatic exposure control systems shall not exceed 0.05. This requirement applies to clinically used techniques.

R313-28-55. Radiographic Systems - Standby Radiation From Capacitor Discharge Equipment.

Radiation emitted from the x-ray tube when the system is fully charged and the exposure switch or timer is not activated shall not exceed a rate of 0.516 uC/kg (two milliroentgens) per hour at five centimeters from accessible surfaces of the diagnostic source assembly, with the beam-limiting device fully open.

R313-28-56. Radiographic Systems Other Than Fluoroscopic, or Dental Intraoral Systems -- Accuracy.

Deviation of measured technique factors from indicated values of kVp and exposure time shall not exceed the limits specified for that system by its manufacturer. In the absence of

manufacturer's specifications, the deviation shall not exceed ten percent of the indicated value for kVp and ten percent of the indicated value for times greater than 50 milliseconds.

R313-28-57. Radiographic Systems Other Than Fluoroscopic, or Dental Intraoral Systems -- mA/mAs Linearity.

The following requirements apply when the equipment is operated on a power supply as specified by the manufacturer for fixed x-ray tube potentials within the range of 40 percent to 100 percent of the maximum rated potentials.

(1) Equipment having independent selection of x-ray tube current, mA. Where the tube current is continuous, the average ratios of exposure to the indicated milliampere-seconds product, C/kg/mAs or mR/mAs, obtained at two consecutive tube current settings or at two settings differing by no more than a factor of two shall not differ by more than 0.10 times their sum.

(2) Equipment having a combined x-ray tube current-exposure time product, mAs, selector, but not a separate tube current, mA, selector. Where the tube current is continuous, the average ratios of exposure to the indicated milliampere-seconds product, C/kg/mAs or mR/mAs, obtained at two consecutive milliampere-seconds settings or at two settings differing by no more than a factor of two shall not differ by more than 0.10 times their sum.

R313-28-80. Intraoral Dental Radiographic Systems.

In addition to the provisions of R313-28-31, R313-28-32 and R313-28-35, the requirements of this section apply to x-ray equipment and associated facilities used for dental radiography. Criteria for extraoral dental radiographic systems are covered in R313-28-51, R313-28-52 and R313-28-53. Intraoral dental radiographic systems used must meet the requirements of R313-28-80.

(1) Source-to-Skin distance (SSD). X-ray systems designed for use with an intraoral image receptor shall be provided with means to limit source-to-skin distance to not less than:

(a) 18 centimeters if operable above 50 kilovolts peak, or

(b) 10 centimeters if not operable above 50 kilovolts peak.

(2) Field limitation. Radiographic systems designed for use with an intraoral image receptor shall be provided with means to limit the x-ray field so that:

(a) if the minimum source-to-skin distance (SSD) is 18 centimeters or more, the x-ray field, at the minimum SSD, shall be containable in a circle having a diameter of no more than seven centimeters; and

(b) if the minimum SSD is less than 18 centimeters, the x-ray field, at the minimum SSD, shall be containable in a circle having a diameter of no more than six centimeters.

(3) Exposure Initiation.

(a) Means shall be provided to initiate the radiation exposure by a deliberate action on the part of the operator, for example, the depression of a switch. Radiation exposure shall not be initiated without a deliberate action; and

(b) It shall not be possible to make an exposure when the timer is set to a "zero" or "off" position if either position is provided.

(4) Exposure Termination.

(a) Means shall be provided to terminate the exposure at a preset time interval, preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor.

(b) An x-ray exposure control shall be incorporated into x-ray systems so that an exposure of more than 0.5 seconds can be terminated immediately by the operator.

(c) Termination of an exposure shall cause automatic resetting of the timer to its initial setting or to "zero."

(5) Exposure Indication. Means shall be provided for visual indication, observable from the operator's protected position, whenever x-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(6) Timer Linearity. For systems having independent selection of exposure time settings, the average ratio of exposure to the indicated milliampere-seconds product obtained at two consecutive timer settings or at two settings not differing by more than a factor of two shall not differ by more than 0.10 times their sum.

(7) Exposure Control Location and Operator Protection.

(a) Stationary x-ray systems shall be required to have the x-ray exposure control mounted in a protected area or a means to allow the operator to be at least 2.7 meters (9.0 feet) from the tube housing assembly while making exposures; and

(b) Mobile and portable x-ray systems which are:

(i) used for greater than one week in the same location, for example, a room or suite, shall meet the requirements of R313-28-80(7)(a); or

(ii) used for less than one week in the same location shall be provided with either a protective barrier at least two meters high for operator protection, or means to allow the operator to be at least 2.7 meters (nine feet) from the tube housing assembly while making exposures.

(8) Exposure Reproducibility. When all technique factors are held constant, the coefficient of variation of exposure shall not exceed 0.05 for certified x-ray systems or 0.10 for non-certified x-ray systems. This requirement applies to clinically used techniques.

(9) mA/mAs Linearity. The following requirements apply when the equipment is operated on a power supply as specified by the manufacturer for fixed x-ray tube potentials within the range of 40 to 100 percent of the maximum rated potentials.

(a) For equipment having independent selection of x-ray tube current, the average ratios of exposure to the indicated milliampere-seconds product obtained at two consecutive tube current settings or, when the tube current selection is continuous, two settings differing by no more than a factor of two shall not differ by more than 0.10 times their sum.

(b) For equipment having a combined x-ray tube current-exposure time product selector but not a separate tube current selector, the average ratios of exposure to the indicated milliampere-seconds product obtained at two consecutive mAs selector settings, or when the mAs selector provides continuous selection, at two settings differing by no more than a factor of two shall not differ by more than 0.10 times their sum.

(10) Accuracy. Deviation of technique factors from indicated values shall not exceed the limits specified for that system by its manufacturer. In the absence of manufacturer's specifications the deviation shall not exceed ten percent of the indicated value.

(11) Administrative Controls.

(a) Patient and film holding devices shall be used when the technique permits and holding is required.

(b) The x-ray tube housing and the position indicating device shall not be hand-held during an exposure.

(c) The x-ray system shall be operated so that the useful beam at the patient's skin does not exceed the requirements of R313-28-80(2).

(d) Dental fluoroscopy without image intensification shall not be used.

(12) Hand-held Portable Dental X-ray Systems.

(a) X-ray equipment designed to be hand-held shall comply with Section R313-28-31, excluding Subsection R313-28-31(5), and with Section R313-28-80, excluding Subsections R313-28-80(7)(b) and R313-28-80(11)(b).

(b) Protective shielding of at least 0.5 millimeter lead equivalence shall be provided for the operator to protect the operator's torso, hands, face, and gonads from backscatter

radiation. If the protective shielding is a backscatter shield attached to the x-ray unit, the shield shall be positioned as close to the patient as possible and the operator shall take care to remain in a protective position.

(c) Portable radiation machines designed to be hand-held are exempt from Subsection R313-28-35(7). The portable radiation machines shall be held by the tube housing support or handle and shall be used in accordance with the manufacturer's operating procedures.

(d) In addition to the requirements of Subsection R313-28-350(1), each operator shall complete the training program supplied by the manufacturer prior to using the x-ray unit. Records of training shall be maintained on file for examination by an authorized representative of the Director.

R313-28-120. Mammography X-Ray Systems - Equipment Design and Performance Standards.

Only x-ray equipment meeting the following standards shall be used for mammography examinations.

(1) Equipment Design.

(a) FDA Standards. The requirements of 21 CFR 1020.30 and 21 CFR 1020.31 (2006) are adopted and incorporated by reference.

(b) Dedicated Equipment. The x-ray equipment shall be specifically designed for mammography.

(c) Compression. Devices parallel to the imaging plane shall be available to immobilize and compress the breast during mammography procedures.

(d) Image Receptor. The x-ray equipment shall have both an 18 cm by 24 cm and a 24 cm by 30 cm image receptor and moving grids matched to each image receptor size.

(e) Automatic Exposure Control. X-ray equipment used in healing arts screening shall have automatic exposure control capabilities with a post exposure meter which indicates either milliampere-seconds or time values.

(f) Focal Spot. The focal spot size and source to image receptor distance configurations shall be limited to those appropriate for mammography.

(g) Beam Limitation. The x-ray equipment must allow for the x-ray field to extend to or beyond the chest wall edge of the image receptor.

(h) Magnification. X-ray equipment used in a noninvasive manner, requiring techniques beyond those utilized in standard mammography of asymptomatic patients, shall have x-ray magnification capability for noninvasive procedures. The equipment shall be able to provide at least one magnification within the range of 1.4 to 2.0.

(2) Performance Standards.

(a) State Standards. The x-ray equipment shall meet the applicable performance standards in R313-28.

(b) Filtration. The useful beam shall have a half-value layer between the values of the measured kilovolts peak divided by 100 and the measured kilovolts peak divided by 100 plus 0.1 mm of aluminum equivalent. These values are to include the contribution to filtration by the compression device.

(c) Minimum Radiation Output. X-ray equipment installed after the effective date of this rule shall meet the following standard: at 28 kilovolts peak on the focal spot used in routine healing arts screening the x-ray equipment shall be capable of sustaining a minimum output of 500 mR per second for at least three seconds. This output shall be measured at a point 4.5 centimeters from the surface of the patient support device when the source to image receptor distance is at its maximum and the compression paddle is in the beam. Existing x-ray equipment shall meet this minimum radiation output standard within one year of the effective date of this rule.

(d) Exposure Linearity. For kilovolts peak settings used clinically, the exposure per mAs shall be within plus or minus ten percent of the average exposure per mAs for those mAs stations or time stations, if applicable, that are tested.

(e) Automatic Exposure Control. The automatic exposure control mode shall produce consistent film density under changing patient and examination conditions. These conditions include breast thickness, adiposity, kilovolts peak and density settings. This requirement will be deemed satisfied when:

(i) an automatic exposure control technique guide is posted, and

(ii) for a series of films obtained for attenuator thicknesses of two to seven centimeters the resulting radiographic optical densities are within plus or minus 0.2 of the average value when the kVp and density control setting are adjusted as indicated on the technique guide. The attenuator used for determining compliance shall be either acrylic or other tissue equivalent material.

(f) Patient Dose. The x-ray equipment must be capable of giving an average glandular dose to an average size breast of average tissue density that does not exceed 3.0 mGy (0.3 rad) with a grid or 1.0 mGy (0.1 rad) without a grid. This will be deemed satisfied when using an acrylic phantom of 4.5 cm thickness. In addition, under all clinical use conditions, the average glandular dose to the breast must be less than 5.0 mGy (0.5 rad) per film for healing arts screening procedures.

(3) Mammography X-ray Equipment Quality Control.

(a) Initial Installation. Upon completion of the initial installation of the x-ray equipment, and before it is commissioned for clinical use, the equipment shall be evaluated by a mammography imaging medical physicist who has been approved by the Board. The evaluation results shall be submitted to the Director for review and approval.

(b) Annual Evaluation. At intervals not to exceed 12 months or at the request of the Director, the x-ray equipment shall be evaluated by a mammography imaging medical physicist who has been approved by the Board.

(c) The registrant shall develop and implement a quality control testing procedure for monitoring the radiation performance of the x-ray equipment.

R313-28-140. Qualifications of Mammography Imaging Medical Physicist.

An individual seeking certification by the Board for approval as a mammography imaging medical physicist shall file an application for certification on forms furnished by the Division. The Board may certify individuals who meet the requirements for initial qualifications. To remain certified by the Board as a mammography imaging medical physicist, an individual shall satisfy the requirements for continuing qualifications.

(1) Initial qualifications.

(a) Be certified by the American Board of Radiology in Radiological Physics or Diagnostic Radiological Physics, or the American Board of Medical Physicists in Diagnostic Imaging Physics; or

(b) Satisfy the following educational and experience requirements:

(i) Have a master's or higher degree from an accredited university or college in physical sciences; and

(ii) Have two years full-time experience conducting mammography surveys. Five mammography surveys shall be equal to one year full-time experience.

(2) Continuing qualifications.

(a) During the three-year period after initial certification and for each subsequent three-year period, the individual shall earn 15 hours of continuing educational credits in mammography imaging; and

(b) Perform at least two mammography surveys during the 12-month period from June 1 and May 31 to remain certified by the Board.

(3) Mammography imaging medical physicists who fail to

maintain the required continuing qualifications stated in R313-28-140(2) shall re-establish their qualifications before independently surveying another mammography facility. To re-establish their qualifications, mammography imaging physicists who fail to meet:

(a) The continuing education requirements of R313-28-140(2)(a) must obtain a sufficient number of continuing educational credits to bring their total credits up to the required 15 in the previous three years.

(b) The continuing experience requirement of R313-28-140(2)(b) must obtain experience by surveying two mammography facilities for each year of not meeting the continuing experience requirements under the supervision of a mammography imaging medical physicist approved by the Board.

R313-28-160. Computed Tomography X-ray Equipment.

(1) Equipment Requirements.

(a) In the event of equipment failure affecting data collection, means shall be provided to terminate the x-ray exposure automatically by either de-energizing the x-ray source or intercepting the x-ray beam with a shutter mechanism through the use of either a back-up timer or devices which monitor equipment function.

(b) A visible signal shall indicate when the x-ray exposure has been terminated through the means required by R313-28-160 (1)(a).

(c) The operator shall be able to terminate the x-ray exposure at any time during a scan, or series of scans, of greater than 0.5 second duration.

(2) Tomographic Plane Indication and Alignment.

(a) Means shall be provided to permit visual determination of the location of a reference plane. This reference plane can be offset from the location of the tomographic plane.

(b) If a device using a light source is used to satisfy R313-28-160 (2)(a), the light source shall provide illumination at levels sufficient to permit visual determination of the location of the tomographic plane or reference plane.

(c) The total error in the indicated location of the tomographic plane or reference plane shall not exceed 5 millimeters.

(3) Beam-On and Shutter Status Indicators.

(a) The computed tomography (CT) x-ray control panel and CT gantry shall provide visual indication whenever x-rays are produced and, if applicable, whether the shutter is open or closed.

(b) Each emergency button or switch shall be clearly labeled as to its function.

(4) Indication of CT Conditions of Operation.

(a) The CT x-ray system shall be designed such that technique factors, tomographic section thickness, and scan increment shall be indicated prior to the initiation of a scan or series of scans.

(5) Quality Assurance Procedures. Quality assurance procedures shall be conducted on the CT x-ray equipment.

(a) The quality assurance procedures shall be in writing. Such procedures shall include, but not be limited to, the following:

(i) Specifications of the tests that are to be performed, including instructions to be employed in the performance of those tests; and

(ii) Specifications of the frequency at which tests are to be performed, the acceptable tolerance for each parameter measured and actions to be taken if tolerances are exceeded.

(b) The parameters measured to satisfy R313-28-160(5)(a)(ii) shall include, but not be limited to, kVp, mA and reproducibility of dose appropriate to the type of CT procedures performed.

(c) Records of tests performed to satisfy the requirements of R313-28-160(5)(a) and (b) shall be maintained for three years for inspection by the Division.

(6) Dose Calibration.

(a) Radiation measurements shall be performed at least annually and after change or replacement of components which could cause a change in the radiation output.

(b) The calibration of the radiation measuring instrument shall be traceable to a national standard and shall be calibrated at intervals not to exceed two years.

(c) Measurements shall be specified in terms of the multiple scan average dose, using phantoms and technique factors appropriate to the type of CT procedures performed.

R313-28-200. Information on Radiation Shielding Required for Plan Reviews.

In order to evaluate a need for radiation shielding associated with a plan review, the following information shall be submitted to a Qualified Expert so that an adequate review may be performed.

(1) The plans showing, as a minimum, the following:

(a) the normal location of the radiation producing equipment's radiation port, the port's travel and traverse limits, general directions of the radiation beam, locations of windows, the location of the operator's booth, and the location of the x-ray control panel;

(b) structural composition and thickness of walls, doors, partitions, floor, and ceiling of the rooms concerned;

(c) the dimensions, including height, floor to floor, of the rooms concerned;

(d) the type of occupancy of adjacent areas inclusive of space above and below the rooms concerned. If there is an exterior wall, show distance to the closest existing occupied areas;

(e) the make and model of the x-ray equipment, the maximum energy output, and the energy waveform; and

(f) the type of examination or treatment which will be performed with the equipment.

(2) Information on the anticipated workload of the x-ray systems in mA-minutes per week.

(3) A report showing all basic assumptions used in the development of the shielding specifications.

R313-28-300. Additional Requirements Applicable to Certified Systems Only.

Diagnostic x-ray systems incorporating one or more certified components shall be required to comply with the following additional requirements which relate to the certified component.

(1) Beam limitation for stationary and mobile general purpose x-ray systems.

(a) There shall be provided a means of stepless adjustment of the size of the x-ray field. The minimum field size at an SID of 100 centimeters shall be equal to or less than five centimeters by five centimeters.

(b) When a light localizer is used to define the x-ray field, it shall provide an average illumination of not less than 160 LUX (15 foot-candles) at 100 centimeters or at the maximum SID, whichever is less. The average illumination shall be based upon measurements made in the approximate center of the quadrants of the light field. Radiation therapy simulation systems are exempt from this requirement.

(2) Beam Limitation for Portable X-ray Systems. Beam limitation for portable x-ray systems shall meet the additional field limitation requirements of R313-28-51(1) or R313-28-300(1).

(3) Beam limitation and alignment on stationary general purpose x-ray systems equipped with PBL.

(a) PBL shall prevent the production of x-rays when:

(i) either the length or the width of the x-ray field in the

plane of the image receptor differs, except as permitted by R313-28-300(3)(c), from the corresponding image receptor dimensions by more than three percent of the SID; or

(ii) the sum of the length and width differences as stated in R313-28-300(3)(a)(i) without regard to sign exceeds four percent of the SID.

(b) Compliance with R313-28-300(3)(a) shall be determined when the equipment indicates that the beam axis is perpendicular to the plane of the image receptor. Compliance shall be determined no sooner than five seconds after insertion of the image receptor.

(c) The PBL system shall be capable of operation, at the discretion of the operator, so that the field size at the image receptor can be adjusted to a size smaller than the image receptor through stepless adjustment of the field size. The minimum field size at a distance of 100 centimeters shall be equal to or less than five centimeters by five centimeters.

(d) The PBL system shall be designed so that if a change in image receptor does not cause an automatic return to PBL function as described in R313-28-300(3)(a), then change of the image receptor size or SID must cause the automatic return.

(4) Tube Stands for Portable X-Ray Systems. A tube stand or other mechanical support shall be used for portable x-ray systems, so that the x-ray tube housing assembly need not be hand-held during exposures.

R313-28-350. Qualifications of Operators.

Operators of diagnostic x-ray systems must be licensed to practice in Utah in accordance with Title 58 Chapter 54.

(1) The registrant shall document that the operator of diagnostic x-ray equipment is trained in the proper choice of technique factors to be used and in the safe and effective operation of the x-ray equipment.

R313-28-400. Information to be Submitted by Persons Proposing to Conduct Healing Art Screening.

(1) Individuals requesting that the Director approve a healing arts screening program shall submit the following information:

(a) name and address of the applicant and, where applicable, the names and addresses of agents within this State;

(b) diseases or conditions for which the x-ray examinations are to be used;

(c) description, in detail, of the x-ray examinations proposed in the screening program including the frequency of screening and the duration of the entire screening program;

(d) description of the population to be examined in the screening program including age, sex, physical condition, and other appropriate information;

(e) an evaluation of known alternate methods not involving ionizing radiation which could achieve the goals of the screening program and why these methods are not used in preference to the x-ray examinations; and

(f) written evidence that:

(i) an Investigational Review Board, which has been approved by the United States Food and Drug Administration, has reviewed and approved the healing arts screening program; or

(ii) the United States Food and Drug Administration has approved the use of the x-ray examination for the diseases or conditions of interest.

(2) The Director shall not approve a request for a healing arts screening program unless the submissions required by R313-28-400(1) are determined by the Director to be complete and adequate.

R313-28-450. Minimum Design Requirements for an X-ray Machine Operator's Booth - New Installations Only.

(1) Space requirements:

(a) The operator shall be allotted not less than 0.70 square meter (7.5 square feet) of unobstructed floor space in the booth.

(b) The minimum space as indicated above may be geometric configurations with no dimension of less than 0.61 meters (two feet).

(c) The space shall be allotted excluding encumbrances by the console, for example, overhang or cables, or other similar encroachments.

(d) The booth shall be located or constructed to ensure that unattenuated primary beam scatter originating on the examination table or at the wall mounted image receptor will not reach the operator's position in the booth.

(2) Structural Requirements.

(a) The booth walls shall be permanently fixed barriers of at least 2.13 meters (seven feet) high.

(b) When a door or movable panel is used as an integral part of the booth shielding, it must have a permissive device which will prevent an exposure when the door or panel is not closed.

(c) Shielding shall be provided to meet the requirements of R313-15.

(3) X-Ray Exposure Control Placement: The x-ray exposure control for the system shall be fixed within the booth and:

(a) shall be at least one meter (40 inches) from points subject to primary beam scatter, leakage or primary beam radiation; and

(b) shall allow the operator to use the majority of the available viewing windows.

(4) Viewing system requirements:

(a) When the viewing system is a window:

(i) the viewing window shall have a visible area of at least 0.09 square meters (one square foot);

(ii) regardless of size or shape, at least 0.09 square meters (one square foot) of the window area must be centered no less than 0.6 meters (two feet) from the open edge of the booth and no less than 1.5 meters (five feet) from the floor; and

(iii) the window shall have at least the same lead equivalence of that required in the booth's wall in which it is mounted.

(b) When the viewing system is by mirrors, the mirrors shall be so located as to accomplish the general requirements of R313-28-450(4)(a).

(c) When the viewing system is by electronic means:

(i) the camera shall be so located as to accomplish the general requirements of R313-28-450(4)(a); and

(ii) there shall be an alternate viewing system as a backup for the primary system.

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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-273. Standards for Universal Waste Management.
R315-273-1. Standards for Universal Waste Management -- Scope.

(a) Rule R315-273 establishes requirements for managing the following:

(1) Batteries as described in Section R315-273-2;

(2) Pesticides as described in Section R315-273-3;

(3) Mercury-containing equipment as described in Section R315-273-4;

(4) Lamps as described in Section R315-273-5;

(5) Antifreeze as described in Subsection R315-273-6(a); and

(6) Aerosol cans as described in Subsection R315-273-6(b).

(b) Rule R315-273 provides an alternative set of management standards in lieu of regulation under Rules R315-260 through 266, 268, and 270. If a waste handler chooses to manage its universal waste under the Rule R315-273, but fails to meet requirements in this rule, the waste handler remains subject to, and shall comply with, all applicable requirements of Rules R315-260 through 266, 268, 270 and 124.

Note: Only wastes that are hazardous, i.e., are listed or exhibit one or more characteristics of hazardous waste, are subject to the Rule R315-273 universal waste regulations. Compliance with the reduced set of Rule R315-273 requirements is an option that waste handlers may choose for managing their universal wastes, batteries, pesticides, mercury-containing devices, aerosol cans, lamps, and antifreeze. If universal waste handlers wish, they may instead continue to manage these hazardous wastes under the full hazardous waste regulations for generators, transporters, and treatment, storage, and disposal facilities.

R315-273-2. Standards for Universal Waste Management -- Applicability-Batteries.

(a) Batteries covered under Section R315-273.

(1) The requirements of Rule R315-273 apply to persons managing batteries, as described in Section R315-273-9, except those listed in Section R315-273-2(b).

(2) Spent lead-acid batteries which are not managed under Section R315-266-80 are subject to management under Rule R315-273.

(b) Batteries not covered under Rule R315-273. The requirements of Rule R315-273 do not apply to persons managing the following batteries:

(1) Spent lead-acid batteries that are managed under Section R315-266-80.

(2) Batteries, as described in Section R315-273-9, that are not yet wastes under Rule R315-261, including those that do not meet the criteria for waste generation in Subsection R315-273-2(c).

(3) Batteries, as described in Section R315-273-9 that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in Sections R315-261-20 through 24.

(c) Generation of waste batteries.

(1) A used battery becomes a waste on the date it is discarded, e.g., when sent for reclamation.

(2) An unused battery becomes a waste on the date the handler decides to discard it.

R315-273-3. Standards for Universal Waste Management -- Applicability-Pesticides.

(a) Pesticides covered under Rule R315-273. The requirements of Rule R315-273 apply to persons managing pesticides, as described in Section R315-273-9, meeting the following conditions, except those listed in Subsection R315-273-3(b):

(1) Recalled pesticides that are:

(i) Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under FIFRA Section 19(b), including, but not limited to those owned by the registrant responsible for conducting the recall; or

(ii) Stocks of a suspended or cancelled pesticide, or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant.

(2) Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.

(b) Pesticides not covered under Rule R315-273. The requirements of Rule R315-273 do not apply to persons managing the following pesticides:

(1) Recalled pesticides described in Subsection R315-273-3(a)(1), and unused pesticide products described in Subsection R315-273-3(a)(2), that are managed by farmers in compliance with Section R315-262-70. Section R315-262-70 addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with Subsection R315-261-7(b)(3);

(2) Pesticides not meeting the conditions set forth in Subsection R315-273-3(a). These pesticides shall be managed in compliance with the hazardous waste regulations in Rules R315-260 through 266, 268, and 270;

(3) Pesticides that are not wastes under Rule R315-261, including those that do not meet the criteria for waste generation in Subsection R315-273-3(c) or those that are not wastes as described in Subsection R315-273-3(d); and

(4) Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is listed in Sections R315-261-30 through 35 or if it exhibits one or more of the characteristics identified in Sections R315-261-20 through 24.

(c) When a pesticide becomes a waste.

(1) A recalled pesticide described in Subsection R315-273-3(a)(1) becomes a waste on the first date on which both of the following conditions apply:

(i) The generator of the recalled pesticide agrees to participate in the recall; and

(ii) The person conducting the recall decides to discard, e.g., burn the pesticide for energy recovery.

(2) An unused pesticide product described in Subsection R315-273-3(a)(2) becomes a waste on the date the generator decides to discard it.

(d) Pesticides that are not wastes. The following pesticides are not wastes:

(1) Recalled pesticides described in Subsection R315-273-3(a)(1), provided that the person conducting the recall:

(i) Has not made a decision to discard, e.g., burn for energy recovery, the pesticide. Until such a decision is made, the pesticide does not meet the definition of "solid waste" under Section R315-261.2; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including Rule R315-273. This pesticide remains subject to the requirements of FIFRA; or

(ii) Has made a decision to use a management option that, under Section R315-261-2, does not cause the pesticide to be a solid waste; i.e., the selected option is use, other than use constituting disposal, or reuse, other than burning for energy recovery, or reclamation. Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements including Rule R315-273. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA.

(2) Unused pesticide products described in Subsection R315-273-3(a)(2), if the generator of the unused pesticide

product has not decided to discard, e.g., burn for energy recovery, them. These pesticides remain subject to the requirements of FIFRA.

R315-273-4. Standards for Universal Waste Management -- Applicability -- Mercury-Containing Equipment.

(a) Mercury-containing equipment covered under Rule R315-273. The requirements of Rule R315-273 apply to persons managing mercury-containing equipment, as described in Section R315-273-9, except those listed in Subsection R315-273-4(b).

(b) Mercury-containing equipment not covered under Rule R315-273. The requirements of Rule R315-273 do not apply to persons managing the following mercury-containing equipment:

(1) Mercury-containing equipment that is not yet a waste under Rule R315-261. Subsection R315-273-4(c) describes when mercury-containing equipment becomes a waste;

(2) Mercury-containing equipment that is not a hazardous waste. Mercury-containing equipment is a hazardous waste if it exhibits one or more of the characteristics identified in Sections R315-261-20 through 24 or is listed in Sections R315-261-30 through 35; and

(3) Equipment and devices from which the mercury-containing components have been removed.

(c) Generation of waste mercury-containing equipment.

(1) Used mercury-containing equipment becomes a waste on the date it is discarded.

(2) Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

R315-273-5. Standards for Universal Waste Management -- Applicability-Lamps.

(a) Lamps covered under Rule R315-273. The requirements of Rule R315-273 apply to persons managing lamps as described in Section R315-273-9, except those listed in Subsection R315-273-5(b).

(b) Lamps not covered under Rule R315-273. The requirements of Rule R315-273 do not apply to persons managing the following lamps:

(1) Lamps that are not yet wastes under Rule R315-261 as provided in Subsection R315-273-5(c).

(2) Lamps that are not hazardous waste. A lamp is a hazardous waste if it exhibits one or more of the characteristics identified in Sections R315-261-20 through 24.

(c) Generation of waste lamps.

(1) A used lamp becomes a waste on the date it is discarded, e.g., sent for reclamation.

(2) An unused lamp becomes a waste on the date the handler decides to discard it.

R315-273-6. Standards for Universal Waste Management -- Applicability for Utah Specific Wastes.

(a) Antifreeze.

(1) The requirements of Rule R315-273 apply to persons managing antifreeze, as described in Section R315-273-9, except those listed in Subsection R315-273-6(a)(2).

(2) Antifreeze not covered under Rule R315-273. The requirements of Rule R315-273 do not apply to persons managing the following antifreeze:

(i) Antifreeze, as described in Section R315-273-9,that is not yet a waste under Rule R315-261, including antifreeze that does not meet the criteria for waste generation in Subsection R315-273-6(a)(4).

(ii) Antifreeze, as described in Section R315-273-9 that is not hazardous waste. Antifreeze is a hazardous waste if it exhibits one or more of the characteristics identified in Sections R315-261-20 through 24.

(3) Generation of waste antifreeze.

(i) Antifreeze becomes a waste on the date it is discarded, e.g., when sent for reclamation.

(ii) Antifreeze becomes a waste on the date the handler decides to discard it.

(b) Aerosol Cans

(1) The requirements of Rule R315-273 apply to persons managing aerosol cans, as described in Section R315-273-9, except those listed in Subsection R315-273-6(b)(2).

(2) Aerosol cans not covered under Rule R315-273. The requirements of Rule R315-273 do not apply to persons managing the following aerosol cans:

(i) Aerosol cans, as described in Section R315-273-9, that are not yet wastes under Rule R315-261, including those that do not meet the criteria for waste generation in subsection R315-273(b)(3).

(ii) Aerosol cans, as described in Section R315-273-9, that are not hazardous waste. An aerosol can shall be managed as a hazardous waste if the can or its contents exhibit one or more of the characteristics identified in Sections R315-261-20 through 24, or if its contents are listed in Sections R315-261-30 through 35.

(3) Generation of waste aerosol cans.

(i) An aerosol can becomes a waste on the date it is discarded or is no longer useable. For purposes of Rule R315-273, an aerosol can is considered to be no longer useable when:

(A) the can is as empty as proper work practices allow;

(B) the spray mechanism no longer operates as designed;

(C) the propellant is spent; or

(D) the product is no longer used.

(ii) An unused aerosol can becomes a waste on the date the handler decides to discard it.

R315-273-8. Standards for Universal Waste Management -- Applicability -- Household and Very Small Quantity Generator Waste.

(a) Persons managing the wastes listed below may, at their option, manage them under the requirements of Rule R315-273:

(1) Household wastes that are exempt under Subsection R315-261-4(b)(1) and are also of the same type as the universal wastes defined at Section R315-273-9; and/or

(2) Very small quantity generator wastes that are exempt under Section R315-262-14 and are also of the same type as the universal wastes defined at Section R315-273-9.

(b) Persons who commingle the wastes described in Subsections R315-273-8(a)(1) and (a)(2) together with universal waste regulated under Rule R315-273 shall manage the commingled waste under the requirements of Rule R315-273.

R315-273-9. Standards for Universal Waste Management -- Definitions.

(a) "Aerosol can" means a container with a total capacity of no more than 24 ounces of gas under pressure and is used to aerate and dispense any material through a valve in the form of a spray or foam.

(b) "Ampule" means an airtight vial made of glass, plastic, metal, or any combination of these materials.

(c) "Antifreeze" means an ethylene glycol or propylene glycol based mixture that lowers the freezing point of water and is used as an engine coolant.

(d) "Battery" means a device consisting of one or more electrically connected electrochemical cells, which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections, electrical and mechanical, as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

(e) "Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste,

except those management activities described in Subsections R315-273-13(a) and (c) and Subsections R315-273-33(a) and (c). A facility, at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

(f) "Drum-top lamp crusher" means a device attached to a drum or container that mechanically reduces the size of lamps and includes a bag filter followed in series by a HEPA filter and an activated carbon filter. Drum-top crushers are the only devices that can be approved for the use of crushing lamps.

(g) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136-136y).

(h) "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in Rule R315-261 or whose act first causes a hazardous waste to become subject to regulation.

(i) "Lamp," also referred to as "universal waste lamp" is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

(j) "Large Quantity Handler of Universal Waste" means a universal waste handler, as defined in Section R315-273-9 who accumulates 5,000 kilograms or more total of universal waste; batteries, pesticides, mercury-containing equipment, lamps, or any other universal waste regulated in Rule R315-273, calculated collectively; at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000 kilogram limit is met or exceeded.

(k) "Mercury-containing equipment" means a device or part of a device, including thermostats, but excluding batteries and lamps, that contains elemental mercury integral to its function.

(l) "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, are also considered on-site property.

(m) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

(1) Is a new animal drug under FFDCA section 201(w), or

(2) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or

(3) Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by (1) or (2) above.

(n) "Small Quantity Handler of Universal Waste" means a universal waste handler, as defined in this Section R315-273-9 who does not accumulate 5,000 kilograms or more of universal waste at any time.

(o) "Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of Subsection R315-273-13(c)(2) or 33(c)(2).

(p) "Universal Waste" means any of the following hazardous wastes that are subject to the universal waste requirements of Rule R315-273:

(1) Batteries as described in Section R315-273-2;

(2) Pesticides as described in Section R315-273-3;

(3) Mercury-containing equipment as described in Section R315-273-4;

(4) Lamps as described in Section R315-273-5;

(5) Antifreeze as described in Subsection R315-273-6(a); and

(6) Aerosol cans as described in Subsection R315-273-6(b).

(q) "Universal Waste Handler:"

(1) Means:

(i) A generator, as defined in Section R315-273-9, of universal waste; or

(ii) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(2) Does not mean:

(i) A person who treats, except under the provisions of Subsection R315-273-13(a) or (c), or 33(a) or (c), disposes of, or recycles universal waste; or

(ii) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

(r) "Universal Waste Transfer Facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

(s) "Universal Waste Transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

R315-273-10. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Applicability.

Sections R315-273-10 through 20 apply to small quantity handlers of universal waste, as defined in Section R315-273-9.

R315-273-11. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Prohibitions.

A small quantity handler of universal waste is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in Section R315-273-17; or by managing specific wastes as provided in Section R315-273-13.

R315-273-12. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Notification.

A small quantity handler of universal waste is not required to notify the Director of universal waste handling activities except as required under Subsection R315-273-13(3).

R315-273-13. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Waste Management.

(a) Batteries. A small quantity handler of universal waste shall manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the battery, and shall lack evidence of leakage, spillage, or

damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed, except that cells may be opened to remove electrolyte but shall be immediately closed after removal:

(i) Sorting batteries by type;

(ii) Mixing battery types in one container;

(iii) Discharging batteries so as to remove the electric charge;

(iv) Regenerating used batteries;

(v) Disassembling batteries or battery packs into individual batteries or cells;

(vi) Removing batteries from consumer products; or

(vii) Removing electrolyte from batteries.

(3) A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste, e.g., battery pack materials, discarded consumer products, as a result of the activities listed above, shall determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in Sections R315-261-20 through 24.

(i) If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it is subject to all applicable requirements of Rules R315-260 through 266, 268 and 270. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to Rule R315-262.

(ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Pesticides. A small quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides shall be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of Subsection R315-273-13(b)(1), provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection R315-273-13(b)(1); or

(3) A tank that meets the requirements of 40 CFR 265.190 through 202, except for 40 CFR 265.197(c) and 40 CFR 265.200 and 201, 40 CFR 265 is adopted by reference in R315-265; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(c) Mercury-containing equipment. A small quantity handler of universal waste shall manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste shall place in a container any universal waste mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container shall be closed, structurally sound, compatible with the contents of the device, shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and shall be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

(2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

(i) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes the ampules only over or in a containment device, e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage;

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules from that containment device to a container that meets the requirements of Section R315-262-34;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of Section R315-262-34;

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

(3) A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(i) Immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

(ii) Follows all requirements for removing ampules and managing removed ampules under Subsection R315-273-13(c)(2); and

(4)(i) A small quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing shall determine whether the following exhibit a characteristic of hazardous waste identified in Sections R315-261-20 through 24:

(A) Mercury or clean-up residues resulting from spills or leaks; and/or

(B) Other solid waste generated as a result of the removal of mercury-containing ampules or housings, e.g., the remaining mercury-containing device.

(ii) If the mercury, residues, and/or other solid waste exhibits a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of Rules R315-260 through 266, 268, and 270. The handler is considered the generator of the mercury, residues, and/or other waste and shall manage it in compliance with Rule R315-262.

(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(d) Lamps. A small quantity handler of universal waste shall manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste shall contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages shall

remain closed and shall lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste shall immediately clean up and place in a container any lamp that is broken and shall place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers shall be closed, structurally sound, compatible with the contents of the lamps and shall lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

(3) A small quantity handler of universal waste may crush universal waste lamps using a drum-top lamp crusher designed specifically for crushing lamps provided that the small quantity handler submits a drum-top lamp crusher registration application to and receives approval from the Director. The registration application shall demonstrate that the small quantity handler shall operate the drum-top lamp crusher to ensure the following:

(i) The lamps are crushed in a closed accumulation container as specified by the manufacturer of the drum-top lamp crusher;

(ii) The lamps are crushed in a controlled manner that prevents the release of mercury vapor or other contaminants in exceedance of the manufacturer's specifications;

(iii) The drum-top lamp crusher shall have a filtration system consisting of, at a minimum, a bag filter followed in series by a HEPA filter and an activated carbon filter;

(iv) The drum-top lamp crusher is installed, maintained, and operated in accordance with written procedures developed by the manufacturer of the equipment including specific instructions for the frequency of filter changes;

(v) Filters are either characterized to demonstrate that they are not a hazardous waste or managed as a hazardous waste;

(vi) A spill clean-up kit is available;

(vii) The area in which the drum-top crusher is operated is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(viii) An employee using the drum-top lamp crusher is trained annually on the written operating, safety, personal protection and maintenance procedures of the system;

(ix) An employee using the drum-top lamp crusher is trained annually in emergency procedures;

(x) An operating record is kept and consists of the following:

(A) the number and size of lamps crushed per calendar day, per calendar month, and per calendar year;

(B) the schedule for the change out of filters;

(C) date and time of filter change out;

(D) date, type, and time of equipment maintenance;

(E) any occurrence of equipment malfunction; and

(F) procedures for preventing equipment malfunctions.

(4) The operating record shall be maintained for at least three years.

(5) When a drum-top crusher is no longer used or is relocated, the area where the crusher was located shall be decontaminated of all mercury and other contaminants caused by the use of the drum-top lamp crusher. A report documenting the decontamination steps as well as supporting analytical data demonstrating successful remediation shall be submitted to the Director for approval within 30 days following completion of decontamination.

(6) The small quantity handler shall provide a closure plan along with a detailed written estimate, in current dollars, of the cost of disposing of the drum-top lamp crusher; decontamination of the area surrounding the drum-top lamp crusher, and any analytical costs required to show that decontamination is complete. Drum-top lamp crushers operated by the state or the federal government are exempt from the cost estimate requirement of Subsection R315-273-13(d)(6).

(7) The small quantity handler shall demonstrate financial assurance for the detailed cost estimates determined in Subsection R315-273-13(d)(6) using one of the options in Subsections R315-261-143(a) through (e). Drum-top lamp crushers operated by the state or the federal government are exempt from the financial assurance requirement of Subsection R315-273-13(d)(7).

(8) Crushed universal waste lamps may be managed as universal waste lamps under Rule R315-273 or they may be managed as hazardous waste in accordance with all applicable requirements of Rules R315-260 through 266 and 268.

(e) Antifreeze. A small quantity handler of universal waste shall manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze shall be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the antifreeze, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of Subsection R315-273-13(e)(1), provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection R315-273-13(e)(1); or

(3) A tank that meets the requirements of 40 CFR 265.190 through 202, except for 40 CFR 265.197(c) and 40 CFR 265.200 and 201, 40 CFR 265 is adopted by reference in R315-265; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the antifreeze, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(f) Aerosol cans. A small quantity handler of universal waste shall manage universal waste aerosol cans in a way that prevents release of any universal waste or component of a universal waste or accelerant to the environment as follows:

(1) A small quantity handler of universal waste shall immediately contain any universal waste aerosol can that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a separate individual container. The individual container shall be closed, structurally sound, compatible with the contents of the universal waste aerosol can, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste may accumulate universal waste aerosol cans in a specially designated accumulation container provided it is clearly marked for such use. The accumulation container shall be closed, structurally sound, compatible with the contents of the universal waste aerosol can, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The universal waste aerosol cans shall be sorted by type and compatibility of contents to ensure that incompatible materials are segregated and managed appropriately in separate accumulation containers.

(3) A small quantity handler of universal waste may puncture universal waste aerosol cans to remove and collect the contents of the aerosol can provided the handler:

(i) Ensures that the universal waste aerosol can is punctured in a manner designed to prevent the release of any universal waste or component of universal waste or accelerant to the environment;

(ii) Ensures that the puncturing operations are performed safely by developing and implementing a written procedure detailing how to safely puncture universal waste aerosol cans.

This procedure shall include:

(A) the type of equipment to be used to puncture the universal waste aerosol cans safely;

(B) operation and maintenance of the unit;

(C) segregation of incompatible wastes;

(D) proper waste management practices, i.e., ensuring that flammable wastes are stored away from heat or open flames; and

(E) waste characterization;

(iii) Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the universal waste aerosol can which may occur during the can-puncturing operation;

(iv) Immediately transfers the contents of the universal waste aerosol can, or puncturing device if applicable, to a container that meets the requirements of Section R315-262-34;

(v) Ensures that the area in which the universal waste aerosol cans are punctured is well ventilated; and

(vi) Ensures that employees are thoroughly familiar with the procedure for sorting and puncturing universal waste aerosol cans, and proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

(4)(i) A small quantity handler of universal waste who punctures universal waste aerosol cans to remove the contents of the aerosol can, or who generates other solid waste as a result of the activities listed above, shall determine whether the contents of the universal waste aerosol can, residues and/or other solid wastes exhibit a characteristic of hazardous waste identified in Sections R315-261-20 through 24, or are listed as a hazardous waste identified in Sections R315-261-30 through 35.

(ii) If the contents of the universal waste aerosol can, residues and/or other solid waste exhibit a characteristic of hazardous waste or are listed hazardous wastes, they shall be managed in compliance with all applicable requirements of Rules R315-260 through 266, 268, 270 and 124. The handler is considered the generator of the contents of the universal waste aerosol can, residues, and/or other waste and is subject to the requirements of Rule R315-262. In addition to the Rule R315-262 labeling requirements, the container used to accumulate, store, or transport the hazardous waste contents removed from the punctured universal waste aerosol can shall be labeled with all applicable EPA Hazardous Waste Codes found in Sections R315-261-20 through 24 and Sections R315-261-30 through 35.

(iii) If the contents of the universal waste aerosol can, residues, and/or other solid waste are not hazardous, the handler may manage the waste in a way that is in compliance with applicable federal, state or local solid waste regulations.

R315-273-14. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Labeling/Marking.

A small quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries, i.e., each battery, or a container in which the batteries are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

(b) A container, or multiple container package unit, tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Subsection R315-273-3(a)(1) are contained shall be labeled or marked clearly with:

(1) The label that was on or accompanied the product as sold or distributed; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s);"

(c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in Subsection R315-273-3(a)(2) are contained shall be labeled or marked clearly with:

(1)(i) The label that was on the product when purchased, if still legible;

(ii) If using the labels described in Subsection R315-273-14(c)(1)(i) is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR part 172;

(iii) If using the labels described in Subsections R315-273-14(c)(1)(i) and (ii) is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."

(d)(1) Universal waste mercury-containing equipment, i.e., each device, or a container in which the equipment is contained, shall be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

(2) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(e) Each lamp or a container or package in which such lamps are contained shall be labeled or marked clearly with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)".

(f) A container, tank, or transport vehicle or vessel in which antifreeze is contained shall be labeled or marked clearly with the words "Universal Waste-antifreeze".

(g) Universal waste aerosol cans, i.e., each can, or a container in which the universal waste aerosol cans are contained or accumulated, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste-Aerosol Can(s)", or "Waste Aerosol Can(s)".

R315-273-15. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Accumulation Time Limits.

(a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of Subsection R315-273-15(b) are met.

(b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A small quantity handler of universal waste who accumulates universal waste shall be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(2) Marking or labeling each individual item of universal waste with the date it became a waste or was received;

(3) Maintaining an inventory system on-site that identifies

the date each universal waste became a waste or was received;

(4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

R315-273-16. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Employee Training.

A small quantity handler of universal waste shall inform all employees who handle or have responsibility for managing universal waste. The information shall describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.

R315-273-17. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Response to Releases.

(a) A small quantity handler of universal waste shall immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A small quantity handler of universal waste shall determine whether any material resulting from the release is hazardous waste, and if so, shall manage the hazardous waste in compliance with all applicable requirements of Rules R315-260 through 266, 268 and 270. The handler is considered the generator of the material resulting from the release, and shall manage it in compliance with Rule R315-262.

R315-273-18. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Off-Site Shipments.

(a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a small quantity handler of universal waste self-transports universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and shall comply with the transporter requirements of Sections R315-273-50 through 56 while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR parts 171 through 180, a small quantity handler of universal waste shall package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 CFR parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler shall ensure that the receiving handler agrees to receive the shipment.

(e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler shall either:

(1) Receive the waste back when notified that the shipment has been rejected, or

(2) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A small quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he shall contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler shall:

(1) Send the shipment back to the originating handler, or

(2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler shall immediately notify the Director of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Director shall provide instructions for managing the hazardous waste.

(h) If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

R315-273-19. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Tracking Universal Waste Shipments.

A small quantity handler of universal waste is not required to keep records of shipments of universal waste.

R315-273-20. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Exports.

A small quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in Subsection R315-262-58(a)(1), in which case the handler is subject to the requirements of Sections R315-262-80 through 89, shall:

(a) Comply with the requirements applicable to a primary exporter in Section R315-262-53, Subsections R315-262-56(a)(1) through (4), (6), and (b) and Section R315-262-57;

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in Sections R315-262-50 through 58; and

(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

R315-273-30. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Applicability.

Sections R315-273-30 through 40 apply to large quantity handlers of universal waste, as defined in Section R315-273-9.

R315-273-31. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Prohibitions.

A large quantity handler of universal waste is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in Section R315-273-37; or by managing specific wastes as provided in Section R315-273-33.

R315-273-32. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Notification.

(a)(1) Except as provided in Subsections R315-273-32(a)(2) and (3), a large quantity handler of universal waste shall have sent written notification of universal waste management to the Director, and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

(2) A large quantity handler of universal waste who has already notified the Director of his hazardous waste management activities and has received an EPA Identification Number is not required to renotify under this section except as required in Subsection R315-273-33(d)(3).

(3) A large quantity handler of universal waste who manages recalled universal waste pesticides as described in Subsection R315-273-3(a)(1) and who has sent notification to EPA as required by 40 CFR part 165 is not required to notify for those recalled universal waste pesticides under this section.

(b) This notification shall include:

(1) The universal waste handler's name and mailing address;

(2) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;

(3) The address or physical location of the universal waste management activities;

(4) A list of all the types of universal waste managed by the handler; and

(5) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time.

R315-273-33. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Waste Management.

(a) Batteries. A large quantity handler of universal waste shall manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the battery, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed, except that cells may be opened to remove electrolyte but shall be immediately closed after removal:

(i) Sorting batteries by type;

(ii) Mixing battery types in one container;

(iii) Discharging batteries so as to remove the electric charge;

(iv) Regenerating used batteries;

(v) Disassembling batteries or battery packs into individual batteries or cells;

(vi) Removing batteries from consumer products; or

(vii) Removing electrolyte from batteries.

(3) A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste, e.g., battery pack materials, discarded consumer products, as a result of the activities listed above, shall determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in Sections R315-261-20 through 24.

(i) If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of Rules R315-260 through 266, 268 and 270. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to Rule R315-262.

(ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Pesticides. A large quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides shall be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of Subsection R315-273-33(b)(1), provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection R315-273-33(b)(1); or

(3) A tank that meets the requirements of 40 CFR 265.190 through 202, except for 40 CFR 265.197(c) and 40 CFR 265.200 and 201, 40 CFR 265 is adopted by reference in R315-265; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(c) Mercury-containing equipment. A large quantity handler of universal waste shall manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste shall place in a container any universal waste mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container shall be closed, structurally sound, compatible with the contents of the device, shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and shall be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

(2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

(i) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes the ampules only over or in a containment device, e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage;

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules from that containment device to a container that meets the requirements of Section R315-262-34;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of Section R315-262-34;

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

(3) A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from

universal waste mercury-containing equipment provided the handler:

(i) Immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

(ii) Follows all requirements for removing ampules and managing removed ampules under Subsection R315-273-33(c)(2); and

(4)(i) A large quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing shall determine whether the following exhibit a characteristic of hazardous waste identified in Sections R315-261-20 through 24:

(A) Mercury or clean-up residues resulting from spills or leaks and/or

(B) Other solid waste generated as a result of the removal of mercury-containing ampules or housings, e.g., the remaining mercury-containing device.

(ii) If the mercury, residues, and/or other solid waste exhibits a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of Rules R315-260 through 266, 268 and 270. The handler is considered the generator of the mercury, residues, and/or other waste and shall manage it in compliance with Rule R315-262.

(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(d) Lamps. A large quantity handler of universal waste shall manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste shall contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages shall remain closed and shall lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste shall immediately clean up and place in a container any lamp that is broken and shall place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers shall be closed, structurally sound, compatible with the contents of the lamps and shall lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

(3) A large quantity handler of universal waste may crush universal waste lamps using a drum-top lamp crusher designed specifically for crushing lamps provided that the Large quantity handler submits a drum-top lamp crusher registration application to and receives approval from the Director. The registration application shall demonstrate that the large quantity handler shall operate the drum-top lamp crusher to ensure the following:

(i) The lamps are crushed in a closed accumulation container as specified by the manufacturer of the drum-top lamp crusher;

(ii) The lamps are crushed in a controlled manner that prevents the release of mercury vapor or other contaminants in exceedance of the manufacturer's specifications;

(iii) The drum-top lamp crusher shall have a filtration system consisting of, at a miniumum, a bag filter followed in series by a HEPA filter and an activated carbon filter;

(iv) The drum-top lamp crusher is installed, maintained, and operated in accordance with written procedures developed by the manufacturer of the equipment including specific instructions for the frequency of filter changes;

(v) Filters are either characterized to demonstrate that they are not a hazardous waste or managed as a hazardous waste;

(vi) A spill clean-up kit is available;

(vii) The area in which the drum-top crusher is operated is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(viii) The employee using the drum-top lamp crusher is trained annually on the written operating, safety, personal protection and maintenance procedures of the system;

(ix) The employee using the drum-top lamp crusher is trained annually in emergency procedures;

(x) An operating record is kept and consists of the following:

(A) the number and size of lamps crushed per calendar day, per calendar month, and per calendar year;

(B) the schedule for the change out of filters;

(C) date and time of filter change out;

(D) date, type, and time of equipment maintenance;

(E) any occurrence of equipment malfunction; and

(F) procedures for preventing equipment malfunctions.

(4) The operating record shall be maintained for at least three years.

(5) When a drum-top crusher is no longer used or is relocated, the area where the crusher was located shall be decontaminated of all mercury and other contaminants caused by the use of the drum-top lamp crusher. A report documenting the decontamination steps as well as supporting analytical data demonstrating successful remediation shall be submitted to the Director for approval within 30 days following completion of decontamination.

(6) The large quantity handler shall provide a closure plan along with a detailed written estimate, in current dollars, of the cost of disposing the drum-top lamp crusher; decontamination of the area surrounding the drum-top lamp crusher, and any analytical costs required to show that decontamination is complete. Drum-top lamp crushers operated by the state or the federal government are exempt from the cost estimate requirement of Subsection R315-273-33(d)(6).

(7) The large quantity handler shall demonstrate financial assurance for the detailed cost estimates determined in Subsection R315-273-33(d)(6) using one of the options in Subsections R315-261-143(a) through (e). Drum-top lamp crushers operated by the state or the federal government are exempt from the financial assurance requirement of Subsection R315-273-33(d)(7).

(8) Crushed universal waste lamps may be managed as universal waste lamps under Rule R315-273 or they may be managed as hazardous waste in accordance with all applicable requirements of Rules R315-260 through 266 and 268.

(e) Antifreeze. A large quantity handler of universal waste shall manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze shall be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the antifreeze, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of Subsection R315-273-13(e)(1), provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection R315-273-13(e)(1); or

(3) A tank that meets the requirements of 40 CFR 265.190 through 202, except for 40 CFR 265.197(c) and 40 CFR 265.200 and 201, 40 CFR 265 is adopted by reference in R315-265; or

(4) A transport vehicle or vessel that is closed, structurally

sound, compatible with the antifreeze, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(f) Aerosol cans. A large quantity handler of universal waste shall manage universal waste aerosol cans in a way that prevents release of any universal waste or component of a universal waste or accelerant to the environment as follows:

(1) A large quantity handler of universal waste shall immediately contain any universal waste aerosol can that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a separate individual container. The individual container shall be closed, structurally sound, compatible with the contents of the universal waste aerosol can, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste may accumulate universal waste aerosol cans in a specially designated accumulation container provided it is clearly marked for such use. The accumulation container shall be closed, structurally sound, compatible with the contents of the universal waste aerosol can, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The universal waste aerosol cans shall be sorted by type and compatibility of contents to ensure that incompatible materials are segregated and managed appropriately in separate accumulation containers.

(3) A large quantity handler of universal waste may puncture universal waste aerosol cans to remove and collect the contents of the aerosol can provided the handler:

(i) Ensures that the universal waste aerosol can is punctured in a manner designed to prevent the release of any universal waste or component of universal waste or accelerant to the environment;

(ii) Ensures that the puncturing operations are performed safely by developing and implementing a written procedure detailing how to safely puncture universal waste aerosol cans. This procedure shall include:

(A) the type of equipment to be used to puncture the universal waste aerosol cans safely;

(B) operation and maintenance of the unit;

(C) segregation of incompatible wastes;

(D) proper waste management practices, i.e., ensuring that flammable wastes are stored away from heat or open flames; and

(E) waste characterization;

(iii) Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the universal waste aerosol can which may occur during the can-puncturing operation;

(iv) Immediately transfers the contents of the universal waste aerosol can, or puncturing device if applicable, to a container that meets the requirements of Section R315-262-34;

(v) Ensures that the area in which the universal waste aerosol cans are punctured is well ventilated; and

(vi) Ensures that employees are thoroughly familiar with the procedure for sorting and puncturing universal waste aerosol cans, and proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

(4)(i) A large quantity handler of universal waste who punctures universal waste aerosol cans to remove the contents of the aerosol can, or who generates other solid waste as a result of the activities listed above, shall determine whether the contents of the universal waste aerosol can, residues and/or other solid wastes exhibit a characteristic of hazardous waste identified in Sections R315-261-20 through 24, or are listed as a hazardous waste identified in Sections R315-261-30 through 35.

(ii) If the contents of the universal waste aerosol can, residues and/or other solid waste exhibit a characteristic of hazardous waste or are listed hazardous wastes, they shall be managed in compliance with all applicable requirements of Rules R315-260 through 266, 268, 270 and 124. The handler is considered the generator of the contents of the universal waste aerosol can, residues, and/or other waste and is subject to the requirements of Rule R315-262. In addition to the Rule R315-262 labeling requirements, the container used to accumulate, store, or transport the hazardous waste contents removed from the punctured universal waste aerosol can shall be labeled with all applicable EPA Hazardous Waste Codes found in Sections R315-261-20 through 24 and Sections R315-261-30 through 35.

(iii) If the contents of the universal waste aerosol can, residues, and/or other solid waste are not hazardous, the handler may manage the waste in a way that is in compliance with applicable federal, state or local solid waste regulations.

R315-273-34. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Labeling/Marking.

A large quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries, i.e., each battery, or a container or tank in which the batteries are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

(b) A container, or multiple container package unit, tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Subsection R315-273-3(a)(1) are contained shall be labeled or marked clearly with:

(1) The label that was on or accompanied the product as sold or distributed; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s);"

(c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in Subsection R315-273-3(a)(2) are contained shall be labeled or marked clearly with:

(1)(i) The label that was on the product when purchased, if still legible;

(ii) If using the labels described in Subsection R315-273-34(c)(1)(i) is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR part 172;

(iii) If using the labels described in Subsections R315-273-34(c)(1)(i) and (1)(ii) is not feasible, another label prescribed or designated by the pesticide collection program; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."

(d)(1) Mercury-containing equipment, i.e., each device, or a container in which the equipment is contained, shall be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

(2) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(e) Each lamp or a container or package in which such lamps are contained shall be labeled or marked clearly with any one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)".

(f) A container, tank, or transport vehicle or vessel in which antifreeze is contained shall be labeled or marked clearly with the words "Universal Waste-antifreeze".

(g) Universal waste aerosol cans, i.e., each can, or a container in which the universal waste aerosol cans are contained or accumulated, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste-Aerosol Can(s)", or "Waste Aerosol Can(s)".

R315-273-35. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Accumulation Time Limits.

(a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of Subsection R315-273-35(b) are met.

(b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A large quantity handler of universal waste shall be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(2) Marking or labeling the individual item of universal waste, e.g., each battery or thermostat, with the date it became a waste or was received;

(3) Maintaining an inventory system on-site that identifies the date the universal waste being accumulated became a waste or was received;

(4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

R315-273-36. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Employee Training.

A large quantity handler of universal waste shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

R315-273-37. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Response To Releases.

(a) A large quantity handler of universal waste shall immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A large quantity handler of universal waste shall determine whether any material resulting from the release is hazardous waste, and if so, shall manage the hazardous waste in compliance with all applicable requirements of Rules R315-260 through 266, 268 and 270. The handler is considered the generator of the material resulting from the release, and is subject to Rule R315-262.

R315-273-38. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Off-Site Shipments.

(a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a large quantity handler of universal waste self-transports universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and shall comply with the transporter requirements of Sections R315-273-50 through 56 while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171 through 180, a large quantity handler of universal waste shall package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 CFR parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler shall ensure that the receiving handler agrees to receive the shipment.

(e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler shall either:

(1) Receive the waste back when notified that the shipment has been rejected, or

(2) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he shall contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler shall:

(1) Send the shipment back to the originating handler, or

(2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler shall immediately notify the Director of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Director shall provide instructions for managing the hazardous waste.

(h) If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

R315-273-39. Standards for Universal Waste Management, Standards For Large Quantity Handlers Of Universal Waste -- Tracking Universal Waste Shipments.

(a) Receipt of shipments. A large quantity handler of universal waste shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received shall include the following information:

(1) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste

was sent;

(2) The quantity of each type of universal waste received;

(3) The date of receipt of the shipment of universal waste.

(b) Shipments off-site. A large quantity handler of universal waste shall keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent shall include the following information:

(1) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;

(2) The quantity of each type of universal waste sent;

(3) The date the shipment of universal waste left the facility.

(c) Record retention.

(1) A large quantity handler of universal waste shall retain the records described in Subsection R315-273-39(a) for at least three years from the date of receipt of a shipment of universal waste.

(2) A large quantity handler of universal waste shall retain the records described in Subsection R315-273-39(b) for at least three years from the date a shipment of universal waste left the facility.

R315-273-40. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Exports.

A large quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in Subsection R315-262-58(a)(1), in which case the handler is subject to the requirements of Sections R315-262-80 through 89, shall:

(a) Comply with the requirements applicable to a primary exporter in Section R315-262-53, Subsections R315-262-56(a)(1) through (4), (6), and (b) and Section R315-262-57;

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in Sections R315-262-50 through 58; and

(c) Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.

R315-273-50. Standards for Universal Waste Management, Standards for Universal Waste Transporters -- Applicability.

Sections R315-273-50 through 56 apply to universal waste transporters, as defined in Section R315-273-9.

R315-273-51. Standards for Universal Waste Management, Standards for Universal Waste Transporters -- Prohibitions.

A universal waste transporter is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in Section R315-273-54.

R315-273-52. Standards for Universal Waste Management, Standards for Universal Waste Transporters -- Waste Management.

(a) A universal waste transporter shall comply with all applicable U.S. Department of Transportation regulations in 49 CFR part 171 through 180 for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8. For purposes of the Department of Transportation regulations, a material is considered a hazardous waste if it is subject to the Hazardous Waste Manifest Requirements of Rule R315-262. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the Department of Transportation regulations.

(b) Some universal waste materials are regulated by the Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2. As universal waste shipments do not require a manifest under Rule R315-262, they may not be described by the DOT proper shipping name "hazardous waste, (l) or (s), n.o.s.", nor may the hazardous material's proper shipping name be modified by adding the word "waste".

R315-273-53. Standards for Universal Waste Management, Standards for Universal Waste Transporters -- Storage Time Limits.

(a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.

(b) If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and shall comply with the applicable requirements of Sections R315-273-10 through 20 and 30 through 40 while storing the universal waste.

R315-273-54. Standards for Universal Waste Management, Standards for Universal Waste Transporters -- Response to Releases.

(a) A universal waste transporter shall immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A universal waste transporter shall determine whether any material resulting from the release is hazardous waste, and if so, it is subject to all applicable requirements of Rules R315-260 through 266, 268 and 270. If the waste is determined to be a hazardous waste, the transporter is subject to Rule R315-262.

R315-273-55. Standards for Universal Waste Management, Standards for Universal Waste Transporters -- Off-site Shipments.

(a) A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.

(b) If the universal waste being shipped off-site meets the Department of Transportation's definition of hazardous materials under 49 CFR 171.8, the shipment shall be properly described on a shipping paper in accordance with the applicable Department of Transportation regulations under 49 CFR part 172.

R315-273-56. Standards for Universal Waste Management, Standards for Universal Waste Transporters -- Exports.

A universal waste transporter transporting a shipment of universal waste to a foreign destination other than to those OECD countries specified in Subsection R315-262-58(a)(1), in which case the transporter is subject to the requirements of Sections R315-262-80 through 89, may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter shall ensure that:

(a) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and

(b) The shipment is delivered to the facility designated by the person initiating the shipment.

R315-273-60. Standards for Universal Waste Management, Standards for Destination Facilities -- Applicability.

(a) The owner or operator of a destination facility, as defined in Section R315-273-9, is subject to all applicable requirements of Rules R315-264, 265, 266, 268, 270, and 124, and the notification requirement under section 3010 of RCRA.

(b) The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled shall comply with Subsection R315-261-6(c)(2).

R315-273-61. Standards for Universal Waste Management, Standards for Destination Facilities -- Off-site Shipments.

(a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility or foreign destination.

(b) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, he shall contact the shipper to notify him of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility shall:

(1) Send the shipment back to the original shipper, or

(2) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

(c) If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility shall immediately notify the Director of the illegal shipment, and provide the name, address, and phone number of the shipper. The Director shall provide instructions for managing the hazardous waste.

(d) If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or state solid waste regulations.

R315-273-62. Standards for Universal Waste Management, Standards for Destination Facilities -- Tracking Universal Waste Shipments.

(a) The owner or operator of a destination facility shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received shall include the following information:

(1) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;

(2) The quantity of each type of universal waste received;

(3) The date of receipt of the shipment of universal waste.

(b) The owner or operator of a destination facility shall retain the records described in Subsection R315-273-62(a) for at least three years from the date of receipt of a shipment of universal waste.

R315-273-70. Standards for Universal Waste Management -- Imports.

Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of Rule R315-273, immediately after the waste enters the United States, as indicated in Subsection R315-273-70(a) through (c):

(a) A universal waste transporter is subject to the universal waste transporter requirements of Sections R315-273-50 through 56.

(b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of Sections R315-273-10 through 20 or 30 through 40, as applicable.

(c) An owner or operator of a destination facility is subject to the destination facility requirements of Sections R315-273-60 through 62.

(d) Persons managing universal waste that is imported from an OECD country as specified in Subsection R315-262-58(a)(1) are subject to Subsections R315-273-70(a) through (c), in addition to the requirements of Sections R315-262-80 through 89.

R315-273-80. Standards for Universal Waste Management, Petitions to Include Other Wastes Under Rule R315-273 -- General.

(a) Any person seeking to add a hazardous waste or a category of hazardous waste to Rule R315-273 may petition for a regulatory amendment under Sections R315-273-80 and 81 and Sections R315-260-20 and 23.

(b) To be successful, the petitioner shall demonstrate to the satisfaction of the Board that regulation under the universal waste regulations of Rule R315-273 is: appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition shall include the information required by Subsection R315-260-20(b). The petition should also address as many of the factors listed in Section R315-273-81 as are appropriate for the waste or waste category addressed in the petition.

(c) The Board shall evaluate petitions using the factors listed in Section R315-273-81. The Board shall grant or deny a petition using the factors listed in Section R315-273-81. The decision shall be based on the weight of evidence showing that regulation under Rule R315-273 is appropriate for the waste or category of waste, shall improve management practices for the waste or category of waste, and shall improve implementation of the hazardous waste program.

(d) The Board may request additional information needed to evaluate the merits of the petition.

R315-273-81. Standards for Universal Waste Management -- Factors for Petitions to Include Other Wastes Under Rule R315-273.

(a) The waste or category of waste, as generated by a wide variety of generators, is listed in Sections R315-261-30 through 3, or, if not listed, a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in Sections R315-261-20 through 24. When a characteristic waste is added to the universal waste regulations of this Rule R315-273 by using a generic name to identify the waste category, e.g., batteries, the definition of universal waste in Section R315-260-10 and Section R315-273-9 shal be amended to include only the hazardous waste portion of the waste category, e.g., hazardous waste batteries. Thus, only the portion of the waste stream that does exhibit one or more characteristics, i.e., is hazardous waste, is subject to the universal waste regulations of Rule R315-273;

(b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments, including, for example, households, retail and commercial businesses, office complexes, very small quantity generators, small businesses, government organizations, as well as large industrial facilities;

(c) The waste or category of waste is generated by a large number of generators, e.g., more than 1,000 nationally, and is frequently generated in relatively small quantities by each generator;

(d) Systems to be used for collecting the waste or category of waste, including packaging, marking, and labeling practices, would ensure close stewardship of the waste;

(e) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner, e.g., waste

management requirements appropriate to be added to Sections R315-273-13, 33, and 52; and/or applicable Department of Transportation requirements, would be protective of human health and the environment during accumulation and transport;

(f) Regulation of the waste or category of waste under Rule R315-273 will increase the likelihood that the waste will be diverted from non-hazardous waste management systems; e.g., the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer or stormwater systems; to recycling; treatment; or disposal in compliance with Title 19 Chapter 6.

(g) Regulation of the waste or category of waste under Rule R315-273 will improve implementation of and compliance with the hazardous waste regulatory program; and/or

(h) Such other factors as may be appropriate.

KEY: hazardous waste, universal waste
January 14, 2019 **19-6-105**
19-6-106

R362. Governor, Energy Development (Office of).
R362-5. Commercial Property Assessed Clean Energy (C-PACE), Administrative Rules.
R362-5-1. Purpose.

(1) This rule is for the purposes of

(a) Implementing the responsibilities assigned to the Governor's Office of Energy Development (OED) in directing and administering the C-PACE District as defined in Section 11-42a-106; and

(b) Establishing the procedures for designating, levying, assigning, and collecting an energy assessment lien within an energy assessment area.

R362-5-2. Authority.

(1) This rule is required by Section 11-42a-106.

R362-5-3. Definitions.

(1) The terms used in this rule are defined in Section 11-42a-102.

(2) In addition, "contractor" means any person or company who is or may be awarded an original commercial contract for the construction, alteration, or repair of eligible improvements on eligible real property.

(4) In addition, "energy assessment areas" designated by the C-PACE District cannot be made contiguous or located on one or more contiguous or adjacent tracts of land.

(3) In addition, "third party delegate" means a vendor selected by OED that provides program administration support services to the C-PACE District, in accordance with Subsection 11-42a-106(4)(b).

R362-5-4. Eligible Improvements and Eligible Commercial and Industrial Real Property.

(1) C-PACE financing may be used to install eligible improvements on eligible commercial and industrial real property, as defined under Section 11-42a-102.

(2) Commercial or industrial real property, located within participating local entities, may be eligible to receive C-PACE financing for an existing building, a building under construction, or a building to be constructed.

(3) The amount to be financed is determined by the property owner and third party lender.

R362-5-5. C-PACE District Administration.

(1) OED is authorized to administer C-PACE projects in participating local entities.

(a) Participating local entities must make a written request of the C-PACE District to create the energy assessment area and energy assessment lien.

(b) The written request consists of a resolution passed by the local entity's governing body and a participation agreement executed by the local entity's administration.

(2) OED maintains an agreement with the relevant public electrical utility that establishes the scope of the eligible improvement(s) financed by C-PACE.

R362-5-6. Application Procedure.

(1) The property owner or a contractor, serving as the representative of the property owner, must verify the real property is located in a participating local entity.

(a) A map of participating local entities is provided on the C-PACE District website.

(2) The property owner or contractor submits to OED or the third party delegate the address of the real property.

(a) The third party delegate collects and reviews publicly available information on the real property.

(3) The property owner or contractor completes and submits the project application to OED or its third party delegate.

(a) The third party delegate reviews the project application against the eligible improvements and eligible real properties authorized in statute.

(b) The third party delegate notifies OED, the property owner, and contractor of its findings.

(4) OED or its third party delegate shall not be held responsible for any costs or fees incurred to complete the C-PACE project application, including but not limited to, audit costs and engineering fees.

(a) While such costs are typically included in the project financing, in cases where the project does not move forward, the property owner or contractor is responsible for such costs or fees.

R362-5-7. Mortgage Holder Consent.

(1) Written consent must be obtained from each person or institution holding a lien on the real property.

(a) Consent must be submitted to OED or its third party delegate to facilitate the levy and assignment of the energy assessment lien.

R362-5-8. Underwriting.

(1) The third-party lender and property owner negotiate financing terms and conditions.

(a) Third-party lenders establish their own financial underwriting standards and make their own determination about whether to invest in a project, on a per project basis.

(b) Once the underwriting process is complete, the third-party lender may issue a conditional approval or financial commitment letter outlining the terms of the financing, including any conditions of closing.

R362-5-9. Voluntary Energy Assessment Lien Procedures.

(1) The third-party lender prepares documents for closing the financial transaction with the property owner.

(a) The property owner and third-party lender enter into a financing agreement that contains the financing terms and conditions that govern the transaction.

(2) The third-party lender provides the information and documentation required to designate a voluntary energy assessment area, levy an energy assessment, and assign the energy assessment lien, to OED and its third party delegate.

(a) Notices shall include the financing agreement and exhibits, including the energy assessment lien repayment schedule.

(3) OED shall designate to the third-party lender its authority to transmit to the Governing Body Clerk and Recorder, or its equivalent, the documentation required for recording the voluntary energy assessment lien on the real property.

(a) After recording the energy assessment lien, the Governing Body Clerk and Recorder, or its equivalent, files a copy of the energy assessment lien with the Governing Body Assessor and coordinates with the third-party lender to assign the energy assessment lien to the third-party lender.

R362-5-10. Associated Fee.

(1) OED's costs of administering and directing the C-PACE District are financed by program fees charged to property owners upon project financial closing.

(a) In accordance with Section 63J-1-504, OED charges a program fee that consists of a one-time charge of three percent (3.0%) of the financed amount per project, provided that the fee does not exceed ninety thousand dollars ($90,000) per project.

(2) On behalf of OED, the thirty party delegate provides an invoice to the third-party lender for the program fee.

(a) The third-party lender remits the fee to the third party delegate within 10 days of financial closing.

(b) Upon receipt of the fee, the third party delegate remits

0.5% of the collected fee, up to $15,000, to OED within 10 days of receipt.

R362-5-11. Servicing and Repayment.

(1) The assessment is repaid in installations over a period not to exceed 30 years.

(a) In the event of a default, payments may not be accelerated to the total unpaid balance of the assessment.

(b) The third-party lender is be responsible for, subject to, and in accordance with the terms of the financing agreement, for all billing, collection, enforcement, and administrative duties pertaining to the loan, the assessment payments, and the energy assessment lien.

(c) The state is not liable for the acts or omissions of the C-PACE District or the C-PACE District's directors, administrators, officers, agents, employees, third-party directors or administrators, or third-party lenders, including any obligation, expense, debt, or liability of the C-PACE District.

R362-5-12. Release and Discharge of the Energy Assessment Lien.

(1) Upon full payment of the energy assessment lien, the third-party lender files a release and discharge of the energy assessment lien on the real property with the Governing Body Clerk and Recorder, or its equivalent.

R362-5-13. Reporting.

(1) According to Subsection 11-42a-106(c), the third party delegate submits to OED monthly reports that describe the following information:

(a) Total project financed amount

(b) Number of voluntary energy assessment liens established

(c) Fees collected

(d) Annual estimated energy savings, including both kilowatt hours and British thermal units (where applicable)

(e) Status of voluntary energy assessment lien repayments

(f) Length of financing

(g) Sales or transfers of properties with outstanding voluntary energy assessment liens

KEY: energy, assessment, commercial, financing
January 23, 2019 11-42a

R380. Health, Administration.
R380-70. Standards for Electronic Exchange of Clinical Health Information.
R380-70-1. Purpose and Authority.

This rule governs electronic information exchanges between health care providers, laboratories, and third party payers. It is authorized by Sections 26-1-30 and 26-1-37.

R380-70-2. Definitions.

The terms defined in Utah Code 26-1-37 apply to this rule and the standards adopted by this rule. In addition, the following terms apply to this rule and the standards adopted by this rule:

(1) "Clinical health information" means data gathered on patients regarding episodes of clinical health care.

(2) "Clinical laboratory" means a laboratory that performs laboratory testing on humans (except research) in the U.S.

(3) "Health care provider" has the same meaning as used in Utah Code Section 26-1-37 and includes an entity, such as a clinic, employer, or other business arrangement, where an individual licensed under Title 58, Occupations and Professions, provides health care.

R380-70-3. Terms Used in Standards.

Some terms used in this rule and the standards adopted by this rule are nationally recognized terms within the clinical data exchange community. The following are provided as an aid to the reader:

(1) Health care information codes

(a) "ASA Codes" are the codes contained in the ASA Relative Value Guide developed and maintained by the American Society of Anesthesiologists to describe anesthesia services and related modifiers.

(b) "CDT Codes" are the Current Dental Terminology prescribed by the American Dental Association.

(c) "CPT Codes" means the Current Procedural Terminology, published by the American Medical Association.

(d) "HCPCS" are CMS's Common Procedure Coding System, a coding system that describes products, supplies, procedures and health professional services and includes, the American Medical Association's Current Procedural Terminology codes, alphanumeric codes, and related modifiers. HCPCS codes are:

(i) "HCPCS Level I Codes" are the CPT codes and modifiers for professional services and procedures.

(ii) "HCPCS Level II Codes" are national alphanumeric codes and modifiers for health care products and supplies, and codes for professional services not included in the AMA's CPT codes.

(e) "ICD-CM Codes" are the diagnosis and procedure codes in the International Classification of Diseases, clinical modifications published by the U.S. Department of Health and Human Services.

(f) "LOINC" means Logical Observation Identifiers Names and Codes. It is a set of universal codes and names to identify laboratory and other clinical observations developed by the Regenstrief Institute.

(g) "NDC" means the National Drug Codes of the Food and Drug Administration.

(h) "SNOMED" means Systematized Nomenclature of Medicine maintained and distributed by the International Health Terminology Standards Development Organisation. It is a systematically organized computer processable collection of medical terminology.

(2) Electronic Data Interchange Standards

(a) "ASC X12N" are standard formats developed by the Accredited Standards Committee X12N Insurance Subcommittee of the American National Standards Institute and the ASC X12N implementation guides either as promulgated or as modified by another federally registered SDO;

(b) "HL7" are electronic data interchange standard formats developed by Health Level 7, which is a standards development organization accredited by the American National Standards Institute. The HL7 standard is usually modified into specific implementation guides by a separate standards development organization;

(c) "NCPDP" are standard formats for the transfer of data to and from the pharmacy services sector of the healthcare industry. It is developed by the National Council on Prescription Drug Program, which is a standards development organization accredited by the American National Standards Institute.

R380-70-4. Electronic Exchange Requirements.

(1) A health care provider or third party payer that exchanges information electronically with another health care provider or third party payer must comply with the provisions of this rule.

(2) A person required to report information to the Utah Department of Health and that submits its report electronically shall submit the report in accordance with the provisions of this rule.

(3) A health care provider or third party payer may reject electronically transmitted clinical information if it is not transmitted in accordance with this rule.

R380-70-5. Exemptions.

(1) This rule does not govern the exchange of information that is not conducted electronically or for which no standard has been established in this rule.

(2) This rule does not apply to the exchange of clinical health information among affiliates, as provided in 26-1-37, within a health care system.

(3) Nothing in this rule requires a health care provider or third party payer to use a specific telecommunications network for the exchange of clinical health information.

R380-70-6. Electronic Data Interchange Standards.

Standards incorporated by reference in this rule are available for public inspection at the department during normal business hours or at http://health.utah.gov/phi/index.php?formname=laws.

(1) A health care provider, a clinical laboratory, or third-party payer that electronically exchanges clinical health information with another health care provider, a clinical laboratory, or third-party payer must comply with the following Utah Health Information Network standards-:

(a) Discharge Summary v2.0, March 4, 2009;

(b) History and Physical v2.0, March 4, 2009;

(c) Chief Complaint v2.0, March 15, 2009;

(d) Operative Report v2.0, June 15, 2009;

(e) Clinical Acknowledgement and Error Status v2.0, June 15, 2009;

(f) Laboratory Test Result Identifiers v2.0, September 5.2009;

(g) Clinical Laboratory Results v2.0, September 30, 2009;

(h) Radiology Report v2.0, June 21, 2010, which are incorporated by references.

R380-70-7. Standards Recommendations.

A party that recommends standards to the Department, shall seek guidance and work with national standard setting entities, such as the American National Standards Institute ASC X12, Health Level 7, and the National Council on Prescription Drug Program, that deal with the particular subject matter.

KEY: standards, clinical health information exchange
July 5, 2011 **26-1-30**

Notice of Continuation January 24, 2019 26-1-37

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-520. Admission Criteria for Medically Complex Children's Waiver.
R414-520-1. Introduction and Authority.

(1) This rule outlines the criteria used to evaluate initial and ongoing eligibility for the Medically Complex Children's Waiver.

(2) This rule is authorized by Section 26-18-3. Waiver services are optional and provided in accordance with 42 CFR 440.225.

R414-520-2. Definitions.

(1) "Waiver" means the Medically Complex Children's Waiver.

R414-520-3. Eligibility Requirements.

(1) The Department uses the following criteria to determine waiver eligibility:

(a) An assessment of a child's ability to perform age-appropriate activities of daily living and that child's level of independence in the performance of the activity; and

(b) An evaluation to determine whether a child meets nursing facility level of care in accordance with Section R414-502-3.

(2) For a child who meets the criteria in Subsection R414-520-3(1), a point value is attributed to the initial application and annual re-evaluation that includes the following:

(a) Current medical providers;

(b) Condition or diagnosis;

(c) Date of last medical visit;

(d) Documentation of more than three months of dependence on medical devices, treatments, therapies, or subspecialty services to reach a minimum medical score; and

(e) An evaluation of the impact on the parents or guardians who have provided care to the medically complex child during the last 12 months.

R414-520-4. Waiver Access.

(1) The Department periodically assesses funding for the waiver to determine the number of children who may be served. It also derives a point value associated with the criteria found in Subsection R414-520-3(2)(d) through (e) to determine which children to enroll. In the event of multiple applications with the same point value, the Department will use the point value derived from Subsection R414-520-3(2)(d) to make its determination. In the event of multiple applications with the same point value derived from Subsection R414-520-3(2)(d), the Department will create a randomized list to determine which children are served.

(2) An applicant who is not admitted to the waiver, or a child who is disenrolled from the waiver, may appeal the decision in accordance with 42 CFR 431, Subpart E.

R414-520-5. Service Coverage.

Services and limitations are found in the State Implementation Plan for the Medically Complex Children's Waiver.

KEY: Medicaid
January 4, 2019 **26-1-5**
26-18-3
26-18-410

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-521. Accountable Care Organization Hospital Report.
R414-521-1. Reporting Requirements.

(1) In accordance with Section 26-36b-204, a Medicaid accountable care organization (ACO) shall submit by October 15 of each year, a completed ACO hospital report for the most recent state fiscal year.

(a) The ACO shall use the ACO hospital report spreadsheet template available on the Utah Medicaid website, and follow the specified instructions.

(b) The ACO shall return the completed template in its native file type and format to the specified email provided within the template.

(2) An ACO shall work with the State to resolve any questions the State may have regarding the report, and provide additional data within 15 days of a request or as specified by the State.

KEY: Medicaid, reporting requirements
January 4, 2019 **26-1-5**
26-18-3
26-36b-204

R426. Health, Family Health and Preparedness, Emergency Medical Services.
R426-1. General Definitions.
R426-1-100. Authority and Purpose.

This rule establishes uniform definitions for all R426 rules. It also provides administration standards applicable to all R426 rules.

R426-1-200. General Definitions.

The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule, in addition:

(1) "Advanced Emergency Medical Technician" or "AEMT" means an individual who has completed an AEMT training program, approved by the Department, who is licensed by the Department as qualified to render services enumerated in this rule.

(2) "Affiliated Provider" means a licensed EMS individual's secondary employer or employers.

(3) "Air Ambulance" means a specially equipped and permitted aircraft, especially a helicopter or fixed wing airplane, for transporting patients.

(4) "Air Ambulance Personnel" mean the pilot and patient care personnel who are involved in an air medical transport.

(5) "Air Ambulance Service" means any publicly or privately owned organization that is licensed or applies for licensure under R426-3 and provides transportation and care of patients by air ambulance.

(6) "Air Ambulance Service Medical Director" means a physician knowledgeable of potential medical complications which may arise because of air medical transport, and is responsible for overseeing and assuring that the appropriate air ambulance, medical personnel, and equipment are provided for patients transported by the air ambulance service.

(7) "Categorization" means the process of identifying and developing a stratified profile of Utah hospital trauma critical care capabilities in relation to the standards defined under R426-5-7.

(8) "Certify," "Certification," and "Certified" mean the official Department recognition that an individual has completed a specific level of training and has the minimum skills required to provide emergency medical care at the level for which he is certified.

(9) "Competitive Grant" means a grant awarded through the Emergency Medical Services Grants Program on a competitive basis for a share of available funds.

(10) "Complaint, Compliance, and Enforcement Unit or CCEU" means the investigative unit of the Department.

(11) "Continuing Medical Education" means a Department-approved training relating specifically to the appropriate level of certification designed to maintain or enhance an individual's emergency medical skills.

(12) "County or Multi-County EMS Council or Committee" means a group of persons recognized as the legitimate entity within the county to formulate policy regarding the provision of EMS.

(13) "Course Coordinator" means an individual who has completed a Department course coordinator course and is certified by the Department as capable to conduct Department-authorized EMS courses.

(14) "Department" means the Utah Department of Health.

(15) "Emergency Medical Dispatcher" or "EMD" means an individual who has completed a Department approved EMD training program, and is licensed by the Department as qualified to render services enumerated in this rule.

(16) "Emergency Medical Service Dispatch Center" means a call center designated by the Department for the routine acceptance of calls for emergency assistance, staffed by trained operators who utilize a selective medical dispatch system to dispatch licensed ambulance and paramedic services.

(17) "Emergency Medical Responder" or "EMR" means an individual who has completed a Department approved EMR training program, and is licensed by the Department as qualified to render services enumerated in this rule.

(18) "Emergency Medical Technician" or "EMT" means an individual who has completed a Department approved EMT training program and is licensed by the Department as qualified to render services enumerated in this rule.

(19) "Emergency Medical Technician Intermediate Advanced" means an individual who has completed a Department approved EMT- IA training program and is licensed by the Department as qualified to render services enumerated in this rule.

(20) "Emergency vehicle operator" means an individual on the roster of an EMS provider who may, in the normal course of the individual's duties, drive an ambulance or an emergency medical response vehicle.

(21) "EMS" means Emergency Medical Services.

(22) "Emergency Medical Incident" means any instance in which an Emergency Medical Services Provider is requested to provide or potentially provide emergency medical services.

(23) "EMS Instructor" means an individual who has completed a Department EMS instructor course and is certified by the Department as capable to teach EMS personnel.

(24) "EMS stand-by event" means the on-site licensed ambulance, paramedic service, or designated quick response unit at a scheduled event or activity provided by the local 911 exclusive license provider or their designee.

(25) "Exclusive License" means the sole right to perform the licensed act in a defined geographic service area, and that prohibits the Department of Health from performing the licensed act, and from granting the right to anyone else.

(26) "Grants Review Subcommittee" means a subcommittee appointed by the EMS Committee to review, evaluate, prioritize and make grant funding recommendations to the EMS Committee.

(27) "Ground Ambulance" means a vehicle which is properly equipped, maintained, permitted and used to transport a patient to a patient destination such as a patient receiving facility or resource hospital.

(28) "Inclusive Trauma System" means the coordinated component of the State emergency medical services (EMS) system composed of all general acute hospitals licensed under Title 26, Chapter 21, trauma centers, and pre-hospital providers which have established communication linkages and triage protocols to provide for the effective management, transport and care of all injured patients from initial injury to complete rehabilitation.

(29) "Inter-facility Transfer" means an ambulance transfer of a patient, who does not have an emergency medical condition as defined in UCA 26-8a-102(6)(a), and the ambulance transfer of the patient is arranged by a transferring physician for the particular patient, from a hospital, nursing facility, patient receiving facility, mental health facility, or other licensed medical facility.

(30) "Individual" means a human being.

(31) "Level of Care" means the capabilities and commitment to the care of the trauma patient available within a specified facility.

(32) "Level of License" means the official Department recognized step in the licensure process in which an individual has attained as an EMS provider.

(33) "Licensed EMS Individual" means a person licensed by the Bureau of Emergency Medical Services and Preparedness to perform an EMS function.

(34) "Meritorious Complaint" means a complaint against a licensed ambulance provider, designated agency, or licensed provider(s) that is made by a patient, a member of the immediate family of a patient, or health care provider, that the Department

determines is substantially supported by the facts or a licensed ambulance provider, designated agency, or licensed provider(s):

(a) has repeatedly failed to provide service at the level or in the exclusive geographic service area required licensee;

(b) has repeatedly failed to follow operational standards established by the EMS Committee;

(c) has committed an act in the performance of a professional duty that endangered the public or constituted gross negligence; or

(d) has otherwise repeatedly engaged in conduct that is adverse to the public health, safety, morals or welfare, or would adversely affect the public trust in the emergency medical service system.

(35) "Matching Funds" means that portion of funds, in cash, contributed by the grantee to total project expenditures.

(36) "On-line Medical Control" which refers to physician medical direction of pre-hospital personnel during a medical emergency; and

(37) "Off-line Medical Control" which refers to physician oversight of local EMS services and personnel to assure their medical accountability.

(38) "Medical Director" means a physician certified by the Department to provide off-line medical control.

(39) "Mid-level Provider" means a licensed nurse practitioner or a licensed physician assistant.

(40) "Net Income" means the sum of net service revenue, plus other regulated operating revenue and subsidies of any type, less operating expenses, interest expense, and income.

(41)"Paramedic" means an individual who has completed a Department approved Paramedic training program and is licensed by the Department as qualified to render services enumerated in this rule.

(42) "Paramedic Ground Ambulance" means the provision of advanced life support patient care and transport by licensed paramedic personnel in a licensed ambulance.

(43) "Paramedic Rescue Service" means the provision of advanced life support patient care by licensed paramedic personnel without the ability to transport patients.

(44) "Paramedic Unit" means a vehicle which is properly equipped, maintained and used to transport licensed paramedics to the scene of emergencies to perform paramedic services without the ability to transport patients to a designated hospital or designated patient receiving facility.

(45) "Paramedic Tactical Service" means the retrieval and field treatment of injured peace officers or victims of traumatic confrontations by licensed paramedics who are trained in combat medical response.

(46) "Paramedic Tactical Unit" means a vehicle which is properly equipped, maintained, and used to transport licensed paramedics to the scene of traumatic confrontations to provide paramedic tactical services.

(47) "Patient Care Report" means a record of the response by each responding Emergency Medical Services Provider unit to each patient during an EMS Incident.

(48) "Patient Receiving Facility" means a Department designated medical clinic or designated resource hospital that is approved to receive patients transported by a licensed ambulance provider.

(49) "Per Capita grants" mean block grants determined by prorating available funds on a per capita basis as delineated in 26-8a-207, as part of the Emergency Medical Services Grants Program.

(50) "Permit" means the document issued by the Department that authorizes a vehicle to be used in providing emergency medical services.

(51) "Person" means an individual, firm, partnership, association, corporation, company, or group of individuals acting together for a common purpose, agency, or organization of any kind public or private.

(52) "Physician" means a medical doctor licensed to practice medicine in Utah.

(53) "Pilot" means an individual licensed to operate an air ambulance.

(54) "Pre-hospital Care" means medical care given to an ill or injured patient by a designated or licensed EMS provider outside of a hospital setting.

(55) "Primary Affiliated Provider" or "PAP" means a licensed EMS individual's primary or main employer or provider.

(56) "Primary emergency medical services" means an organization that is the only licensed or designated service in a geographical area.

(57) "Provider" means a Department licensed or designated entity that provides emergency medical services.

(58) "Provisional License" means temporary terms and conditions placed on a licensed EMS individual's license until completion of an investigation or a final adjudication or conclusion of the pending matter.

(59) "Quick Response Unit" or "QRU" means an entity that provides emergency medical services to supplement local licensed ambulance providers or provide unique services.

(60) "Quick Response Vehicle" or "QRV" means a vehicle which is properly equipped, maintained, permitted and used to perform assistive services at a scene. A QRV may transport or deliver a patient to a licensed ambulance provider access point. The QRV may include an automobile, an all-terrain vehicle or a watercraft.

(61) "Resource Hospital" means a facility designated by the EMS Committee to provide on-line medical control for the provision of pre-hospital emergency care.

(62) "Restricted License" means a licensed EMS individual may not function in their EMS capacity for an interim period of time.

(63) "Scene" means the location of initial contact with the patient.

(64) "Selective Medical Dispatch System" means a Department-approved reference system used by a designated local dispatch agency to dispatch aid to medical emergencies which includes:

(a) systemized caller interrogation questions;

(b) systemized pre-arrival instructions; and

(c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration.

(65) "Specialized Life Support Air Ambulance Service" means a level of care which requires equipment or specialty patient care by one or more medical personnel in addition to the regularly scheduled air medical team.

(66) "Training Officer" means an individual who has completed a department Training Officer Course and is certified by the Department to be responsible for an EMS provider organization's continuing medical education, license renewal records, and testing.

KEY: emergency medical services
January 11, 2019 26-8a
Notice of Continuation October 9, 2018

R426. Health, Family Health and Preparedness, Emergency Medical Services.
R426-2. Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews.
R426-2-100. Authority and Purpose.

(1) This rule establishes types of providers that require a designation, the application process for a obtaining a designation and minimum designation requirements.

(2) The rule also establishes criteria for critical incident stress management and the process for quality assurance reviews.

R426-2-200. EMS Provider Designation Types.

(1) The following type of provider shall obtain a designation from the Department:

(a) Quick Response Unit.

(b) Emergency Medical Service Dispatch Center.

R426-2-300. Quick Response Unit Minimum Designation Requirements.

(1) A quick response unit shall meet the following minimum designation requirements:

(a) vehicle(s), equipment, and supplies that meet Department requirements;

(b) describe location(s) for stationing its vehicle(s), equipment and supplies;

(c) a current dispatch agreement with a designated Emergency Medical Service Dispatch Center;

(d) a Department-certified training officer;

(e) a current plan of operations, which shall include:

(i) the names, EMS ID Number, and license level of all personnel;

(ii) operational procedures; and

(iii) a description of how the designated provider proposes to interface with other licensed and designated EMS providers.

(f) A current agreement with a Department-certified off-line medical director who will perform the following:

(i) develop and implement patient care standards which include written standing orders and triage, treatment, pre-hospital protocols, and/or pre-arrival instructions to be given by designated emergency medical dispatch centers;

(ii) ensure the qualification of field licensed EMS personnel involved in patient care and dispatch through the provision of ongoing continuing medical education programs and appropriate review and evaluation;

(iii) develop and implement an effective quality improvement program, including medical audit, review, and critique of patient care;

(iv) annually review triage, treatment, and transport protocols and update them as necessary;

(v) suspend from patient care, pending Department review, a field EMS personnel or dispatcher who does not comply with local medical triage, treatment and transport protocols, pre-arrival instruction protocols, or who violates any of the EMS rules, or who the medical director determines is providing emergency medical service in a careless or unsafe manner.

(vi) notify the Department within one business day of any imposed suspensions; and

(vii) attend meetings of the local EMS Council, if one exists, to participate in the coordination and operations of local EMS providers.

(g) Have current treatment protocols approved by the certified off-line medical director for the designated service level;

(h) provide the Department with a copy of its certificate of insurance;

(i) provide the Department with a letter of support from the licensed ambulance provider(s) in the geographical service area; and

(j) not be disqualified for reasons including:

(i) violation of Subsection 26-8a-504; or

(ii) a history of disciplinary action relating to an EMS license, permit, designation or certification in this or any other state.

R426-2-400. Emergency Medical Service Dispatch Center Minimum Designation Requirements.

(1) Have in effect a selective medical dispatch system approved by the off-line medical director which includes:

(a) systemized caller interrogation questions;

(b) systemized pre-arrival instructions;

(c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration;

(d) use protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration;

(e) provide pre-hospital arrival instructions by a licensed Emergency Medical Dispatcher;

(f) have a current updated plan of operations including:

(i) plan of operations to be used in a disaster or emergency;

(ii) communication systems; and

(iii) aid agreements with other designated medical service dispatch centers;

(g) a current agreement with a Department-certified off-line medical director;

(h) an ongoing medical call review quality assurance program; and

(i) a licensed emergency medical dispatcher roster including licensed staff names, Department license numbers and expiration dates, and dispatch system training certification number and expiration dates.

R426-2-500. Designation Applications.

(1) Any person applying for designation shall submit to the Department:

(a) Applications fees.

(b) Complete application on Department approved forms.

(c) Documentation verifying that the provider meets the minimum requirements for the designation.

(2) The Department may determine if clarifying information is needed for approval or processing. The Department will provide needed requirements to the applicant.

(3) A provider applying for re-designation should submit an application as described above 90 days prior to the expiration of its designation in order to avoid a lapsed period of time.

(4) A designation may be issued for up to a four-year period.

R426-2-600. Quick Response Unit Designation Applications.

(1) A Quick Response Unit shall provide:

(a) name of the organization and its principles;

(b) name of the person or organization financially responsible for the service and documentation from that entity accepting responsibility;

(c) if the applicant is privately owned, they shall submit certified copies of the document creating the entity;

(d) a description of the geographical area of service; and

(e) a demonstrated need for the service.

R426-2-700. Emergency Medical Service Dispatch Center Designation Applications.

(1) An Emergency Medical Service Dispatch Center shall provide:

(a) name of the organization and its principles;

(b) name of the person or organization financially

responsible for the service provided by the designee and documentation from that entity accepting responsibility;

(c) if the applicant is privately owned, they shall submit certified copies of the document creating the entity;

(d) a description of the geographical area of service; and

(e) a demonstrated need for the service.

R426-2-800. Denial or Revocation of Designation.

(1) The Department may deny an application for a designation for any of the following reasons:

(a) failure to meet requirements as specified in the rules governing the service;

(b) failure to meet vehicle, equipment, or staffing requirements;

(c) failure to meet requirements for renewal or upgrade;

(d) conduct during the performance of duties relating to its responsibilities as an EMS provider that is contrary to accepted standards of conduct for EMS personnel described in Sections 26-8a-502 and 26-8a-504;

(e) failure to meet agreements covering training standards or testing standards;

(f) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state.

(g) a history of criminal activity by the licensed or designated provider or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;

(h) falsifying or misrepresenting any information required for licensure or designation or by the application for either;

(i) failure to pay the required designation or permitting fees or failure to pay outstanding balances owed to the Department;

(j) failure to submit records and other data to the Department as required by statute or rule;

(k) misuse of grant funds received under Section 26-8a-207; and

(l) violation of OSHA or other federal standards that it is required to meet in the provision of the EMS service.

(2) An applicant who has been denied a designation may request a Department review by filing a written request for reconsideration within thirty calendar days of the issuance of the Department's denial.

R426-2-900. Application Review and Approval.

(1) If the Department finds that an application for designation is complete and that the applicant meets all requirements, it may approve the designation.

R426-2-1000. Change in Designated Service Level.

(1) A quick response unit may apply to provide a higher designated level of service by:

(a) submitting the applicable fees; and

(b) submitting an application on Department-approved forms to the Department.

(2) As part of the application, the applicant shall provide:

(a) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;

(b) an updated plan of operations demonstrating the applicant's ability to provide the higher level of service;

(c) a written assessment of the performance of the applicant's field performance by the applicant's off-line medical director; and

(d) provide the Department with a letter of support from the licensed provider(s) in the geographical service area.

(3) If the Department finds that the applicant has demonstrated the ability to provide the upgraded service, it shall issue a new designation reflecting the higher level of service.

R426-2-1100. Critical Incident Stress Management.

(1) The Department may establish a critical incident stress management (CISM) team to meet its public health responsibilities under Utah Code Section 26-8a-206.

(2) The CISM team may conduct stress debriefings, defusings, demobilizations, education, and other critical incident stress interventions upon request for persons who have been exposed to one or more stressful incidents in the course of providing emergency services.

(3) Individuals who serve on the CISM team shall complete Department approved initial and ongoing training.

(4) While serving as a CISM team member, the individual is acting on behalf of the Department. All records collected by the CISM team are Department records. CISM team members shall maintain all information in strict confidence as provided in Utah Code Title 26, Chapter 3.

(5) The Department may reimburse a CISM team member for travel expenses incurred in performing his or her duties in accordance with state finance mileage reimbursement policy.

R426-2-1200. Quality Assurance Reviews.

(1) The Department may conduct quality assurance reviews of licensed and designated providers and training programs on an annual basis or more frequently as necessary to enforce this rule.

(2) The Department shall conduct a quality assurance review prior to issuing a new license or designation.

(3) The Department may conduct quality assurance reviews on all personnel, vehicles, facilities, communications, equipment, documents, records, methods, procedures, materials and all other attributes or characteristics of the designated provider.

(a) The Department will provide a written copy to the designated provider.

(b) The designated provider shall correct deficiencies within 30 days unless otherwise directed by the Department.

(c) The designated provider shall immediately notify the Department on a Department-approved form when the deficiencies have been corrected.

KEY: emergency medical services
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R426. Health, Family Health and Preparedness, Emergency Medical Services.
R426-9. Specialty Care Systems Facility Designations.
R426-9-100. Authority and Purpose for Specialty Care Systems Standards.

(1) This rule establishes requirements pursuant to statute for a statewide specialty care systems and related emergency medical systems including the following:

(a) establishes and actively supervises a statewide trauma system;

(b) establishes, by rule, trauma center designation requirements and model state guidelines for triage, treatment, transport, and transfer of trauma patients to the most appropriate health care facility; and

(c) allows designation of trauma care facilities consistent with the trauma center designation requirements and verification process established by the Department and applicable statutes.

(2) This rule provides standards for the categorization of all hospitals and the voluntary designation of trauma centers to assist physicians in selecting the most appropriate physician and facility based upon the nature of the patient's critical care problem and the capabilities of the facility.

(3) It is intended that the categorization process be dynamic and updated periodically to reflect changes in national standards, medical facility capabilities, and treatment processes. Also, as suggested by the Utah Medical Association, the standards are in no way to be construed as mandating the transfer of any patient contrary to the wishes of his attending physician, rather the standards serve as an expression of the type of facilities and care available in the respective hospitals for the use of physicians requesting transfer of patients requiring skills and facilities not available in their own hospitals.

R426-9-200. Trauma System Advisory Committee.

(1) The Trauma System Advisory Committee shall:

(a) be a broad and balanced representation of healthcare providers and health care delivery systems; and

(b) conduct meetings in accordance with committee procedures.

(2) The Department shall appoint committee members to serve terms from one to four years.

(3) The Department may re-appoint committee members for one additional term in the position initially appointed by the Department.

(4) Causes for removal of a committee member include the following:

(a) more than two unexcused absences from meetings within 12 calendar months;

(b) more than three excused absences from meetings within 12 calendar months;

(c) conviction of a felony; or

(d) change in organizational affiliation or employment which may affect the appropriate representation of a position on the committee for which the member was appointed.

R426-9-300. Trauma Center Categorization Guidelines.

The Department adopts as criteria for Level I, Level II, Level III, IV and Pediatric trauma center designation, compliance with national standards published in the American College of Surgeons document: Resources for Optimal Care of the Injured Patient 2014.

R426-9-400. Trauma Center Review Process.

(1) The Department shall conduct a quality review site visit of trauma centers and applicants to verify compliance with standards set in R426-9-300. In conducting each evaluation, the Department may consult with experts from the following disciplines:

(a) trauma surgery;

(b) emergency medicine;

(c) emergency or critical care nursing; and

(d) hospital administration.

(2) A consultant shall not assist the Department in evaluating a facility in which the consultant is employed, practices, or has any financial interest.

R426-9-500. Trauma Center Categorization Process.

The Department shall:

(1) Develop a survey document based upon the Trauma Center Criteria described in R426-9-300.

(2) Periodically survey all Utah hospitals which provide emergency trauma care to determine the maximum level of trauma care which each is capable of providing.

(3) Disseminate survey results to all Utah hospitals, and as appropriate, to Utah licensed ambulance providers.

R426-9-600. Trauma Center Designation Process.

(1) Hospitals seeking voluntary designation and all designated Trauma Centers desiring to remain designated, shall apply for designation by submitting the following information to the Department at least 30 days prior to the date of the scheduled site visit:

(a) a completed and signed application and appropriate fees for trauma center verification;

(b) a letter from the hospital administrator of continued commitment to comply with current trauma center designation standards as applicable to the applicant's designation level;

(c) the data specified under R426-9-700 are current;

(d) Level I and Level II Trauma Centers must submit a copy of the Pre-review Questionnaire (PRQ) from the American College of Surgeons in lieu of the application in 1a above;

(e) Level III and Level IV and Level V trauma centers must submit a complete Department approved application.

(2) Hospitals desiring to be designated as Level I and Level II Trauma Centers must be verified by the American College of Surgeons (ACS) within three (3) months of the expiration date of previous designation and must submit a copy of the full ACS report detailing the results of the ACS site visit. A Department representative must be present during the entire ACS verification or consultation visit. Hospitals desiring to be Level III or Level IV Trauma Centers must be designated by hosting a formal site visit by the Department.

(3) Hospitals not previously designated as a Level I or a Level II trauma center, applying for designation after December 31, 2016, will be considered for designation implementing the point system suggested by the American College of Surgeons as follows and using data from the Utah Trauma Registry:

(a) population as defined by the federal Office of Management and Budget total Metropolitan Statistical Area (MSA);

(i) total MSA population of less than 600,000 receives 2 points,

(ii) total MSA population of 600,000 to 1,200,000 receives 4 points,

(iii) total MSA population of 1,200,000 to 1,800,000 receives 6 points,

(iv) total MSA population of 1,800,000 to 2,400,000 receives 8 points,

(v) total MSA population of greater than 2,400,000 receives 10 points.

(b) Median Transport Times (combined air and ground -- scene only no transfer);

(i) median transport time of less than 10 minutes received 0 points,

(ii) median transport time of 10 -- 20 minutes receives 1 points,

(iii) median transport time of 21 -- 30 minutes receives 2 points,

(iv) median transport time of 31 -- 40 minutes receives 3 points,

(v) median transport time of greater than 41 minutes receives 4 points.

(c) Department/System Stakeholder/Community Support;

(i) Department support for a trauma center(if none exist)or an additional trauma center in the MSA -- 5 points,

(ii) Department position that no additional trauma centers are needed -- negative 5 points,

(iii) Trauma System Advisory Committee (or equivalent body) statement of support for a trauma center (if none exist) or an additional trauma center in the MSA -- 5 points,

(iv) community support demonstrated by letters of support from 25- 50% of city and county governing bodies within the MSA -- 1 points,

(v) community support demonstrated by letters of support from over 50% of city and county governing bodies within the MSA -- 2 points.

(d) Severely injured patients (ISS more than 15) discharged from acute care facilities not designated as Level I, II, or III trauma centers;

(i) discharges of 0-200 severely injured patients receives 0 points,

(ii) discharges of 201 -- 400 severely injured patients receives 1 points,

(iii) discharges of 401 -- 600 severely injured patients receives 2 points,

(iv) discharges of 601 -- 800 severely injured patients receives 3 points,

(v) discharges of greater than 800 severely injured patients receives 4 points.

(e) Level I Trauma Centers;

(i) for the existence of each verified Level I trauma center already in the MSA assign 1 negative point,

(ii) for the existence of each verified Level II trauma center already in the MSA assign 1 negative point,

(iii) for the existence of each verified Level III trauma center already in the MSA assign 0.5 negative points.

(f) Numbers of severely injured patients (ISS more than 15) seen in trauma centers (Level I and II) already in the MSA. The expected number of high-ISS patients is calculated as: 500 x (Number of Level I and Level II centers in the MSA) = (Expected Number of high ISS patients);

(i) if the MSA has more than 500 severely injured patients above the expected number assign 2 points,

(ii) if the MSA has 0 - 500 severely injured patients above the expected number assign 1 point,

(iii) if the MSA has 0 - 500 fewer severely injury patients than the expected number assign 1 negative point,

(iv) if the MSA has more than 500 fewer severely injured patients than the expected number assign 2 negative points.

(g) The following scoring system shall be used to allocate trauma centers within the MSAs:

(i) MSAs with scores of 5 points or less shall be allocated 1 Level I or II trauma center;

(ii) MSAs with scores of 6 - 10 points shall be allocated 2 Level I or II trauma centers;

(iii) MSAs with score of 11 - 15 points shall be allocated 3 Level I or II trauma centers;

(iv) MSAs with scores of 16 - 20 points shall be allocated 4 Level I or II trauma centers.

(h) If the number of trauma centers allocated by the model is greater than the existing number of Level I or II trauma centers in the MSA, efforts should be undertaken to recruit and designate additional trauma centers.

(i) If the number of Level I and II trauma centers allocated by the model is less than or equal to the number currently designated, the Department should not designate additional Level I or II trauma centers in the MSA.

R426-9-700. Data Requirements for an Inclusive Trauma System.

(1) All hospitals shall collect, and monthly submit to the Department, Trauma Registry information necessary to maintain an inclusive trauma system. Designated trauma centers shall provide such data in a standardized electronic format approved by the Department. The Department shall provide funds to hospitals, excluding designated trauma centers, for the data collection process. In order to ensure consistent patient data collection, a trauma patient is defined as a patient sustaining a traumatic injury and meeting the following criteria:

(a) At least one of the following injury diagnostic codes: ICD10 Diagnostic Codes: S00-S00 with 7th character modifiers of A, B, or C only, T07, T14, T20-T28 with 7th character modifier of A, T30-T32, T79.A1-T79.A9 with 7th character modifier of A excluding the following isolated injuries: S00, S10, S20, S30, S40, S50, S60, S70, S80, S90. Late effect codes, which are represented using the same range of injury diagnosis codes but with the 7th digit modifier code of D through S are also excluded; and

(b) At least one of the following patient conditions:

Stay at a hospital greater than 12 hours (as measured from the Emergency Department arrival to patient discharge); transferred in or out of reporting hospital via EMS transport (including air ambulance); death resulting from the traumatic injury (independent of hospital admission or hospital transfer status.

(c) The Department adopt by reference the National Trauma Data Standard Data Dictionary for 2016 Admissions published by the American College of Surgeons, and the Utah Trauma Registry State Required Elements for 2016 published by the Department.

R426-9-800. Trauma Triage and Transfer Guidelines.

The Department adopts by reference the 2009 Resources and Guidelines for the Triage and Transfer of Trauma Patients published by the Utah Department of Health as model guidelines for triage, transfer, and transport of trauma patients. The guidelines do not mandate the transfer of any patient contrary to the judgment of the attending physician. They are a resource for pre-hospital and hospital providers to assist in the triage, transfer and transport of trauma patients to designated trauma centers or acute care hospitals which are appropriate to adequately receive trauma patients.

R426-9-900. Noncompliance to Trauma Standards.

(1) The Department may warn, reduce, deny, suspend, revoke, or place on probation a facility designation, if the Department finds evidence that the facility has not been or will not be operated in compliance to standards adopted under R426-9-300.

(2) A hospital, clinic, health care provider, or health care delivery system may not profess or advertise to be designated as a trauma center if the Department has not designated it as such pursuant to this rule.

R426-9-1000. Resource Hospital Minimum Designation Requirements.

A Resource Hospital shall meet the following minimum requirements for designation:

(1) Be licensed in Utah or another state as a general acute hospital or be a Veteran's Administration hospital operating in Utah;

(2) Have the ability to communicate with other EMS providers operating in the area;

(3) Provide on-line medical control for all pre-hospital EMS providers who request assistance for patient care, 24 hours-a-day, seven days a week;

(4) Create and abide by written pre-hospital emergency

patient care protocols for use in providing on-line medical control for pre-hospital EMS providers;

(5) Train new staff on the protocols before the new staff is permitted to provide on-line medical control and annually review protocols with physician and nursing staff;

(6) Annually provide in-service training on the protocols to all physicians and nurses who provide on-line medical control;

(7) Make the protocols immediately available to staff for reference;

(8) Provide on-line medical control which shall include:

(a) direct voice communication with a physician; or

(b) a registered nurse or physician's assistant, who shall to be licensed in Utah, who is in voice contact with a physician;

(9) Implement a quality improvement process which shall include:

(a) representatives from local EMS providers that routinely transport patients to the resource hospital;

(b) quarterly meetings; and

(c) minutes of the quality improvement meetings which are available for Department review;

(10) Identify a coordinator for the pre-hospital quality improvement process;

(11) Cooperate with the pre-hospital EMS providers' off-line medical directors in the quality review process, including granting access to hospital medical records of patients served by the particular pre-hospital EMS provider;

(12) Participate in local and regional forums for performance improvement; and

(13) Assist the Department in evaluating EMS system effectiveness by submitting to the Department, in an electronic format quarterly data specified by the Department.

(14) Designated Trauma Centers are deemed to meet the Resource Hospital standards and are exempt from requirements outlined in this section.

(15) The resource hospital designation and re-designation shall be for a period of three years.

R426-9-1100. Stroke Treatment and Stroke Receiving Facility Minimum Designation Requirements.

(1) A Primary or Comprehensive Stroke Treatment Center or an Acute Stroke Ready Hospital shall be accredited by the Joint Commission or other nationally recognized accrediting body.

(2) A hospital designated as a Stroke Receiving Facility for receiving stroke patients via Emergency Medical Services shall meet the following requirements:

(a) Be licensed as an acute care hospital in Utah;

(b) Require physician response to the emergency department in less than thirty (30) minutes for treatment of stroke patients;

(c) Maintain the ability of physician and nursing staff to utilize a standardized assessment tool for ischemic stroke patients;

(d) Maintain and utilize approved thrombolytic medications for treatment of patients meeting criteria for administration of thrombolytic therapy;

(e) Establish a standardized acute stroke protocol and authorize appropriate emergency department staff to implement the protocol when appropriate;

(f) Have ancillary equipment and personnel available to diagnose and treat acute stroke patients in a timely manner;

(g) Establish patient transport protocols with designated stroke treatment centers;

(h) Have a performance improvement program for acute stroke care and report data as required by the Department; and

(i) Submit to a site visit by representatives of the Department.

(3) Upon designation, the Department may, in consultation with off line EMS medical direction and protocol, recommend direct transport of stroke patients to a Stroke Receiving Center or a Stroke Treatment Center by licensed ambulance provider.

(4) All hospitals shall collect, and submit at least quarterly to the Department, Stroke Registry information necessary to maintain an inclusive stroke system. All hospitals shall provide such data in a standardized electronic format approved by the Department.

(5) The stroke treatment and stroke receiving designation and re-designation shall be for a period of three years.

R426-9-1200. Percutaneous Coronary Intervention Center Minimum Designation Requirements.

(1) A Percutaneous Coronary Intervention (PCI) Center, for the purpose of receiving acute ST-elevation myocardial infarction (STEMI) patients via an ambulance, shall meet the following minimum designation requirements:

(a) Be licensed as an acute care hospital in Utah;

(b) Maintain an emergency department staffed by at least one (1) Physician and one (1) Registered Nurse at all times;

(c) Have the ability to receive 12 lead EKG data from licensed ambulance providers transporting patients to the hospital for treatment of ST Segment Elevation Myocardial Infarction (STEMI);

(d) Maintain the ability to provide cardiac catheterization and PCI of STEMI patients within ninety (90) minutes of patient arrival in the emergency department twenty four (24) hours a day and seven (7) days a week;

(e) Maintain a performance improvement program for STEMI care and report data to the Department as required by the Department; and

(f) Submit to a site visit by representatives of the Department.

(2) Upon designation, the Department may, in consultation with offline EMS medical direction and protocol, recommend direct transport of STEMI patients to a STEMI Treatment Center by a licensed ambulance provider.

(3) The PCI designation and re-designation shall be for a period of three years.

(4) All hospitals shall collect, and submit at least quarterly to the Department, Cardiac Registry information necessary to maintain an inclusive cardiac system. All hospitals shall provide such data in a standardized electronic format approved by the Department.

R426-9-1300. Patient Receiving Facility Minimum Designation Requirements.

(1) A Patient Receiving Facility shall meet the following minimum designation requirements:

(a) Have the ability to communicate with licensed and designated EMS providers;

(b) Be staffed or have on-call physician, physician assistant, or nurse practitioner availability during designated hours with a response time of less than 20 minutes;

(c) Have and maintain ACLS and PALS certification;

(d) Attend meetings of the local EMS council, if one exists, to participate in the coordination and operations of local licensed and designated EMS providers;

(e) Abide by off-line protocols approved by the licensed ambulance provider's off-line medical director;

(f) Train staff on protocols used by the licensed ambulance providers who transport patients to the Patient Receiving Facility;

(g) Implement a quality improvement process of all patients received at the patient receiving facility with the local resource hospital or trauma center including access to medical records for patients transported by ambulance;

(h) Maintain equipment, services and medications on-site to provide Advanced Life Support (ALS) intervention and

appropriate treatment. Equipment and services shall include:
(i) ECG;
(ii) ACLS medications;
(iii) laboratory services;
(iv) radiology services;
(v) oxygen delivery systems;
(vi) airway support equipment and supplies;
(vii) suction equipment and supplies; and,
(i) Submit to a yearly site visit by representatives of the Department; and
(j) Submit monthly data reports to the Department on all patients received by an ambulance, and in an electronic format provided by the Department.
(2) The Department may recommend the preferential transportation of STEMI patients by ambulance to a Patient Receiving Facility.

KEY: emergency medical services, trauma, reporting, trauma center designation
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R477. Human Resource Management, Administration.
R477-101. Administrative Law Judge Conduct Committee.
R477-101-1. Authority and Purpose.

This rule is enacted pursuant to Utah Code Section 67-19e-104, requiring the Department of Human Resource Management to establish rules governing minimum performance standards for administrative law judges, procedures for addressing and reviewing complaints against administrative law judges, standards for complaints, and standards of conduct for administrative law judges.

R477-101-2. Definitions.

In addition to the terms defined in Utah Code Section 67-19e-102:

(1) "Administrative Law Judge" (ALJ) includes Hearing Officers employed or contracted by a state agency that meet the criteria described in Utah Code Section 67-19e-102(1)(a).

(2) "Chair" means the Executive Director, Department of Human Resource Management, or designee.

(3) "Code of Conduct" means the Model Code of Judicial Conduct for State Administrative Law Judges, National Association of Administrative Law Judges (November 1993) incorporated by reference.

(4) "Committee" means the Administrative Law Judge Committee created in Utah Code Section 67-19e-108.

(5) "Committee Meeting" means a proceeding at which a Complaint is presented to the Committee by the investigator. Respondent ALJ shall also have the opportunity to appear and speak regarding the Complaint and its allegations.

(6) "Complaint" means a written document filed with the Department pursuant to Utah Administrative Code R477-101-8 alleging Misconduct by an ALJ.

(7) "Department" means the Department of Human Resource Management.

(8) "Final Agency Action" occurs when the substantive rights or obligations of litigants in an administrative proceeding have been determined or legal consequences flow from a determination and when the agency decision is not preliminary, preparatory, procedural or intermediate.

(9) "Full investigation" means that portion of an investigation where the Respondent ALJ may respond, in writing, to specific allegations identified in a Complaint. A Full Investigation may also include, but is not limited to: examination by the Investigator of documents, correspondence, hearing records, transcripts or tapes; interviews of the complainant, counsel, hearing staff, Respondent ALJ, interested parties, and other witnesses.

(10) "Good cause" means a cause or reason in law, equity or justice that provides responsible basis for action or a decision.

(11) "Interested Party" means an individual or entity who participated in an event or proceeding giving rise to a Complaint against the Respondent ALJ.

(12) "Investigator" means a person employed by the department to perform investigations mandated under Utah Code Section 67-19e-107 and present information at the Committee Meeting.

(13) "Misconduct" means a violation of the Code of Conduct or Utah Code Section 67-19e-101 et seq.

(14) "Preliminary Investigation" means that portion of an investigation conducted by the Department upon receipt of a Complaint. A Preliminary Investigation may include, but is not limited to: examination of documents, correspondence, interviews of the complainant, counsel, hearing staff, and other witnesses.

(15) "Respondent ALJ" means an ALJ against whom a Complaint is filed.

R477-101-3. Jurisdiction.

(1) Administrative Law Judges. The Committee has jurisdiction over ALJs to investigate, review, hear, and make recommendations regarding Complaints filed against ALJs.

(2) Former ALJs. The Committee has continuing jurisdiction over former ALJs regarding allegations that Misconduct occurred during service as an ALJ if a Complaint is received before the ALJ's appointment concludes.

R477-101-4. Records Classification and Retention.

(1) Records prepared by and for the Committee, including all Complaints, investigative reports, recommendations, and votes on recommended action against an ALJ are classified as protected under Utah Code Section 63G-2-305.

(2) Committee records shall be maintained by the department for a period of three years following the conclusion of any Committee activity.

R477-101-5. Committee.

(1) The Executive Director or designee shall serve as Chair of the Committee, and appoint four Executive Directors or their designees to serve on the Committee.

(2) Only Executive Directors of agencies that employ or contract with ALJs may serve on the Committee.

(3) If a Department investigation establishes a Complaint requires further action, the Executive Director and Chair shall convene the Committee.

(4) An Executive Director of the agency that employs or contracts with the Respondent ALJ may not participate in a Committee proceeding involving the Respondent ALJ.

(5) After convening the Committee, the Department shall provide a copy of the Complaint and its investigative results to the Committee and the Respondent ALJ.

(6) Within 30 days of the date the Committee is convened on a complaint the Committee shall schedule a Committee Meeting. At the Committee Meeting the Respondent ALJ shall be given the opportunity to appear, speak and present documents in response to a Complaint.

(7) Committee members may attend Committee meetings in person, by telephone, by videoconference, or by other means approved in advance by the Chair.

(8) After consideration of all information provided at the Committee Meeting, the Committee shall dispose of the Complaint by issuing a decision or report with a recommendation to the agency containing:

(a) a brief description of the Complaint and the investigative results;

(b) findings, and;

(c) recommendations.

(9) Committee members shall not, individually or collectively, engage in ex parte communications about proceedings with complainants, witnesses, or ALJs.

R477-101-6. Duties of the Chair.

(1) The Chair shall:

(a) receive, acknowledge receipt of and review Complaints;

(b) notify complainants about the status and disposition of their Complaints,

(c) make recommendations to the Committee regarding further proceedings or the disposition of a Complaint;

(d) stay investigation(s) or committee proceedings pending Final Agency Action of the matter giving rise to the Complaint against the Respondent ALJ;

(e) maintain records of the Committee's operations and actions;

(f) compile data to aid in the administration of the Committee's operations and actions;

(g) prepare and distribute an annual report of the Committee's operations and actions;

(h) direct the operations of the Committee's office, and supervise other members of the Committee's staff;

(i) make available to the public the laws, rules, and procedures of the Committee and its operations;

(j) consider requests for extension of time periods and, upon a showing of Good Cause, grant such requests for a period not to exceed 20 days for each request.

(2) Subject to the duty to direct and supervise, the Chair may delegate any of the foregoing duties to other members of the Committee's staff.

R477-101-7. Code of Conduct.

(1) ALJs shall comply with the Model Code of Judicial Conduct for State Administrative Law Judges, National Association of Administrative Law Judges.

(2) In order to suit a specific agency need, an agency may make an addendum or modification to the Code of Conduct. Any such addendum or modification shall be specific to their agency. In addition, any addendum or modification to the Code of Conduct must be reviewed and approved by the Committee before being implemented. The Committee may be convened for the purpose of reviewing any proposed addendum or modification.

R477-101-8. Filing Procedure.

(1) Each agency shall include a copy of DHRM Rule R477-101 in the administrative rule materials that they provide to parties, or shall otherwise make them readily available to parties, at the commencement of administrative proceedings.

(2) An individual who alleges a violation of the Code of Conduct or otherwise has a Complaint against an ALJ may file a timely Complaint with the Department. To be timely a Complaint must be in writing and filed with the Department within 20 working days of Final Administrative Action in the matter in which the individual is an Interested Party.

(3) Complaints filed with the Department are deemed filed on the date actually received by the Department. The Department shall date-stamp all Complaints on the date received. All filing and other time periods are based upon the Department's working days.

(4) Complaints must contain specific facts and allegations of Misconduct and must be signed by the person filing the Complaint or by the person's authorized representative. Complaints shall also contain the name, address, and telephone number of the complainant, and the name, business address, and telephone number of the representative, if a party or person is being represented.

R477-101-9. Investigation.

(1) Preliminary Investigation.

(a) The Department shall review all timely filed Complaints and shall, regardless of whether the allegations contained therein would constitute misconduct if true, conduct a Preliminary Investigation.

(b) If the Preliminary Investigation determines that the Complaint is untimely, frivolous, without merit, or if the Complaint merely indicates disagreement with the Respondent ALJ's decision, without further alleged Misconduct, the Complaint may be similarly dismissed without further action.

(c) If, after a Preliminary Investigation is completed, there is a reasonable basis to find Misconduct occurred, the Investigator shall initiate a Full Investigation.

(2) Full Investigation.

Within ten days after a determination to conduct a Full Investigation is made, the Investigator shall notify the Respondent ALJ that a Full Investigation is being conducted. The notice shall:

(a) inform the Respondent ALJ of the specific facts and allegations being investigated and the canons or statutory provisions allegedly violated;

(b) inform the Respondent ALJ that the investigation may be expanded if appropriate;

(c) invite the Respondent ALJ to respond to the Complaint in writing within 10 working days;

(d) include a copy of the Complaint, the Preliminary Investigation report(s), and any other documentation reviewed in determining whether to authorize a Full Investigation; and

(e) unless continued by the Chair, Full Investigations shall be completed within three months of the determination to conduct a Full Investigation.

R477-101-10. Full Investigative Findings.

Results of the investigation shall be provided to the Chair, who shall determine whether to convene a Committee Meeting.

R477-101-11. Notice.

(1) If after review of the Full Investigative result and findings the Chair determines the Complaint is factually or legally insufficient to establish Misconduct, the Chair shall similarly dismiss the Complaint and take no further action.

(2) If after review of the Full Investigative result and findings the Chair determines the Complaint requires further action, the Chair shall convene the Committee and order a Committee Meeting be scheduled.

(3) After convening the Committee the Chair shall provide Respondent ALJ written notice of the ALJ's right to appear, speak, and present documents at the Committee Meeting. The Chair shall also provide the Respondent ALJ with a copy of the Complaint and the results of the Department's investigation.

(4) Notice that a Committee has been convened and a Committee Meeting ordered shall be made by personal service or certified mail upon the Respondent ALJ or the Respondent ALJ's representative. Service of all other notices or papers may be regular mail.

(5) Within 20 days after receiving written notice from the Chair that a Committee has been convened the Respondent ALJ may provide the Committee a written response to the Complaint.

(6) After receipt of the Respondent ALJ's response of after expiration of the time to respond the Committee shall, in consultation with the ALJ, schedule a Committee Meeting. The Committee shall notify the ALJ in writing of the date, time, and place of the Committee Meeting. Unless continued for Good Cause, Committee Meetings shall be held within four months of the date a Committee is convened on a Complaint.

(7) No later than 20 days before the scheduled Committee Meeting the Chair shall provide the Respondent ALJ with copies of all documents proposed for use at the Committee Meeting or to be relied upon in making its report and recommendation.

(8) Respondent ALJ shall be entitled to representation at every stage of the Committee proceedings or the Committee Meeting.

(9) Neither the Utah Rules of Evidence nor the Utah Rules of Civil Procedure apply in Committee proceedings.

R477-101-12. Effect of Respondent ALJ's Resignation or Retirement during Proceeding.

If the Respondent ALJ resigns or retires during the proceedings, the Committee shall determine whether to proceed or dismiss the proceedings.

R477-101-13. Committee Meetings.

(1) The Chair shall rule on all motions or objections raised during a Committee Meeting, set reasonable limits on the statements or documents presented, including any statements from the complainant. The Chair may limit the time allowed for the presentation of information, may bifurcate any and all issues to be considered, and may make any and all other rulings

regarding any Committee proceeding or Committee Meeting.

(2) To hold a Committee Meeting there must be at least 3 members of the Committee present.

(3) The Respondent ALJ shall be permitted to present information to, make statements and produce witnesses for the Committee's consideration.

(4) Committee members may ask questions of any witness including the Respondent ALJ.

(5) Immediately following the conclusion of the Committee Meeting, the Committee shall deliberate and decide whether there is sufficient evidence the Respondent ALJ violated the Code of Conduct or otherwise engaged in Misconduct. Any such decision shall require a majority vote of the participating Committee members.

(6) Committee decisions shall be supported by a preponderance of the evidence.

(7) Within 30 days of the conclusion of the Committee Meeting, the Chair shall prepare a memorandum decision or report, with a recommendation for any proposed personnel action(s), and shall forward the decision and recommendation to the Respondent ALJ and the agency head of the Respondent ALJ.

(8) After deliberation, if the Committee finds insufficient evidence or reason to determine Misconduct occurred, the complaint shall be dismissed.

R477-101-14. Discipline.

(1) At any time after the commencement of a Full Investigation and before any Committee action, the ALJ may admit to any or all of the allegations in exchange for a stated sanction. The admission shall be submitted to the Committee for a recommendation.

(2) Any corrective and/or disciplinary action taken against a career service employee by the employing agency shall be implemented in accordance with applicable Department or state rule(s) governing discipline.

R477-101-15. Reinstatement of Proceedings.

(1) Reinstatement upon Request by Complainant.

(a) If a Complaint is dismissed, the complainant may, within 20 days of the date of the letter notifying the complainant of the dismissal, file a written request that the Committee reinstate the Complaint. The request shall include the specific grounds upon which reinstatement is sought.

(b) The request shall be presented to the Committee at the next available Meeting of the Committee, at which time the Committee shall determine whether to reinstate the Complaint.

(c) A determination not to reinstate the Complaint is not reviewable.

(2) Reinstatement by the Chair.

(a) If the Committee dismisses a Complaint, the Chair may, at any time upon the receipt of newly discovered evidence, request that the Committee reinstate the Complaint. The request shall include the specific grounds upon which the reinstatement is sought.

(b) The request shall be presented to the Committee at the next available Meeting of the Committee, at which time the Committee shall determine whether to reinstate the Complaint.

R477-101-16. Performance Standard.

(1) The following minimum performance standards shall apply to all ALJ's:

(a) The ALJ shall have no more than one agency disciplinary action or one Committee recommendation for disciplinary action during the ALJ's four-year evaluation cycle; and

(b) The ALJ shall receive a satisfactory rating on the survey. A satisfactory rating is achieved when an average of at least 65% of collected responses to survey questions for an ALJ is "Agree". Any survey question with a response of "Not enough information to respond" will not be used when calculating the rating.

(2) For any question that does not use the "Agree"/"Disagree" response option, the Committee shall establish the minimum performance standard. Any established performance standard shall be substantially equivalent to the standard required by Utah Code Section 67-19e-105.

R477-101-17. Performance Surveys.

(1) The department shall establish and follow a schedule to survey the performance of each ALJ every four years. The schedule shall be staggered to survey the performance of approximately one quarter of all ALJ's each calendar year.

(2) Survey respondents shall include:

(a) Attorneys who have appeared before the administrative law judge as counsel in the proceeding; and

(b) Staff who have worked with the administrative law judge.

(3) Additional respondents may include any other persons who have appeared on record before the administrative law judge, including, but not limited to, pro se parties and witnesses.

(3) Survey results shall be maintained by the department and shall not be maintained in the ALJ's personnel file.

(4) Survey results shall be made available to the ALJ's supervisor for consideration in completing annual performance evaluations.

R477-101-18. Training.

(1) The department shall provide an annual webcast on the topic of procedural fairness for administrative law judges. The content of the webcast shall comply with the provisions and requirements set forth in Utah Code 67-19e-110.

(2) Each year that an administrative law judge receives a performance evaluation conducted by the department under this section, the administrative law judge shall complete the procedural fairness training program established by the department.

R477-101-19. Hiring of Administrative Law Judges.

(1) Hiring of administrative law judges must comply with Utah Code Section 67-19e-104.5 and DHRM Rule R477-4-15.

KEY: administrative law judges, conduct committee
July 1, 2018 67-19e-101 through 67-19e-109
Notice of Continuation January 7, 2019

R495. Human Services, Administration.
R495-882. Termination of Parental Rights.
R495-882-1. Authority and Purpose.

1. The Office of Recovery Services is authorized to adopt, amend, and enforce rules as necessary by Section 62A-11-107.

2. The purpose of this rule is to provide information about child support obligations and child support arrears when a child is placed in the care/custody of the state or with an individual other than the parent for at least 30 days.

R495-882-2. Arrears Obligation for Children in Care.

In accordance with Sections 62A-1-117 and 78A-6-1106, child support is assigned to the state when a child is placed in the care/custody of the state or with an individual other than the parent for at least 30 days. The juvenile court shall also order the parents or any other obligated person to pay child support to the Office of Recovery Services (ORS) while the child is in a placement. If parental rights are terminated, and if any child support payable to the state has accrued prior to the termination of parental rights, the parent shall be responsible for paying this amount to the state in accordance with Section 78A-6-513. ORS will attempt to collect all past due support that accrued prior to the termination of parental rights for children who were in the care or custody of the state.

KEY: state custody, parental rights

October 8, 2008	**62A-1-117**
Notice of Continuation February 1, 2019	**62A-11-107**
	78A-6-513
	78A-6-1106

R501. Human Services, Administration, Administrative Services, Licensing.
R501-1. General Provisions for Licensing.
R501-1-1. Authority and Purpose.

(1) This Rule is authorized by Utah Code Title 62A, Chapter 2.

(2) This Rule clarifies the standards for:

(a) approving or denying a human services program license application;

(b) renewing, extending, placing conditions on, restricting admissions, suspending, or revoking a license for a human services program;

(c) inspecting, monitoring, and investigating a prospective or current human services program; and

(d) approving or denying a variance to the Human Services Administrative Rules, Title R501, regarding the licensing of human services programs.

R501-1-2. Definitions.

As used in this Title 501:

(1) "Abuse" includes, but is not limited to:

(a) attempting to cause harm;

(b) threatening to cause harm;

(c) causing non-accidental harm;

(d) unreasonable or inappropriate use of a restraint, medication, confinement, seclusion or isolation that causes harm;

(e) sexual exploitation, as defined in 78A-6-105;

(f) sexual abuse, including sexual contact or conduct with a client, or as defined in 78A-6-105;

(g) a sexual offense, as described in Title 76 Chapter 5; or

(h) domestic violence or domestic violence related to child abuse.

(i) "Abuse" does not include the reasonable discipline of a child, or the use of reasonable and necessary force in self-defense or the defense of others, as such force is defined in 76-2-4.

(2) "Applicant" is defined in 62A-2-101.

(3) "Associated with the Licensee" is defined in 62A-2-101.

(4) "Category" means the type of human service license described in 62A-2-101.

(5) "Client" is defined in 62A-2-101.

(6) "Clinical" means services delivered by a Division of Occupational and Professional Licensing (DOPL) licensed mental health or medical professional in accordance with Utah Code Title 58, Chapters 60, 61, 67 and 68.

(7) "Compliant" means adherence to governing rule and statute or only minor violations that do not rise to the level of a corrective action plan or penalty.

(8) "Conflict of Interest" means a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.

(9) "Critical Incident" means an occurrence that involves:

(a) abuse;

(b) neglect;

(c) exploitation;

(d) unexpected death;

(e) any client injury, including self-harm, requiring medical attention beyond basic first aid;

(f) any client injury that is a result of staff or client assault, restraint or intervention;

(g) all criminal activity excluding minor infractions;

(h) medical emergency or protective service intervention;

(i) the unlawful or unauthorized presence or use of alcohol, substances, or harmful contraband items;

(j) the unauthorized presence or misuse of dangerous weapons;

(k) attempted suicide;

(l) any on-duty or client-involved staff sexual misconduct or any client unlawful sexual misconduct;

(m) client rights violations;

(i) per Office of Licensing code of conduct for all licensed providers; and

(ii) per DHS code of conduct for DHS contracted providers; and

(iii) per human rights committee approval for DSPD contracted providers;

(n) medication errors resulting in impact on client's well-being, medical status or functioning;

(o) the unauthorized departure of a client from the program;

(p) outbreak of a contagious illness or situation requiring notification of or consultation with the local health department;

(q) any event compromising the client environment, including roof collapse, fire, flood, weather events, natural disasters and infestations;

(r) any other incident that compromises client health and safety shall result in a critical incident report;

(i) specific contract language may also exist that requires additional criteria for DHS contracted providers.

(10) "Director" refers to the Office of Licensing director as defined in 62A-2-101, and is not a "Program Director" as defined in this Chapter.

(11) "Exploitation" includes, but is not limited to:

(a) the use of a client's property, labor, or resources without the client's consent or in a manner that is contrary to the client's best interests, or for the personal gain of someone other than the client; such as expending a client's funds for the benefit of another; or

(b) using the labor of a client without paying the client a fair wage or without providing the client with just or equivalent non-monetary compensation, where such use is consistent with therapeutic practices; or

(c) engaging or involving a client in any sexual conduct; or

(d) any offense described in 76-5-111(4) or 76-5b-201 and 202.

(12) "Foster Home" is defined in 62A-2-101 (18).

(13) "Fraud" means a false or deceptive statement, act, or omission that causes, or attempts to cause, property or financial damages, or for personal or licensee gain. Fraud includes the offenses identified as fraud in Utah Code Title 76 Chapter 6.

(14) "Harm" means physical or emotional pain, damage, or injury.

(15) "Human Services Program" is defined in 62A-2-101.

(16) "Initial License" means the license issued to operate a human services program during the licensee's first year of licensure. This license is considered provisional and allows for the licensee to demonstrate sustained compliance with licensing rules prior to renewal.

(17) "Inspection" means announced or unannounced visit of the licensed site in accordance with 62A-2-118.

(18) "Licensee" is defined in 62A-2-101 and includes the person or persons responsible for administration and decision making for the licensed site or program. The term licensee may be used to describe a person or entity that has caused any of the violations described in 62A-2-112 that are related to the human services program.

(19) "Local Government" is defined in 62A-2-101.

(20) "Medical Emergency" is an acute injury or illness posing an immediate risk to a person's life or long-term health.

(21) "Medication-Assisted Treatment" means the use of medications with counseling and behavioral therapies to treat substance use disorders or prevent opioid overdose.

(22) "Mistreatment" means emotional or physical mistreatment:

(a) emotional mistreatment is verbal or non-verbal conduct

that results in a client suffering significant mental anguish, emotional distress, fear, humiliation, or degradation; and may include demeaning, threatening, terrorizing, alienating, isolating, intimidating, or harassing a client; and

(b) physical mistreatment includes:

(i) misuse of work, exercise restraint, or seclusion as a means of coercion, punishment, or retaliation against a client, or for the convenience of the licensee, or when inconsistent with the client's treatment or service plan, health or abilities;

(ii) compelling a client to remain in an uncomfortable position or repeating physical movements to coerce, punish, or retaliate against a client, or for the convenience of the licensee;

(iii) physical punishment.

(23) "Neglect" means abandonment or the failure to provide necessary care, which may include nutrition, education, clothing, shelter, sleep, bedding, supervision, health care, hygiene, treatment, or protection from harm.

(24) "Office" means the Utah Department of Human Services Office of Licensing.

(25) "Owner/Ownership" means any licensee, person, or entity that:

(a) is defined as a "Member" in 62A-2-108; or

(b) is a person or persons listed on a foster home license; or

(c) possesses the exclusive right to hold, use, benefit-from, enjoy, convey, transfer, and otherwise dispose of a program; or

(d) retains the rights, participates in, or is ultimately responsible for operations and business decisions of program, or

(e) may or may not own the real property or building where the facility operates; or

(f) a property owner is also an owner of the program if they operate or have engaged the services of others to operate the program.

(26) "Parent Program" means an applicant or licensee owning or directing multiple sites under the same general administrative organization.

(27) "Penalty" means the Office's denying, placing conditions on, suspending, or revoking a human services license due to noncompliance with statute or administrative rules, may include penalties outlined in 62A-2-112. A penalty does not include corrective action plans as used in this Rule.

(28) "Program" refers to a Human Services Program as defined herein.

(29) "Program Director" means a person or persons ultimately responsible for day to day operations of a program.

(30) "Person" means an individual, agency, association, partnership, corporation, business entity, or governmental entity.

(31) "Regular Business Hours" are the hours that the program is available to the public or providing services to clients.

(32) "Renewal License" means a continuing program license issued based upon ongoing compliance with administrative rules and statutes. It is issued annually or biennially in compliance with 62A-2 108(4).

(33) "Restraint" means the involuntary method of physically restricting a person's freedom of movement, physical activity, or normal access to their body. Restraint is only allowed to prevent harm to the client or in protection of others and is only to be completed by an individual with documented training in non-violent crisis intervention or de-escalation techniques.

(34) "Seclusion" means the involuntary confinement of the individual in a room or an area away from the client community, where the individual is physically prevented from leaving.

(35) "Site" means a human services program identified by a single geographic location and must be linked to the parent program, if one exists.

(36) "Significant Criminal Activity" is any staff or client involved criminal activity that occurs in or related to the program that poses an immediate and serious threat to health and safety.

(37) "Staff" means direct care employees, support employees, managers, program directors, supervisors, administrators, agents, volunteers, owners, and contractors.

(38) "Variance" means the Office authorized deviation from the administrative rule.

(39) "Violation" means an act or omission by the licensee, or any person associated with the licensee, contrary to any administrative regulation, or local, state, or federal law applicable to the program.

R501-1-3. Licensing Application Procedures.

(1) Initial and Renewal Application.

(a) An applicant shall not accept any fees, enter any agreements to provide client services, or provide any client services until they have received a license certificate issued by the Office.

(b) The Office shall issue a license for a human service program only after verifying compliance with applicable administrative rules and statutes.

(c) Applicants and licensees shall permit the Office to have immediate, unrestricted access to the site, all on and off-site program and client records, and all staff and clients.

(d) An applicant may withdraw their application for a license, in writing, at any time during the application process.

(e) An applicant seeking an initial or renewal license to operate a human services program shall submit:

(i) an application as provided by the Office; a renewal application that is not submitted at least thirty days prior to the expiration date of the current license may result in the license expiring;

(ii) the fee(s) required for each category of human service program license(s); except as excluded in R501-1-7-2;

(iii) a completed background screening application, fees and supporting documentation for each person associated with the human services program in accordance with 62A-2-120 and R501-14, except for those excluded in 62A-2-120(13);

(iv) the applicant's required policies and procedures;

(A) for renewal purposes the applicant may submit only the policies and procedures that have been modified;

(v) name and contact information for all owners and program directors, as defined in this Chapter; and

(vi) documentation verifying compliance with, or exemption from, local government zoning, health, fire, safety, and business license requirements.

(A) For residential treatment programs applying for initial licensure, a copy of its notice of intent to operate a residential treatment program, and proof of service, in accordance with 62A-2-108.2.

(2) Application Expiration.

(a) A program initial application, other than an initial foster home application, that remains incomplete shall expire one year from the date it was first submitted to the Office.

(b) A foster home initial application that lacks required documentation may expire 90 days from the date is was first submitted to the Office unless the Office determines the applicant to be making active progress toward licensing compliance.

(c) An expired initial application is void and requires a new initial application and applicable fees for each category of license.

(3) The Office may deny the initial application or place a penalty on a renewal license if:

(a) the program has failed to achieve or maintain compliance with administrative rules, laws, ordinances or statutes; or

(b) the Office determines that the program is not reasonably likely to provide services in accordance with

governing rules or statutes;

(i) the Office may consider the history of rule violations by the owner, licensee, or persons associated with the program;

(ii) the Office determines that significant false or misleading information regarding the program has been provided to the Office, program clients, prospective clients, or the public; or

(c) program directors, owners or any individuals involved in providing billed services or directly preparing billing have been identified and listed on the Medicaid LEIE exclusion list; or

(d) the agency maintains association with any individual who has been a licensee that has had a license revoked by the Office within the five years prior to the date on the application.

(4) Previously denied applicants shall not reapply for at least three months from the date of denial.

R501-1-4. Licensing Determinations.

(1) The Office may place individualized parameters on a program license in order to promote the health, safety, and welfare of clients. Such parameters may include, but are not limited to:

(a) age restrictions;

(b) admission or placement restrictions; or

(c) other parameters specific to individual sites and programs.

(2) A license certificate shall state the name, site address, license category, maximum client capacity if applicable, any specific parameters, and effective dates of the license.

(a) Licensee shall post the license certificate in a conspicuous location at the licensed site.

(3) A site associated with a parent program shall not be issued an initial license while any other license associated with that parent program is under penalty, or has a pending appeal.

(4) Two Year Licenses.

(a) A program may apply for a two year license if:

(i) the program has been licensed consecutively and in compliance for two years prior to application; and

(ii) the Office has determined that the program's individual services and circumstances are likely to maintain compliance under a two year cycle; and

(iii) the program submits double the annual fees for their category/categories of license(s); and

(iv) the program submits a plan for maintaining continued compliance with background screenings as described in 62A-2-120.

(b) A two year license remains subject to the same annual monitoring as a one year license.

(5) License Expiration.

(a) A license that has expired is void and may not be renewed.

(b) A license expires at midnight on the last day of the same month the license was issued, one year following the date or issuance unless:

(i) the license has been revoked by the Office; or

(ii) the license has been extended by the Office; or

(iii) the license has been relinquished by the licensee; or

(iv) the license is on a renewal cycle to maintain the same expiration date annually unless otherwise requested by the provider

(iv) the license was issued as a two year license, which will expire at midnight on the last day of the same month the license was issued, two years following the date of issuance and in accordance with R501-4-2.

(c) A program with an expired license shall not accept any fees, enter any agreements to provide client services, or provide any client services.

(d) A program with an expired license shall submit an application and fees for an initial license and be granted an initial license prior to providing any services in accordance with this Rule.

(6) License Extensions.

(a) The Office may extend the current license of a human service program only when the renewal application and applicable fee have been submitted.

(b) A license that is compliant prior to expiration may be extended for a one time maximum of 90 days past the current license expiration date.

(c) A license that is not compliant prior to expiration may be extended in non-compliant status.

(i) A compliant renewal license will not be granted until resolution of identified compliance issues.

(d) The subsequent license following an extension shall be reduced in duration by the time of the extension.

(7) License Relinquishment.

(a) A licensee wishing to voluntarily relinquish its license shall submit a written notice to the Office.

(b) Voluntary relinquishment of a license shall not be accepted by the Office if a notice of agency action revoking the license has been initiated.

R501-1-5. Program Changes.

(1) Name Change.

(a) A licensee wishing to change only the name of the program or site does not need to submit an application or fee; they shall submit updated program documentation reflecting the new name to the Office at least ten days prior to the change.

(b) The Office may link the name of the former program to the new name on the licensing database, and on all license certificates and public websites, for two years following the change.

(2) Relocation.

(a) A human services program wishing to relocate to a new address may serve clients at the new site, only after:

(i) submission of renewal application and renewal fees at least 30 days prior to the move;

(ii) submission of local government business license and applicable inspections and clearances, including but not limited to:

(A) health;

(B) fire; and/or

(C) as required by the rules of a human service program category;

(iii) submission of insurance coverage at the new site;

(iv) inspection by the Office; and

(v) receipt of the updated license certificate for the new site.

(b) A foster home that intends to relocate to a new site may have their license transferred to the new site only after:

(i) a request to relocate has been submitted to the Office at least 30 days prior to the move;

(ii) Office of Licensing inspection and approval of licensure at the new site which shall occur within two weeks, if a foster child is placed, and within 30 days if there are no current foster placements;

(A) if a foster child is placed, it is the responsibility of the licensed foster parent to ensure health and safety of the foster child during the transfer to the new site.

(c) Except for foster homes outlined in subsection (b), no clients may be present and no services may be provided at a relocation address until after the Office issues a new license in accordance with this Rule.

(d) Moving from a licensed site voids that site's license unless the provisions of this Chapter are followed for relocation.

(3) Capacity Change.

(a) A licensee seeking to increase the maximum client capacity of a program shall submit an application and renewal fee for a license renewal as required by the rules of the human

service program category.

(4) Add New License Category.

(a) A program may request to add a new category of service to an existing licensed site by submitting application and fees for an initial license. All requirements for initial licensure must be verified.

(5) Add New Location.

(a) A program may add an additional site of service by submitting an application and fees for an initial license. All requirements for initial licensure must be verified.

(6) Owner/Ownership Changes.

(a) A program anticipating, or undergoing a change of ownership, or change in owner(s), shall submit in writing, prior to the change:

(i) any changes to the programming and services;

(ii) declaration regarding responsibility for records and records retention to include an agreement signed by both current and prospective owners and/or program directors, detailing how all program staff and client records will be retained and remain available to the Office for six years or in accordance with DHS contract requirements regardless of whether the program remains licensed;

(iii) names and contact information of any new directors or owners;

(iv) documentation of continuous insurance coverage; and

(v) an updated business license.

(b) The status of a license at the time of a change of ownership shall continue.

(7) For any substantial change in this Section, the Office may require new, initial application and fees for each license category.

(a) Substantial changes include:

(i) those resulting in direct client impact;

(ii) changes to programming;

(iii) changes in populations served;

(iv) severing ties with previous owner or staff affiliations; or

(v) disrupting continuity of record retention, etc.

R501-1-6. License Fees.

(1) The Office shall collect licensing fees in accordance with 62A-2-106, and Utah Code Title 63J Chapter 1 Part 5.

(2) No licensing fee shall be required from a foster home, or a Division, or Office, of the Department of Human Services.

(3) The Office is not required to perform an on-site visit, or document review until the applicant pays the licensing fee.

(4) A license application fee will expire after 12 months if a program has been unable to meet the license requirements.

(5) A fee paid by a licensee shall not be transferred, prorated, reduced, waived, or refunded. Costs incurred by applicants in preparation for, or maintenance of licensure are the sole responsibility of the applicant.

(6) Separate initial license fees are required for each new category of human services program offered at each program site.

(7) Separate renewal license fees, and applicable capacity fees, are required for each license category that is renewed at each program site.

(a) Capacity fees are calculated according to the maximum licensed client capacity of the human service program, and not according to the number of clients actually served in the program.

(8) A human service program with more than one building, unit, or suite at one site, may choose to have its fees assessed and each category of license issued:

(a) so that each category of license will be issued to include all on-site buildings, units or suites as one; or

(b) so that separate licenses will be issued for each individual on-site building, unit or suite.

R501-1-7. Variances.

(1) A licensee shall not deviate from any administrative rule without first receiving written approval of a specific variance request signed by the Director of the Office, or the director's designee.

(2) The director of the Office, or the director's designee, may grant a variance if the director or the Director's designee determines a variance is not likely to compromise client health and safety, or provide opportunity for abuse, neglect, exploitation, harm, mistreatment, or fraud.

(3) A licensee seeking a variance must submit a written request to their licensing specialist, and specifically describe:

(a) the rule for which the variance is requested;

(b) the reason for the request;

(c) how the variance provides for the best interest of the client(s);

(d) what procedures will be implemented to ensure the health and safety of all clients; and

(e) the proposed variance start and expiration dates.

(4) The Office shall review the variance and notify the licensee of the approval, approval with modification, or denial of the variance, in writing, within 30 days.

(5) The licensee shall comply with the terms of a written variance, including any conditions or modifications contained within the approved written variance.

(6) A variance expires on the end date listed on the approval notice and terms of the variance are no longer permitted after that expiration date, unless a renewal of the variance is granted.

(7) A variance may be renewed by the office when the program is able to justify the request, and ensure ongoing health and safety of all clients.

R501-1-8. Monitoring.

(1) The Office shall conduct a minimum of one annual on-site inspection, but may conduct as many announced, or unannounced inspections as deemed necessary to monitor compliance, investigate alleged violations, monitor corrective action plans or penalty compliance, or to gather information for license renewal.

(2) On-site inspections shall take place during regular business hours, as defined in 62A-2-101.

(3) Applicants and licensees shall not restrict the Office's access to the site, clients, staff, and all program records.

(4) Licensees and staff shall not compromise the integrity of the Office's information gathering process by withholding or manipulating information, or influencing the specific responses of staff or clients.

(5) All on-site inspections shall contribute toward the renewal or denial of the license application at the end of the license period.

(6) The Office shall provide written findings to the Program identifying areas of non-compliance with licensing requirements after each on-site inspection.

(7) Except for reports made in relation to foster homes, the licensee shall make copies of inspection reports available to the public upon request per 62A-2-118(5).

(8) The Office may adopt a written inspection report from a local government, certifying, contracting, or accrediting entity to assist in a determination whether a licensee has complied with a licensing requirement.

(9) The Office shall be allowed access to all program documentation and staff that may be located at an administrative location, away from the licensed site.

R501-1-9. Investigations of Alleged Violations.

(1) Unlicensed Programs.

(a) The Office shall investigate reports of unlicensed human service programs.

(b) Investigation of an unlicensed human service program may include interviewing anyone at the site, neighbors, or gathering information from any source that will aid the Office in making a determination as to whether or not the site should be licensed.

(c) An unlicensed human services program that meets licensure definition, but does not submit an application and fee, or fails to become licensed, shall be referred to the Office of the Attorney General, and the appropriate County Attorney.

(d) The Office may penalize a licensed program at all program sites when a program adds or operates an unlicensed site that requires licensure by the Office.

(2) Licensed Program Complaints and Critical Incidents.

(a) The Office shall investigate critical incidents and complaints involving alleged licensing violations regarding a licensed human services program.

(b) Complaints about licensees can come to the Office via any means from any source including the Office of Licensing email address: licensingconcerns@utah.gov.

(c) The Office retains discretion to decline investigation of a complaint that is anonymous, unrelated to current conditions of the program, or not an alleged violation of a rule or statute.

(d) Critical incidents that involve one or more clients and/or on-duty staff in a licensed setting or under the direct responsibility and supervision of the program shall be reported by the licensee as follows:

(i) report shall be made to DHS and legal guardians of involved clients within one business day;

(A) if the critical incident involves a client or service under a DHS contract, the critical incident report must be completed within 24 hours and may require a five day follow up report to the involved DHS Division;

(B) if the critical incident involves a client or service to a youth currently in the custody of DHS or its Divisions an immediate live-person verbal notification to the involved Division is additionally required.

(ii) Initial critical incident reports to DHS shall include the following in writing:

(A) name of provider and all involved staff, witnesses and clients;

(B) date, time, and location of the incident, and date and time of incident discovery, if different from time of incident;

(C) descriptive summary of incident;

(D) actions taken; and

(E) actions planned to be taken by the program at the time of the report.

(F) identification of DHS contracts status, if any.

(iii) It is the responsibility of the licensee to collect and maintain and submit as requested original witness and participant witness statements and supporting documentation regarding all critical incidents that require individual perspectives to be understood.

(3) Investigative Process.

(a) In-person, or electronic investigations may include, but are not limited to:

(i) a review of on or offsite records;

(ii) interviews of licensee(s), person(s), client(s), or staff;

(iii) the gathering of information from collateral parties; and

(iv) site inspections.

(c) The Office will prioritize investigations of reports of unlicensed programs, complaints regarding licensed programs, and critical incidents following an assessment of risk to client health and safety as follows:

(i) priority allegations, as administratively identified by the Office as a potential imminent risk to the health and safety of clients, will require initial on-site contact by the Office within three business days. The Office may utilize law enforcement, Child or Adult Protective services, or other protection agencies to meet priority in on-site response;

(ii) all other allegations will require that the Office initiate an investigation within ten business days.

(d) Licensees and staff shall cooperate in any investigation.

(e) The Office may report any allegations or evidence of abuse, neglect, exploitation, mistreatment, illegal activities or fraud to clients, clients' legal guardians, law enforcement, insurance agencies, the insurance department, the Division of Occupational and Professional Licensing, or any other entity determined necessary by the Office.

(f) Pending investigations or those that do not result in a violation finding shall be classified as protected and only released in accordance with Utah Code Title 63G Chapter 2, Utah Government Access and Management Act.

R501-1-10. License Violations.

(1) When the Office finds evidence of violations of statute or rule, the Office shall do one of the following:

(a) provide written notification of the violation requiring the licensee to correct violation(s) with no formal follow-up; or

(b) provide written notification of violation and request a licensee to submit a corrective action plan in response to a written notification of a violation;

(i) a licensee shall submit a written corrective action plan to the Office within ten calendar days of the request from the Office and the corrective action plan shall include:

(A) a statement of each violation identified by the Office;

(B) a detailed description of how the licensee will correct each violation and prevent additional violations;

(C) the date by which the licensee will achieve compliance with administrative rules and statutes; and

(D) involvement of program owner(s) and director(s), including each foster parent, if involving a licensed or certified foster home.

(c) The Office shall review the submitted corrective action plan and either inform the licensee that the corrective action plan is approved; or inform the licensee that the corrective action plan is not approved and provide explanation;

(i) the Office may permit a licensee to amend and resubmit its corrective action plan within five additional calendar days.

(d) The Office shall issue a Notice of Agency Action imposing a penalty for violation(s) if the licensee fails to submit and comply with an approved corrective action plan.

(e) A corrective action plan is not a penalty. Programs have the right to refuse the corrective action plan process and may preserve their appeal rights by requesting a penalty through an Office initiated Notice of Agency Action.

(2) Provide a written notice of agency action initiating a penalty, as follows:

(a) the Office may place a license on conditional status;

(i) conditional status allows a program that is in the process of correcting violations to continue operation, subject to conditions established by the Office;

(A) Failure to meet the terms of the conditions, and time frames outlined on the notice, could result in further penalty.

(b) The Office may suspend a license for up to three years;

(i) a human services program that has had its license suspended is prohibited from accepting new clients, and may only provide the services necessary to maintain client health and safety during their transition; and

(ii) shall have and comply with written policies and procedures to transition clients into equivalent, safe, currently licensed programs or into the custody of their legal guardians.

(c) The Office may revoke a license;

(i) a human services program that has had its license revoked is prohibited from accepting new clients and may only provide the services necessary to maintain client health and safety during their transition; and

(ii) shall have and comply with written policies and procedures to transition clients into equivalent, safe, currently licensed program or into the custody of their legal guardians.

(d) Names of licensees and programs who have had their licenses revoked shall be maintained by the Office for a period of five years, and shall not be associated in any way with a licensed program during that five-year period.

(e) A licensee whose license has been suspended or revoked is responsible for the program staffing and health and safety needs of all clients while the suspension or revocation is pending.

(f) The Office may place conditions, such as restricted admissions, to be in immediate effect in the Notice of Agency Action, if necessary, to protect the health and safety of clients.

(g) The Office may utilize any other penalties pursuant to 62A-2, Subsections 112, 113 and/or 116.

(h) The Office may consider chronicity, severity, and pervasiveness of violations when determining whether to simply provide notification of violations with no follow-up requirement; or to request a corrective action plan; or to apply a formal penalty to the program.

(i) Repeated violations of the same rule or statute, or failure to comply with conditions of a Notice of Agency Action may elevate the penalty level assessed.

(j) A licensee shall post the Notice of Agency Action on-site, and on the homepage of each of its websites, where it can be easily reviewed by all clients, guardians of clients, and visitors within five business days, and shall remain posted until the resolution of the penalty, unless otherwise instructed by the Office.

(k) A licensee shall notify all clients, guardians and prospective clients of a Notice of Agency Action issued by the Office within five business days. Prospective and new clients will be notified for as long as the Notice of Agency Action is in effect.

(l) Pending an appeal of a revocation, suspension or conditional license that restricts admissions, licensee shall not accept any new clients as outlined on the Notice of Agency Action, or while an appeal of a Notice of Agency Action penalty is pending without prior written authorization from the Office.

(m) The Office shall electronically post Notices of Agency Action issued to a human services program, on the Office's website, in accordance with 62A-2-106.

(n) Due Process: A Notice of Agency Action shall inform the applicant or licensee of the right to appeal in accordance with Administrative Rule 497-100.

R501-1-11. Licensing Code of Conduct and Client Rights.

(1) Licensees and staff shall:

(a) transparently represent services, fees, and policies and procedures to clients, guardians, prospective clients, and the public;

(b) disclose any potential or existing conflicts of interest to the Office;

(c) comply with all federal, state, and local laws that govern the program;

(d) report all criminal activity;

(i) significant criminal activity and medical emergencies shall be immediately reported to the appropriate emergency services agency per 62A-2-106-2;

(e) comply with a written policy that addresses the appropriate treatment of clients, to include the rights of clients as outlined in this Section;

(f) not abuse, neglect, harm, exploit, mistreat, or act in a way that compromises the health and safety of clients through acts or omissions, by encouraging others to act, or by failing to deter others from acting;

(g) not use or permit the use of corporal punishment and shall only utilize restraint as defined in this Chapter and outlined in applicable Human Service Rules when an individual's behavior presents imminent danger to self or others;

(h) maintain the health and safety of clients in all program services and activities, whether on or offsite;

(i) provide services and supervision that is commensurate with the skills, abilities, behaviors, and needs of each client;

(j) not serve clients outside the program's scope of services;

(k) not commit fraud;

(l) provide an insurer the licensee's records related to any services or supplies billed, upon request by an insurer or the Office;

(m) not charge clients for any fees or expenses that were not previously disclosed to the client;

(n) accept fees only for the services or expenses the provider is willing and able to provide;

(o) not handle the major personal business affairs of a client, without request in writing by the client or legal representative;

(p) require that any licensee or staff member who is aware of, or suspects abuse, neglect, mistreatment, fraud, or exploitation shall ensure that a report is made to the Office and applicable investigative agencies as outlined in R501-1-10-2, and in compliance with mandatory reporting laws, including 62A-4a-403 and 62A-3-305;

(i) any licensee or staff member who is aware of, or suspects a violation of this Rule or any governing local ordinance or state or federal law, shall ensure that a report is made to the Office of Licensing via email at: licensingconcerns@utah.gov, or directly to the licensor of the specific program or site.

(2) Clients have the right to:

(a) be treated with dignity;

(b) be free from potential harm or acts of violence;

(c) be free from discrimination;

(d) be free from abuse, neglect, mistreatment, exploitation, and fraud;

(e) privacy of current and closed records;

(f) communicate and visit with family, attorney, clergy, physician, counselor, or case manager, unless therapeutically contraindicated or court restricted;

(g) be informed of agency policies and procedures that affect client or guardian's ability to make informed decisions regarding client care, to include:

(i) program expectations, requirements, mandatory or voluntary aspects of the program;

(ii) consequences for non-compliance;

(iii) reasons for involuntary termination from the program and criteria for re-admission;

(iv) program service fees and billing; and

(v) safety and characteristics of the physical environment where services will be provided.

(3) Clients shall be informed of these rights and an acknowledgment by the client or guardian shall be maintained in the client file.

(4) Licensees shall train all staff annually on agency policies and procedures, Licensing rules, and the Licensing Code of Conduct.

(i) verification this training shall be dated and acknowledged by each staff member.

R501-1-12. Compliance.

(1) A licensee that is in operation on the effective date of this Rule shall be given 60 days to achieve compliance with this Rule.

KEY: licensing, human services
January 17, 2019 62A-2-101 et seq.
Notice of Continuation October 4, 2017

R501. Human Services, Administration, Administrative Services, Licensing.
R501-8. Outdoor Youth Programs.
R501-8-1. Outdoor Youth Programs.

(1) The Office of Licensing in the Department of Human Services, shall license outdoor youth programs according to standards and procedures established by this rule.

R501-8-2. Authority and Purpose.

(1) Pursuant to 62A-2-101 et seq., the purpose of this rule is to define standards and procedures by which the Office of Licensing shall license outdoor youth programs. Programs designed to provide rehabilitation services to adjudicated minors shall adhere to these rules as established by the Division of Juvenile Justice Services, in accordance with 62A-7-104-11.

R501-8-3. Definitions.

(1) In addition to terms defined and used in Section 62A-2-101(20), Utah Code:

(a) "Consumer" means the minor being provided the service by the program, not the parent or contracting agent that has enrolled the minor in the program.

(b) "Field Office" means the office where all coordination of field operations take place.

(c) "Administrative Office" means the office where business operations, public relations, and the management procedures take place.

(d) "Outdoor Youth Program means a 24-hour intermediate outdoor group living environment with regular formal therapy including group, individual, and the inclusion of supportive family therapy."

R501-8-4. Administration.

(1) In addition to the following standards and procedures, all outdoor youth programs shall comply with R501-2, Core Standards, R501-1 General provisions and R501-14 Background Screenings.

(2) Records of enrollment of all consumers shall be on file at the field office at all times.

(3) Information provided to parents, community, and media shall be accurate and factual.

(4) Programs shall provide an educational component as determined by the Utah State Board of Education for consumers up to 18 years of age who have been removed from their educational opportunities for more than one month. The administrators of the program shall meet and cooperate with the local Board of Education.

(5) Programs which advertise as providing educational credit to consumers shall be approved by the Utah State Board of Education.

(6) The program shall have written procedures for handling any suspected incident of child abuse or Department of Human Services, hereinafter referred to as DHS, Provider Code of Conduct violation, including the following:

(a) a procedure for ensuring that the staff member involved does not work directly with the youth involved or any other youth in the program until the investigation is completed or formal charges filed and adjudicated,

(b) a procedure for ensuring that a director or member of the governing body involved in or suspected of abuse shall be relieved of their responsibility and authority over the policies and activities of the program, or any other youth program, as well as meet the sanctions as described in (a) above, until the investigation is completed or formal charges are filed and adjudicated, and

(c) a procedure for disciplining any staff member or director involved in an incident of child abuse or DHS Provider Code of Conduct violation, including termination of employment if found guilty of felony child abuse, or loss of position, including directorship if found guilty of misdemeanor child abuse.

(7) If any director or person in a management position is involved in or suspected of child abuse or neglect, the program shall submit to an extensive review by DHS or law enforcement officials to determine or establish the continued safe operation or possible termination of the program. The licensing review shall be completed within 72 hours.

(8) Failure to implement and comply with (6)(a) through (c), and (7). above will be grounds for immediate suspension or revocation of program license.

(9) Until charges of abuse, neglect or licensing violations are resolved, no license shall be issued to any program with owners, silent owners, or any staff management personnel that were prior owners or staff management personnel in a program against which the above charges were alleged.

(10) If charges result in a criminal conviction or civil or administrative findings that allegations were true, no license shall be issued to any program with owners, silent owners, or staff management personnel from the prior program.

R501-8-5. Program Requirements.

(1) Programs that operate in Utah and one or more other states shall meet the requirements for licensure as established for each of the states.

(2) There shall be a written plan for expedition groups, developed and approved by the program field director, and by the program executive director, and governing body, which shall not expose consumers to unreasonable risks.

(3) The program shall inventory all consumer personal items and shall return all inventoried items, except contraband, to the consumer following program completion. The consumer shall sign the inventory list at the time of inventory and again when items are returned.

(4) The Office of Licensing shall review and approve the program's training plan governing consequences for consumer conduct.

(5) Each consumer shall have clothing and equipment to protect the consumer from the environment. This equipment shall never be removed, denied, or made unavailable to a consumer. If a consumer refuses or is unable to carry all of his or her equipment, the group shall cease hiking, and reasons for refusal or inability to continue will be established and resolved before hiking continues. Program directors are responsible to train staff regarding this standard and to regularly monitor compliance. There shall never be a deprivation of any equipment as a consequence. Such equipment shall include the following:

(a) sunscreen; the program staff shall ensure appropriate consumer usage,

(b) insect repellent,

(c) with frame or no frame backpack weight to be carried by each consumer shall not exceed 20 percent of the consumer's body weight. If the consumer is required to carry other items, the total of all weight carried shall not exceed 30% of the consumer's body weight,

(d) personal hygiene items,

(e) female hygiene supplies,

(f) sleeping bags rated for the current seasonal conditions when the average nighttime temperature is 40 degrees F. or warmer,

(g) sleeping bags rated for the current seasonal conditions, shelter and ground pad for colder months when the average nighttime temperature is 39 degrees F. or lower, and

(h) basic clothing list to ensure consumer protection against seasonal change in the environment.

(6) The program shall provide consumers with clean clothing at least weekly and shall provide a means for consumers to bathe or otherwise clean their bodies a minimum

of twice weekly. Female consumers shall be issued products for hygiene purposes.

(7) Hiking shall not exceed the physical capability of the weakest member of the group. Hiking shall be prohibited at temperatures above 90 degrees F. or at temperatures below 10 degrees F. Field staff shall carry thermometers, which accurately display current temperature. If a consumer cannot or will not hike, the group shall not continue unless eminent danger exists.

(8) The expedition plan including map routes, and anticipated schedules and times shall be carried by the field staff and recorded in the field office.

(9) Field staff shall maintain a signed, daily log or dictate a recorded log to be transcribed and signed immediately following termination of the activity.

(a) The log shall contain the following information; accidents, injuries, medications, medical concerns, behavioral problems, and all unusual occurrences.

(b) All log entries shall be recorded in permanent ink.

(c) These logs shall be available to state staff.

(10) Incoming and outgoing mail to parents, guardians, and attorneys shall not be restricted but shall be delivered in as prompt a manner as the location and circumstances dictate.

(11) Incoming and outgoing U.S. postal mail to parents, guardians, and attorneys shall not be restricted but shall be delivered in as prompt a manner as the location and circumstances dictate.

(12) Incoming mail from parents or guardians shall not be read or censored without written permission from a parent or guardian.

(13) All other mail may be restricted only by parental request in writing.

(14) All incoming mail may be required to be opened in the presence of staff. Contraband shall be confiscated.

(15) All local, state, and federal regulations and professional licensing requirements shall be met.

(16) Each program staff shall be required to carry with them a reliable time piece, which may include a wrist watch or pocket watch for the purpose of accurately reflecting the time of day, and for documentation purposes, such as recording the time of day in log notes and incident reports.

(17) The program shall have policy and procedure for suicide ideation that includes a review of any placement of a suicide watch on a consumer, by the program's clinical professional.

R501-8-6. Staff, Interns, and Volunteers.

(1) All staff, interns, and volunteers shall meet the provisions of R501-14.

(2) Each program shall have a governing body and an executive director who shall have responsibility and authority over the policies and activities of the program. and shall coordinate office and support services, training, etc,. The executive director shall have, at a minimum, the following qualifications:

(a) be at least 25 years of age,

(b) have a BA or BS degree or equal training and experience in a related field,

(c) have a minimum of two years of outdoor youth program administrative experience,

(d) have a minimum of 30 semester or 45 quarter hours education in recreational therapy or related experience or one year Outdoor Youth Program field experience,

(e) demonstrate complete knowledge and understanding of relevant licensing rules, and

(f) have completed an initial staff training, see R501-8-8.

(3) Each program shall have a program or field director who coordinates field operations, manages the field staff, and operates the field office. The program or field director shall meet, at a minimum, the following qualifications:

(a) be at least 25 years of age,

(b) have a BA or BS degree or equal training and experience in a related field,

(c) have minimum of two years of outdoor youth program field experience,

(d) have a minimum of 30 semester or 45 quarter hours education in recreational therapy or related field, or one year Outdoor Youth Program field experience,

(e) demonstrate complete knowledge and understanding of relevant licensing rules,

(f) have primary responsibility for field activities and visit in the field a minimum of two days a week with no more than five days between visits,

(g) prepare reports of each visit, document conditions of consumers, document interactions of consumers and staff, and ensure compliance with rules,

(h) be annually trained and certified in CPR and currently certified in standard first aid, and

(i) have completed an initial staff training, see R501-8-8.

(4) Each program shall have field support staff responsible for delivery of supplies to the field, mail delivery, communications, and first aid support. The field support staff shall meet, at a minimum, the following qualifications:

(a) be at least 21 years of age,

(b) have a high school diploma or equivalency,

(c) be annually trained and certified in CPR and currently certified in standard first aid, and

(d) have completed an initial staff training and field course, see R501-8-8.

(5) Each program group shall have senior field staff working directly with the consumer who shall meet, at a minimum, the following qualifications:

(a) be at least 21 years of age,

(b) have an associate degree or high school diploma with 30 semester or 45 quarter hours education and training or comparable experience and training in a related field,

(c) have six months outdoor youth program field experience or comparable experience which shall be documented in the individual's personnel file,

(d) be annually trained and certified in CPR and currently certified in standard first aid,

(e) have completed an initial staff training, see R501-8-8, and

(6) Each program shall have a field staff working directly with the consumers who shall meet, at a minimum, the following qualifications:

(a) be a minimum of 20 years of age,

(b) have a high school diploma or equivalency,

(c) have forty-eight field days of outdoor youth program experience or comparable experience which shall be documented in the individual's personnel file,

(d) exhibit leadership skill,

(e) be annually trained and certified in CPR and currently certified in standard first aid, and

(f) have completed an initial staff training.

(7) Each program shall have assistant field staff to meet the required consumer to staff ratio. Assistant field staff shall meet, at a minimum, the following qualifications:

(a) be a minimum of 19 years of age,

(b) have a high school diploma or equivalency,

(c) have twenty-four field days of outdoor youth programs experience,

(d) exhibit leadership skill,

(e) be annually trained and certified in CPR and currently certified in standard first aid, and

(f) have completed an initial staff training

(8) Each program shall have a multi-disciplinary team, accessible to consumers which shall include, at a minimum, the

following:

(a) a licensed physician or consulting licensed physician,

(b) a treatment professional who may be one of the following:

(i) a licensed psychologist,

(ii) a licensed clinical social worker,

(iii) a licensed professional counselor,

(iv) a licensed marriage and family counselor, or

(v) a licensed school counselor

(c) All clinical and therapeutic personnel shall be licensed or working under a DOPL training program certified by the State of Utah.

(9) Each program may have academic and clinical interns who are learning the program practices while completing educational requirements.

(a) Interns shall be a minimum of 19 years of age.

(b) Initial training program shall be completed by all incoming staff including interns regardless of background experience.

(c) Clinical interns pursuing licensure shall be under the supervision of a licensed therapist.

(d) Academic interns shall be supervised by program staff.

(e) Interns shall not supervise consumers at any time.

(10) Each program may have program volunteers.

(a) Volunteers shall be under direct, constant supervision of program staff.

(b) Volunteers shall not be left in the role of supervising consumers at any time.

(c) Volunteers shall be at least 18 years of age and meet program guidelines.

R501-8-7. Staff to Consumer Ratio.

(1) Each youth group shall be supervised by at least two staff members at all times, one of which must be a senior field staff.

(2) In a mixed gender group, there shall be at least one female staff and one male staff.

(3) Expedition group size, including staff members, cannot exceed sixteen people with a minimum of a one to four staff to consumer ratio.

(4) Volunteers shall be counted as a consumer in figuring staff to consumer ratios.

(5) Expedition group size shall not exceed the number specified by federal, state, or local agencies in whose jurisdiction the program is operated.

R501-8-8. Staff Training.

(1) The program shall provide a minimum of eighty hours initial staff training.

(2) Initial staff training shall not be considered completed until the staff have demonstrated to the field director proficiency in each of the following:

(a) counseling, teaching and supervisory skills,

(b) water, food, and shelter procurement, preparation and conservation,

(c) low impact wilderness expedition and environmental conservation skills and procedures,

(d) consumer management, including containment, control, safety, conflict resolution, and behavior management,

(e) instruction in safety procedures and safe equipment use; fuel, fire, life protection, and related tools,

(f) instruction in emergency procedures; medical, evacuation, weather, signaling, fire, runaway and lost consumers,

(g) sanitation procedures; water, waste, food, etc.,

(h) wilderness medicine, including health issues related to acclimation, exposure to the environment, and environmental elements,

(i) CPR, standard first aid, first aid kit contents and use, and wilderness medicine,

(j) navigation skills, including map and compass use and contour and celestial navigation,

(k) local environmental precautions, including terrain, weather, insects, poisonous plants, response to adverse situations and emergency evacuation,

(l) leadership and judgment,

(m) report writing, including development and maintenance of logs and journals, and

(n) Federal, state, and local regulations, including Department of Human Services, Bureau of Land Management, United States Forest Service, National Parks Service, Utah State Department of Fish and Game.

(3) The completion of the minimum eighty hours initial staff training shall be documented and maintained in each personnel file.

(4) The field director shall document in each personnel file that the staff have demonstrated proficiency in each of the required topic areas as listed in (2). above.

(5) The initial staff training and demonstration of proficiency must be completed and documented before the staff person may count in the staff consumer ratio.

(6) The program shall also provide on-going training to staff in order to improve proficiency in knowledge and skills, and to maintain certifications. This training shall also be documented.

R501-8-9. Staff Health Requirements.

(1) Prior to engaging in any field activity, all staff shall adhere to the following:

(a) All field staff, interns, and volunteers shall have an annual physical examination and health history signed by a licensed medical professional. A recognized physical stress assessment shall be completed as part of the physical examination.

(b) Physical examinations shall be reviewed and maintained by the provider in the staff personnel file.

(c) All program staff, interns, and volunteers shall agree to submit to drug and alcohol screening as provided for by federal and state law.

R501-8-10. Consumer Admission Requirements.

(1) Consumers shall be at least 13 through 17 years of age and have a current health history which includes notation of limitations and prescriptive medications, completed and submitted within 30 days prior to entrance into the field program and verified by a parent or legal guardian.

(2) Admissions screening shall be supervised by a treatment professional before consumer entrance into the field program and shall include the following:

(a) a review of consumer social and psychological history with the parent or legal guardian prior to enrollment,

(b) an interview with the consumer prior to entrance into the field program, and

(c) a review of consumer's health history and physical examination by a licensed medical professional prior to entrance into the field program.

(3) Consumer shall have a physical examination within 15 days prior to entrance to field program. Documentation of the examination, on a form provided by the program and signed by a licensed medical professional, shall be submitted to the program within 15 days prior to entrance to field program.

(4) A physical examination form shall be provided to the licensed medical professional by the program and the form shall clearly state a description of the physical demands and environment of the program, and require the following information:

(a) urinalysis drug screen,

(b) CBC, blood count,

(c) urinalysis for possible infections,
(d) CMP, complete metabolic profile,
(e) pregnancy test for all female consumers,
(f) physical stress assessment,
(g) determination by the physician if detoxification is indicated for consumer prior to entrance into field program,
(h) and any other tests as deemed to be indicated.

(5) Copies of consumer's medical forms shall be maintained at the field office and another copy carried by staff members in a waterproof container throughout the course.

(6) Prior to placement in the program, psychological evaluations for consumers as indicated, who have a history of chronic psychological disorders.

(7) Upon admission and for a period of no fewer than three days staff shall closely monitor the consumers for any health problems that may be a result of becoming acclimated to the environment.

R501-8-11. Water and Nutritional Requirements.

(1) Six quarts of potable water shall be available per person, per day, minimum, plus one additional quart per person for each five miles hiked. Although it is not required that the entire amount be hand carried, access to water shall be available at all times during hiking.

(2) In temperatures above 90 degrees F., staff shall make sure consumer intake is a minimum of three quarts of water per day, electrolyte replacement shall be available with the expeditionary group at all times.

(3) In temperatures above 80 degrees F., water shall be available for coating consumer's body, and other cooling down techniques shall be available for the purpose of cooling as needed.

(4) Water shall be available at each campsite. Water cache location information shall be verified with field staff before the group leaves camp each day.

(5) Expedition group shall not depend on aerial drops for water supply. Aerial water drops shall be used for emergency situations only.

(6) All water from natural sources shall be treated for sanitation to eliminate health hazards.

(7) Each program shall have a written menu describing food supplied to the consumer which shall provide a minimum of 3000 calories per day. There must be fresh fruit and vegetables at least twice a week. Food shall never be withheld from a consumer for any reason. Food may not be withheld as a punishment. If no fire is available, other food of equal caloric value, which does not require cooking shall be available.

(a) The menu shall adjust to provide 30-100 percent increase in minimum dietary needs as energy expenditure such as exercise increases, or climate conditions such as cold weather dictate.

(b) Food shall be from a balance of the food groups.

(c) Forage items shall not be used toward the determination of caloric intake.

(d) There shall be no program fasting for more than 24 hours per expeditionary cycle.

(e) Multiple vitamin supplements shall be offered daily.

R501-8-12. Health Care.

(1) First aid treatment shall be provided in a prompt manner.

(2) When a consumer has an illness or physical complaint which cannot be treated by standard first aid, the program shall immediately arrange for the consumer to be seen and treated as indicated by a licensed medical professional.

(3) Each consumer shall be assessed at least every 14 days for his physical condition by a qualified professional such as a Utah EMT. Blood pressure, heart rate, allergies, and general physical condition will be checked and documented. Any assessment concerns will be documented, and the consumer will be taken to the appropriate medical professional for treatment. Medical treatment shall be provided by medical personnel and medication provided as needed. There shall be no consequences to a consumer for requesting to see a health care professional or for anything said to a health care professional.

(4) All prescriptive and over the counter medications shall be kept in the secure possession of designated staff and provided to consumers to be used as prescribed.

(5) Prescriptive medication shall be administered as prescribed by a qualified medical practitioner who is licensed. Staff shall be responsible for the following:
(a) supervise the use of all medication,
(b) record medication, including time and dosage, and
(c) record effects of medication, if any.
(d) document any incidents of missed prescriptive medication, and
(e) document any lost or missing prescriptive medication.

(6) A foot check will be conducted at least twice daily and documented.

R501-8-13. Safety.

(1) First aid kits shall include sufficient supplies for the activity, location, and environment and shall be available during all field activities.

(2) Program shall have a support system that meets the following criteria:

(a) Reliable daily two-way radio communications with additional charged battery packs, and a reliable backup system of contact in the event the radio system fails.

(b) The support vehicles and field office shall be equipped with first aid equipment.

(c) The support personnel shall have access to all contacts, i.e., telephone numbers, locations, contact personnel, and procedures for an emergency evacuation or field incident.

(d) A.M. and P.M. contacts between field staff and support staff are to be relayed to the field office. Contact shall be available from field staff to field office on a continuous basis.

R501-8-14. Field Office.

(1) Each program shall maintain a field office.

(2) Communication system to the field office shall be monitored 24-hours a day when consumers are in the field.

(3) Support staff shall respond immediately to any emergency situation.

(4) Support staff on duty shall be within 1 hour of the field.

(5) When staff are not present in the field office a contact telephone number shall be posted on the field office door, and the field director shall designate responsible on-call staff who shall continually monitor communications and will always be within 15 minutes travel time of the field office.

(6) field office staff shall adhere to the following:

(a) maintain current staff and consumer files which include demographics, eligibility criteria, and medical forms as a minimum,
(b) maintain a current list of names of staff and consumers in each field group,
(c) maintain a master map of all activity areas,
(d) maintain copies of each expeditionary route with its schedule and itinerary, of which copies shall be sent to the Office of Licensing and local law enforcement, as requested by these agencies,
(e) maintain a log of communications,
(f) be responsible for training and orientation, management of field personnel, related files, and records,
(g) be responsible for maintaining communications, equipment inspection, and overseeing medical incidents, and
(h) provide all information as requested for review by state

staff.

R501-8-15. Environmental Requirements.

(1) All programs shall adhere to land use agencies requirements relative to sanitation and low impact camping.

(2) Consumers shall be instructed daily in the observance of low-impact camping requirements.

(3) Personal hygiene supplies shall be of biodegradable materials.

R501-8-16. Emergencies.

(1) Each program shall have a written plan of action for disaster and casualties to include the following:

(a) designation of authority and staff assignments,

(b) plan for evacuation,

(c) transportation and relocation of consumers when necessary, and

(d) supervision of consumers after evacuation or relocation.

(2) The program shall have a written plan which personnel follow in medical emergencies and arrangements for medical care, including notification of consumer's physician and nearest relative or guardian.

(3) The program shall have a written agreement for medical emergency evacuation as needed.

(4) Emergency evacuation equipment shall be on stand-by.

(5) The program shall make prior arrangements with local rescue services in preparation for possible emergency evacuation needs, which shall be reviewed every six months.

R501-8-17. Infectious Disease Control.

(1) The program shall have policies and procedures designed to prevent or eliminate the spread of infectious and communicable diseases in the program.

R501-8-18. Transportation Services.

(1) The program shall have policies and procedures which ensures the safe and humane transport of consumers between their homes and the program.

(2) "Escort transportation services" means: The charging of a fee for having a responsible adult accompany the consumer during transportation from the consumers home to the program or back to their home.

(3) Escort transportation services whether provided by the program or by an independent transportation service shall not be a requisite to enrollment in the program, but shall be the choice of the consumer's parent or guardian.

(4) Programs that provide escort transportation services shall provide parents or guardians with the contact information of at least two other escort transportation services to allow them to have an informed decision.

R501-8-19. Transportation.

(1) There shall be written policy and procedures for transporting consumers.

(2) There shall be a means of transportation in case of emergency.

(3) Drivers of vehicles shall have a valid drivers license and follow safety requirements of the State.

(4) Each vehicle shall be equipped with an adequately supplied first aid kit.

(5) When transporting any consumer for any reason, there shall be two staff present at all times, one of which shall be of the same sex as the consumer, except in emergencies.

(6) Staff shall adhere to local, state, and federal laws concerning the operation of motor vehicles.

(7) Staff and consumers shall wear seat belts at all times while the vehicle is moving.

R501-8-20. Evaluation.

(1) Following the wilderness experience, each consumer shall receive a debriefing to include a written summary of the consumer's participation and the progress they achieved.

(2) Parents, consumers, and other involved individuals shall be provided the opportunity and encouraged to submit a written evaluation of the wilderness experience, which shall be retained by the program for a period of two years.

R501-8-21. Solo Experiences.

(1) If an Outdoor Youth Program conducts a solo component for consumers as part of the program they shall have and follow written policies and procedures, which shall include the following:

(a) A written description of the solo component to ensure that the consumers are not exposed to unreasonable risks.

(b) Staff shall be familiar with the site chosen to conduct solos.

(c) Plans for supervision shall be in place during the solo.

(d) Solo emergency plans.

R501-8-22. Stationary Camp Sites.

(1) An outdoor youth program that maintains a designated location for the housing of consumers is considered stationary and shall be subject to additional fire, health and safety standards.

(a) A stationary Outdoor Youth Program camp shall be inspected by a state certified fire inspector before being occupied and on an annual basis thereafter. A copy of the inspection shall be maintained at the Outdoor Youth Program camp.

The inspection shall require:

(i) Fire Extinguishers. One (1) 2-A-10BC type fire extinguisher shall at minimum be in each of the following locations as required by the fire inspector:

(A) On each floor in any building that houses consumers;

(B) In any room where cooking or heating takes place;

(C) In a group of tents within a seventy-five (75) foot travel distance; and

(D) Each fire extinguisher shall be inspected annually by a fire extinguisher service agency.

(ii) Smoke Detectors. A smoke detector shall be in buildings where consumers sleep.

(iii) Escape Routes. A minimum of two (2) escape routes from buildings where consumers sleep.

(iv) Flammable Liquids. Flammable liquids shall not be used to start fires, be stored in structures that house consumers, or be stored near ignition sources. If generators are used, they will only be refueled by staff when the generator is not running and cool to the touch.

(v) Electrical. Wiring shall be properly attached and fused to prevent overloads.

(b) A stationary Outdoor Youth Program camp shall be inspected by the Local Health Department before being occupied and on an annual basis thereafter. A copy of the inspection shall be maintained at the site of the camp. The inspection shall require the following:

(i) Food. Food be stored, prepared and served in a manner that is protected from contamination.

(ii) Water Supply. The water supply shall be from a source that is accepted by the local health authority according to UAC R392-300 "Rules for Recreation Camp Sanitation," at the time of application and for annual renewal of such licenses.

(iii) Sewage Disposal. Sewage shall be disposed of through a public system, or in absence of a public system, in a manner approved by the local health authority, according to UAC R392-300 "Rules for Recreation Camp Sanitation".

R501-8-23. Non-Compliance With Rules.

(1) Due to the difficulty of monitoring outdoor programs and the inherent dangers of the wilderness, a single violation of the foregoing life and safety rules may result in immediate revocation of the license and removal of consumers from programs pursuant to General Provisions as found in R501-1.

KEY: licensing, human services, youth
January 17, 2019 62A-2-101 et seq.
Notice of Continuation October 4, 2017

R512. Human Services, Child and Family Services.
R512-305. Out-of-Home Services, Transition to Adult Living Services.
R512-305-1. Purpose and Authority.

(1) The purpose of Transition to Adult Living (TAL) services is to help prepare a youth who is receiving out-of-home services in accordance with Rule R512-300 to gain skills to transition to adulthood and to provide support to youth upon leaving the Division of Child and Family Services (Child and Family Services) custody. TAL is a continuum of services that begins while youth are in care and continues while they transition out of care. Youth receiving In-Home Services may also receive some TAL services.

(2) TAL services, which includes the Education and Training Voucher Program, are authorized by the John H. Chafee Foster Care Independence Program, 42 USC 677 (February 9, 2018), incorporated by reference.

(3) This rule is authorized by Section 62A-4a-102.

R512-305-2. Scope of Services.

(1) Qualification for and duration of services:

(a) TAL services are required for all youth receiving out-of-home services, age 14 years or older, until Child and Family Services custody is terminated regardless of permanency goal, as specified in Rule R512-300.

(b) TAL provides aftercare services for youth if they are no longer in Child and Family Services custody and are not yet 23 years of age, and the youth:

(i) Ages out of out-of-home care, or

(ii) Is adopted from foster care at age 16 years or older.

(2) Service description:

(a) TAL services build on the youth's individual strengths and develop personal assets in order to help young people acquire the motivation and the means to be successful throughout their lives. The strategies are aimed at helping youth achieve five fundamental aspects of adult life, including work, career planning, and education; housing and money management; home life and daily living; self-care and health education; and communication, social relationships, family, and marriage.

(b) Aftercare services consist of time-limited support to youth. This assistance can be provided through support, financial aid, or Basic Life Skills training. It may include housing, counseling, employment education, and other appropriate support and services to complement a youth's efforts to achieve self-sufficiency.

(3) Availability:

(a) TAL services are available in all geographic regions of the state.

(b) TAL services are available on the same basis to Native American youth who are or were formerly in Tribal custody within the boundaries of the state.

R512-305-3. Transition to Adult Living Services for a Youth in Child and Family Services Custody.

(1) The caseworker, with the assistance of the youth and Child and Family Team, ensures completion of the empirically validated life skills assessment to identify the strengths and needs of the youth.

(2) Based upon the empirically validated life skills assessment, a TAL plan is developed that identifies the youth's strengths, needs, and specific services.

(3) The youth, with the assistance of the Child and Family Team, determines the TAL plan. Youth aged 14 years or older are required to have a TAL plan, with youth taking the lead in setting goals and facilitating the Child and Family Team with staff guidance. Youth 14 years and older must be given the opportunity to have at least two individuals of their own choosing as members of the Child and Family Team.

(4) TAL services do not substitute for active efforts to address the youth's permanency goal.

(5) The TAL plan includes a continuum of training and services to be completed by the youth and designated team members in such settings as at the foster home, with a therapist, at school, or through other community-based resources and programs.

(6) Basic Life Skills training shall be offered to all foster youth age 14 years and older. The training may include training in daily living skills, budgeting, career development and financial management skills, substance abuse prevention, and preventive health activities (including smoking avoidance, nutrition education, and pregnancy prevention).

(7) Each youth who completes Basic Life Skills training may receive a completion payment.

R512-305-4. Transition to Adult Living Placement for a Youth in Child and Family Services Custody.

(1) A TAL placement may be used as an alternative to out-of-home care when it is determined that such a placement is in the best interest of the youth. The appropriate types of living arrangements for youth in this situation include living with kin; living with former out-of-home caregivers while paying rent; living in the community with roommates; living alone; living in a group facility, YWCA, boarding house, or dorm; or living with an adult who has passed a background check or the placement was assessed and approved by the region director or designee. This recommendation will be presented to the Child and Family Team, who will work to ensure that this type of placement is appropriate and that the following Practice Guidelines are met:

(a) A TAL placement may be used as an out-of-home care placement.

(b) A youth must be at least 16 years of age to be in a TAL placement.

(c) The Child and Family Team is responsible to determine if a recommendation for a TAL placement for a youth is appropriate.

(d) The region director or designee is authorized to approve a TAL placement.

(e) The caseworker and youth shall complete a contract outlining responsibilities and expectations while in the TAL placement.

(f) The caseworker shall visit with and monitor progress of the youth at least twice monthly or at an interval determined by the Child and Family Team.

(g) The youth may receive a TAL stipend while in the TAL placement.

(h) If the TAL placement is not successful, the Child and Family Team shall meet to determine, with the youth, a more appropriate living arrangement in accordance with R512-305-4.

R512-305-5. Child and Family Services Responsibility to a Youth Leaving Out-of-Home Care.

(1) Aftercare services provide support to youth who leave out-of-home care, as specified in R512-305-2.

(2) A youth may access services by contacting a Child and Family Services office and being referred to a regional TAL coordinator.

(3) Services may include additional Basic Life Skills training, information and referral, mentoring, computer access for resources, and follow-up support. Funds may also assist eligible youth in the four areas listed below:

(a) Education, Training, and Career Exploration.

(b) Physical, Mental Health, and Emotional Support.

(c) Transportation.

(d) Housing Support.

(4) Funds used for room and board are subject to federal limits.

KEY: social services, child welfare, out-of-home care, Transition to Adult Living
January 9, 2019 62A-4a-102
Notice of Continuation February 15, 2018 62A-4a-105

R523. Human Services, Substance Abuse and Mental Health.
R523-5. Peer Support Specialist Training and Certification.
R523-5-1. Purpose.

(1) Purpose. This rule prescribes standards for certification of Peer Support Specialist Training programs; the qualifications required of instructors for providing Peer Support Training; and the requirements to become a Peer Support Specialist and establishes guidelines for population specific peer support services.

R523-5-2. Authority.

(1) These standards are promulgated by the Utah Department of Human Services through the Division of Substance Abuse and Mental Health as authorized by Subsection 62A-15-103(2)(v).

R523-5-3. Intent.

(1) The objective of the peer support specialist training is to establish training programs to certify individuals that have completed requisite training to work as substance use disorder and/or mental health peer support specialists and provide services based on service guidelines.

R523-5-4. Definitions.

(1) "Peer Support Specialist (PSS)" is an individual who has successfully completed an approved Peer Support Specialist Training Program and for ongoing certification has met the requirements outlined in Section R523-5-8.

(2) "Approved Curriculum" means a curriculum which has been approved by the Division in accordance with these rules.

(3) "Certification" means that the Division verifies the individual has met the requirements outlined in this rule to be a peer support specialist and has completed the required training.

(4) "Director" means the Director of the Division of Substance Abuse and Mental Health.

(5) "Division" means the Division of Substance Abuse and Mental Health.

(6) "Peer Support Specialist Training Program" is an instructional series operated by an approved agency or organization which satisfies the standards established by the Division and is herein referred to as a "Peer Support Specialist Training Program".

(7) "Program Certificate" is a written authorization issued by the Division to the training entity which indicates that the Program has been found to be in compliance with these Division standards.

(8) "Recovery" is a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(9) "Youth-In-Transition" means young people who are between the ages of 16 and 25, or those outside of this age range for which peer support services have been deemed developmentally and socially appropriate by a licensed mental health therapist.

R523-5-5. Certification Requirements for Peer Support Specialist Training Programs.

(1) An application for Program Certification will require that the program provide, among other things:

(a) Qualifications of individuals who will be providing the training.

(b) A curriculum that outlines no less than forty (40) hours of face-to-face instruction covering the curriculum requirements outlined in Section R523-5-7 for a PSS.

(c) A plan to ensure that instructors continue to meet reported qualifications and adhere to the approved curriculum.

(d) An agreement to maintain records of the individual's attendance and completion of all program requirements for at least seven years.

(e) An agreement to comply with all applicable local, state and federal laws and regulations.

(2) The Division Director has the authority to grant exceptions to any of the certification requirements.

R523-5-6. Division Oversight of Program.

(1) The Division may enter and survey the physical facility, program operation, review curriculum and interview staff to determine compliance with this rule or any applicable contract to provide such services.

(2) The PSS Training Program shall also allow representatives from the Division and from the local authorities as authorized by the Division to attend the classes held. Such visits may be announced or unannounced.

(3) The Division will establish an application process to review and approve applicants for the PSS Training Program. This process will:

(a) Develop and publish an application to be a PSS.

(b) Solicit input from stakeholders, PSS's and other individuals on the review process.

(c) Establish further criteria for acceptance into the PSS program as needed.

R523-5-7. Curriculum Requirements for Adult Peer Support Specialist Training Programs.

(1) This curriculum shall provide at least forty (40) hours of instruction for original certification and twenty (20) hours for any and all re-certifications. The curriculum shall include the following components as they relate to the PSS's lived experience and recovery in order to assist in the identified client's strengths working towards recovery:

(a) Etiology of mental illness and substance use disorders;

(b) The stages of recovery from mental illness and substance use disorders;

(c) The relapse prevention process;

(d) Combating negative self-talk;

(e) The Role of peer support in the recovery process and using your recovery story as a recovery tool;

(f) Dynamics of change;

(g) Ethics of peer support;

(h) Professional relationships, boundaries and limits;

(i) Scope of peer support;

(j) Cultural competence: self-awareness - cultural identity;

(k) Stigma and labeling;

(l) Community resources to support individuals in recovery;

(m) Assisting individuals in accomplishing recovery goals;

(n) Coach, mentor, and role model recovery;

(o) Assist in identification of natural, formal and informal supports;

(p) Stress management techniques;

(q) Assist individuals in reaching educational and vocational goals;

(r) Crisis prevention; and

(s) Assist with physical health and wellness.

(2) The curriculum shall include:

(a) Active listening and communication skills; and

(b) Basic motivational interviewing skills.

(3) The curriculum must include a strong emphasis on ethical behavior, dual relationships, scope of peer support and professional boundaries and should include case studies, role plays and experiential learning.

R523-5-8. Requirements to Become a PSS.

(1) Be an individual who participated in substance use disorder or mental health treatment services who is now in sustained recovery, or

(2) Be an individual in recovery from substance use or

mental health disorders through means other than treatment services who is now in sustained recovery.

(3) Be at least 18 years of age.

(4) Complete the application process with the Division.

(5) Pass the qualification exam with score of 70% or above.

(6) Have attended and successfully completed a Division approved PSS training program and have a valid certificate from that training.

(7) If an individual fails the Division examination twice within a 30 day period of time, they must wait 30 days before taking the examination again.

R523-5-9. Requirements to Remain Qualified as a PSS.

(1) Complete at least twenty (20) hours of continuing education (CEUs) every two (2) years including two (2) hours of ethics training, six (6) hours pertaining specifically to peer support services, one (1) hour of suicide prevention training and eleven (11) hours of general mental health and/or substance use disorder training.

(2) Each PSS shall maintain adequate documentation as proof of compliance with this Section, such as a certificate of completion, school transcript, course description, or other course materials. The PSS shall retain this proof for a period of three years after the end of the renewal cycle for which the continuing education is due; and

(a) At a minimum, the documentation shall contain the following:

(i) Date of the course;

(ii) Name of the course provider;

(iii) Name of the instructor;

(iv) Course title;

(v) Number of hours of continuing education credit; and

(vi) Course objectives.

(3) Each certified PSS shall abide by the Provider Code of Conduct pursuant to Section R495-876, and as also found in the Department of Human Services Provider Code of Conduct Policy.

(a) Each employer that becomes aware of a certified PSS engaging in unprofessional or unlawful conduct, or has violated the provider code of conduct shall:

(i) immediately take action to review the allegations,

(ii) take steps to ensure that all individuals involved with the allegation are protected, and

(iii) notify the Division within 30 days.

(b) Termination of certification shall be made effective immediately if the alleged violation(s) results in one or more of the following:

(i) personal financial gain through deception, or a business transaction with a client, by the PSS,

(ii) physical or emotional harm to a person that is caused by the PSS, or

(iii) a financial loss to a client, the State, or another employee that is caused by the PSS.

(c) The Division shall take the following actions when it becomes aware of a certified PSS in violation of the provider code of conduct that does not result in immediate termination:

(i) Within 30 days of becoming aware of the violation(s), the Division shall notify the certified PSS, in writing, through a Notice of Agency Action specifying the area(s) of noncompliance.

(ii) Within 30 days of receiving a notice of Agency Action, the certified PSS shall submit an acceptable written plan to the Division explaining how they will achieve compliance.

(iii) All plans shall demonstrate how the certified PSS shall be in compliance within 30 days after receiving the Notice of Agency Action.

(iv) If an acceptable plan of action is not received by the Division within 30 days of sending the Notice of Agency Action, the certified PSS shall be notified that their certification has been suspended until an acceptable plan is submitted to the Division.

(v) A certified PSS must cease providing any and all peer support services until a suspension is lifted.

(d) The Division shall revoke the certification of any certified PSS for the following reasons:

(i) The certified PSS fails to provide the Division with written evidence of compliance to a plan of action within 30 days after the PSS receives a Notice of Agency Action that their certification has been suspended.

(ii) The certified PSS continues to provide peer support services during the period of a suspension; or

(iii) The certified PSS receives more than two notices of noncompliance with the Provider Code of Conduct in a one-year period.

(e) Any PSS whose certification has been revoked may request an informal hearing with the Division director or designee, in writing, within 10 business days of receiving notice of revocation.

(f) The Division director or designee shall review the request and determine to uphold, amend or reverse the action within 10 business days, and the Division shall inform the PSS of the decision in writing.

(g) Any PSS with a revoked certification may not reapply for recertification for a period of twelve months.

(h) If a certified PSS fails to complete the requirements for CEUs, their certificate will be allowed to expire and shall not be renewed until the required CEUs have been completed and submitted to the Division for approval.

R523-5-10. Population Specific Guidelines.

(1) Typically a PSS works with individuals age 18 and older.

(2) A PSS may work with Youth-In-Transition if the PSS has completed Youth-In-Transition training, in addition to any other PSS training, of no less than 8 hours, and receives a Youth-In-Transition endorsement from the Division on their PSS certification.

R523-5-11. Curriculum Requirements for Youth-In-Transition Training Programs.

(1) This curriculum shall provide at least eight (8) hours of instruction for the Youth-In-Transition endorsement of PSS certification. The curriculum, which shall be approved by the Division, shall include, but not be limited to, the following components as they relate to Youth-In-Transition:

(a) Meaning of Youth-In-Transition and specific challenges related to this population;

(b) Preferred practice models and tools;

(c) Population specific material regarding: common challenges, barriers, resources, relationship issues, recovery, housing, employment, legal, crisis, cultural and self-care.

(d) Professional relationships, boundaries and limits.

(2) The curriculum must be strength based and shall include:

(a) Active listening and communication skills; and

(b) Basic motivational interviewing skills.

(3) The curriculum shall include a strong emphasis on ethical behavior, dual relationships, scope of peer support and professional boundaries and shall include case studies, role plays and experiential learning specific to Youth-In-Transition.

(4) The Division, PSS, mental health and substance use disorder professionals and advocate organizations shall regularly review and make evidence-based updates to the curriculum at least every two years. Final determination on curriculum changes or updates shall be made by the Division.

KEY: peer support specialists, PSS program, certification

of programs, substance use disorder
January 29, 2019 62A-15-103(2)(v)

R523. Human Services, Substance Abuse and Mental Health.
R523-19. Community Mental Health Crisis and Suicide Prevention Training Grant Standards.
R523-19-1. Authority.

(1) This rule establishes procedures and standards for administration of substance use disorder and mental health services as granted by Section 62A-15-115.

R523-19-2. Purpose.

(1) This rule is designed to create requirements and process for qualifying for a grant and for the community to apply for a grant.

R523-19-3. Intent.

(1) To create requirements and a process for communities to qualify for a grant that will allow them to provide specific training on mental health crises and suicide prevention.

R523-19-4. Activities Qualifying for the Community Mental Health Crisis and Suicide Prevention Training Grant.

(1) The following are activates that are allowable under these grants:

(a) Evidence/research-based strategies surrounding suicide prevention, specifically suicide prevention skill-based trainings;

(b) Community outreach and mobilization activities including partnership recruitment for participation in local coalitions;

(c) Activities aimed at increasing partnerships to link individuals into supportive services including health and behavioral healthcare services; and

(d) Evidence-based suicide prevention strategies and trainings targeted at high-risk populations.

R523-19-5. Grant Application Process.

(1) Individual and family services community organizations and Local Mental Health Authorities wishing to apply for funds to initiate a Community Mental Health Crisis and Suicide Prevention Training Program, shall respond to a Request for Proposal process that shall be developed by the Division of Substance Abuse and Mental Health.

(2) Individual grants shall not exceed $50,000.

(3) Grants shall be available to all interested organizations until all available funds are awarded.

KEY: community mental health crisis and suicide prevention training grant, crisis training grant, suicide prevention training grant, community crisis training grant
January 29, 2019 62A-15-115

R590. Insurance, Administration.
R590-269. Individual Open Enrollment Period.
R590-269-1. Authority.

This rule is promulgated pursuant to Subsection 31A-30-117(1)(c) wherein the commissioner is directed to adopt a rule to establish one statewide open enrollment period for the individual insurance market that is not part of the Federally Facilitated Marketplace.

R590-269-2. Purpose and Scope.

(1) The purpose of this rule is to establish an open enrollment period for a carrier that offers an individual health benefit plan outside the Federally Facilitated Marketplace.

(2) This rule applies to a carrier that offers an individual health benefit plan outside the Federally Facilitated Marketplace with an effective date on or after January 1, 2014.

R590-269-3. Definitions.

In addition to the definitions in Sections 31A-1-301 and 31A-30-103, the following definitions apply for the purpose of this rule.

(1) "Federally Facilitated Marketplace" means an exchange set up by the federal government to facilitate the purchase of individual health insurance in accordance with the Patient Protection and Affordability Care Act (PPACA).

(2) "Qualifying life event" means an event that triggers a special enrollment period because an individual or dependent:

(a) loses minimum essential coverage;

(b) gains a dependent or becomes a dependent through marriage, birth, adoption or placement for adoption;

(c) enrollment or non-enrollment is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee or agent of an exchange or the United States Department of Health and Human Services, or its instrumentalities as evaluated and determined by an exchange;

(d) adequately demonstrates to the individual carrier that the health benefit plan in which he or she is previously enrolled substantially violated a material provision of its contract in relation to the enrollee;

(e) is newly ineligible for advance payment of premium tax credits; or

(f) permanently moves into a new service area.

(2)(a) "Loss of minimum essential coverage" means those circumstances described in 26 CFR 54.9801-6(a)(3)(i) through (iii).

(b) Loss of minimum essential coverage does not include termination or loss due to:

(i) failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage; or

(ii) situations allowing for a rescission as specified in 45 CFR 147.128.

R590-269-4. Open and Special Enrollment Periods.

(1)(a) The open enrollment period for an individual health benefit plan outside the Federally Facilitated Marketplace will coincide with the open enrollment period for the Federally Facilitated Marketplace.

(b) Open enrollment period coverage begins on:

(i) January 1 for individuals who enroll on or before December 15;

(ii) the first day of the following month, for individuals who enroll between the first and the fifteenth of the month; and

(iii) the first day of the second following month for individuals who enroll between the sixteenth and the last day of the month.

(2)(a) An individual carrier shall offer to an individual experiencing a qualifying life event, a special enrollment period for at least 60 days.

(b) In the case of birth, adoption or placement for adoption, the coverage is effective on the date of:

(i) birth;

(ii) adoption; or

(iii) placement for adoption

(c) Coverage is effective the first day of the month following the date the carrier receives the request for special enrollment in the case of:

(i) marriage;

(ii) an individual or dependent loses minimum essential coverage;

(iii) an individual or dependent's enrollment or non-enrollment is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee or agent of an exchange or the United States Department of Health and Human Services, or its instrumentalities as evaluated and determined by an exchange ;

(iv) an individual adequately demonstrates to the individual carrier that the health benefit plan in which he or she is previously enrolled substantially violated a material provision of its contract in relation to the enrollee; or

(v) an individual permanently moves into a new service area.

R590-269-5. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-269-6. Severability.

If any provision of this rule or its application to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.

KEY: individual open enrollment period
September 23, 2015 31A-30-117(1)(c)
Notice of Continuation January 11, 2019

R623. Lieutenant Governor, Elections.
R623-1. Lieutenant Governor's Procedure for Regulation of Lobbyist Activities.
R623-1-1. Purpose.

Pursuant to Utah Code Section 36-11-404 this rule provides procedures for the lieutenant governor's office to:

A. Issue lobbyist licenses;
B. Disapprove lobbyist applications;
C. Suspend and revoke lobbyist licenses;
D. Reinstate lobbyist licenses; and
E. Appoint administrative law judges.

R623-1-2. Authority.

This rule is required by Utah Code Section 36-11-404.

R623-1-3. Definitions.

In addition to the terms defined in Utah Code Section 36-11-102, the following definitions apply:

A. "Director" means the director of the state elections office.

B. "Register" means the process of obtaining a lobbying license as required by Sections 36-11-103 and 36-11-105.

C. "Report" means any report required under Sections 36-11-201.

R623-1-4. Registration/License Application Procedure.

A. In order to register and obtain a license, a lobbyist shall:

1. Pay the registration fee as required by 36-11-103 and successfully complete the training as required by 36-11-307.

(a) The training for the first year of a two-year license period must be completed before the registration can be approved.

(b) To maintain the license for the second year in a two-year license period, the training for that year must be completed within the first 60 days of the second year or before engaging in lobbying activity, whichever is first.

2. File a registration/license application statement in compliance with the provisions of Section 36-11-103. The lieutenant governor's office shall make available forms that comply with Section 36-11-103. The lobbyist may either:

(a) Submit the completed form to the lieutenant governor's office; or

(b) File the lobbyist registration/license application by completing the electronic form available on the Utah Lobbyist Online system; and submit the completed signature authorization form to the lieutenant governor's office.

B. Upon receipt of a completed lobbyist registration/license application form the lieutenant governor's office shall:

1. Review the registration form for accuracy, completeness and compliance with the law;

2. Approve or disapprove the registration/license application; and

3. Notify the lobbyist in writing within 30 days of approval or disapproval.

C. An applicant who has not been convicted of any of the offenses listed in Section 36-11- 103(4)(a)(i), and who has not had a civil penalty imposed as described in Section 36-11-103(4)(a)(ii), may commence lobbying activities upon filing of a completed registration/license application form with the lieutenant governor's office and payment of the registration fee.

D. By applying for a license, the lobbyist certifies that the lobbyist intends to engage in lobbying activities under the circumstances stated in the application or supplements filed with the lieutenant governor's office during the time the registration and license are valid.

1. If a lobbyist intends to cease all lobbying activities for the remainder of the period of licensure, the lobbyist shall notify the lieutenant governor's office in writing and surrender the license.

2. If the lobbyist has a change in circumstances that affects the lobbyist's activities, the lobbyist shall notify the lieutenant governor's office in writing.

3. If a lobbyist has surrendered the license and then decides to reengage in lobbying activities, a reissued license without a fee may be requested, if it is within the 2-year period of the original registration.

4. The lobbyist must submit a written request to the lieutenant governor's office in order to have the license reissued.

5. A reissued license expires on December 31 of each even numbered year in accordance with Section 36-11-103(3)(b).

E. A lobbyist may add and delete principals and provide other notices electronically as prescribed by the lieutenant governor's office.

R623-1-5. Disapproval of Application.

A. A lobbyist who is convicted of violation of any of the offenses listed in Utah Code Section 36-11-103, shall have his application for license disapproved by the lieutenant governor's office and a license will not be issued.

B. The lobbyist will receive written notice of the license disapproval from the lieutenant governor's office within 30 days.

R623-1-6. Suspensions, Revocations and Fines.

A. Registration and reporting violations.

1. In addition to any fines imposed under 36-11-401, a lobbyist license may be suspended for any of the following willful and knowing violations of Section 36-11-103, Sections 36-11-201:

a. Failure to register;

b. Failure to file a year end or supplemental report on or before the statutory due date;

c. Failure to file a year end or supplemental report;

d. Filing a report or other document that contains materially false information or the omission of material information; including, but not limited to, the failure to list all principals for which the lobbyist works or is hired as an independent contractor;

e. Failure to update a registration when a lobbyist accepts a new client for lobbying; or

f. Otherwise violating Sections 36-11-103, 36-11-201.

2. If a fine or other penalty is imposed more than once under the immediately preceding section, suspension or permanent revocation of the lobbyist license shall be imposed.

3. The determination of the penalty to be imposed will be made by following the procedures as provided by Section R623-1-7.

B. Illegal Activities of lobbyists.

1. If the lieutenant governor's office discovers or receives evidence of a possible violation of Sections 36-11-301 to 305, the evidence will be sent to the appropriate county attorney or district attorney's office for prosecution.

2. If a lobbyist is convicted of a violation of Sections 36-11-103, 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305 or 36-11-403, the lieutenant governor shall revoke the lobbyist license for one year as required by Subsection 36-11-401(1) and give the lobbyist notice of the same, together with notice of the lobbyist's right to request a hearing under Section R623-1-9.

3. If the county or district attorney does not prosecute a possible violation under Sections 36-11-302 or 36-11-303, the lieutenant governor's office shall review the evidence to determine if a civil fine or suspension may be appropriate following the procedures for civil enforcement set forth in Section R623-1-7.

4. If a lobbyist is convicted of a violation of any of the Title 76 Criminal Code Sections referenced in Subsection 36-

11-401(4), suspension of up to three years or permanent revocation of the lobbyist license shall be imposed, but no civil fine may be imposed. The determination of whether to revoke or suspend a lobbyist license and for what length of time shall be made following the procedures for civil enforcement as provided by Section R623-1-7.

R623-1-7. Enforcement.

A. Any person with evidence of a possible violation of the Lobbyist Disclosure and Regulation Act may provide such evidence to the director in the lieutenant governor's office or may file a complaint with such officer. If the evidence is of a criminal violation, the person may report the information directly to the appropriate county attorney or district attorney.

B. If the director discovers or receives evidence of a criminal violation, such evidence shall be provided to the appropriate county or district attorney and any civil enforcement actions will proceed as set forth in Subsection R623-1-6(B).

C. If the director discovers or receives evidence of a violation of a civil provision, the director will investigate the alleged violation and make a determination regarding what fine and/or suspension or revocation should be imposed, if any.

D. The director shall give notice of the recommended penalty to the lobbyist, and if a complaint was filed, to the complainant.

E. If either the lobbyist or the complainant desire to contest the recommended penalty, they or either of them may do so by requesting a hearing within fifteen (15) days of receipt of the notice of the recommended penalty. If neither file a request for a hearing within the fifteen day period, the recommended penalty will be the penalty imposed for the violation. The notice of recommended penalty shall include a notice of hearing rights.

F. The administrative law judge for the hearing is not bound by the recommended penalty and may impose a penalty greater or less than the recommended penalty, as seems justified by the evidence.

G. If a lobbyist license is suspended or revoked, the lieutenant governor's office shall remove the lobbyist's name from the official list and notify the following of such:

1. The speaker of the house of representatives;
2. The president of the senate; and
3. The governor.

R623-1-8. Hearings, Appointment of Administrative Law Judges.

A. Hearings will be conducted as informal adjudicative proceedings under the Administrative Procedures Act.

B. The lieutenant governor's office shall appoint administrative law judges from state agencies to act as presiding officers over adjudicative proceedings.

R623-1-9. Reinstatement of a Lobbyist License.

A. A lobbyist whose license is suspended or revoked may apply for reinstatement.

B. The lieutenant governor's office shall not reinstate any lobbyist license until the lobbyist pays any fines that have been imposed.

KEY: lobbyists, lobbyist registration
August 24, 2015 36-11-404
Notice of Continuation January 28, 2019

R623. Lieutenant Governor, Elections.
R623-2. Uniform Ballot Counting Standards.
R623-2-1. Purpose.

The State of Utah is adopting uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted for each voting system used in the state.

R623-2-2. Authority.

This rule is authorized by Utah Code Section 67-1a-2(2)(a); 42 USC 15403(e); 42 USC 15481(a)(6); Utah Constitution Article VII Sections 1, 5 and 14.

R623-2-3. Definitions.

In addition to the terms defined in Utah Code Section 20A-1-102, the following definitions apply:

A. "Blank Ballot" means a ballot on which the voter has made no marks in any voting position, or has been marked with an unreadable marker, or is one which has been consistently marked outside of the "read" area of the scanner.

B. "Chad" means the small piece of paper or cardboard produced from a punch card ballot when a voter pierces a hole in a perforated, designated position on the ballot with a marking device to record the voter's candidate, question, or issue choice.

C. "Counter" means automatic tabulating equipment or other electronic voting equipment upon which ballots are counted.

D. "Damaged Ballot" means a ballot that has been torn, bent, or otherwise mutilated or rendered unreadable so that it cannot be processed by automatic tabulating equipment.

E. "Duplicate Ballot" means a ballot for which a duplicate is made in order to be properly processed and counted due to damage, improper marking or some other reason which would prevent a counter from accurately counting the ballot in accordance with the voter's intent.

F. "Overvote" means a race, question or issue which contains votes for more than the maximum number of candidates or responses for a ballot question or issue allowed.

G. "Optical Scan Ballot" means a paper ballot that contains blank ovals or arrows that are to be filled in by the voters using a readable marker.

H. "Punch Card Ballot" means a ballot card that contains small perforated designated positions that a marking device must pierce to form a hole that records a voter's candidate, question, or issue choice.

I. "Resolution Board" means election judges who inspect the optical scan ballots.

J. "Undervote" means a race, question or issue which contains no votes or when more than one choice is available, less than the maximum number of votes allowed.

K. "Zero tape" means a paper record that no votes have been cast or counted on any automatic tabulating equipment or voting machine.

R623-2-4. Uniform Counting Standards for Optical Scan Ballots.

A. A correctly voted optical scan ballot occurs when a voter, using a readable marker, fills in or connects at least one of the ovals/arrows per race, question, or issue, not to exceed the maximum allowable votes per race, question or issue, in accordance with the ballot marking instructions.

B. Optical scan equipment shall be set to consistent and uniform sensitivity standards for each system type.

C. Pre-election testing shall be performed by the designated election official in accordance with Utah Code Section 20A-4-104(1).

D. Election day count machine settings shall be set to sort blank ballots, overvotes, and write-in votes.

E. When a precinct optical scan counter is used in the precinct the procedure is as follows:

1. A zero tape shall be run indicating no votes cast or counted before the machine is used.

2. Voters whose ballots are rejected or sorted by the precinct counter as a blank, overvoted or undervoted ballot shall be given the opportunity to correct their ballot.

3. Ballots sorted to a write-in bin shall be tallied at the conclusion of the voting and delivered to the central counting center in a secure container.

F. When using a central count optical scan counter, the procedure is as follows:

1. A zero tape shall be run indicating no votes cast or counted before the counting begins.

2. Official ballots shall be processed through the optical scanner, with write in votes tallied. If there are no legally qualified write-in candidates, the write-in sort option shall not be utilized.

3. The optical scanner shall be tested again by tabulating the test deck at the conclusion of the count.

G. Resolution of optical scan ballots shall be as follows:

1. Damaged or defective ballots shall be repaired, if possible, to be accepted by the optical scan equipment. If the ballot is damaged beyond repair, the ballot shall be duplicated utilizing the ballot duplication procedures established in Utah Code Section 20A-4-104(3).

2. Blank ballots shall be examined by the resolution board to determine if the ballot is a true blank ballot or one that has been marked with a non-detected device. The resolution board may clarify a non-detected mark in such a manner that the original voter mark is preserved, such as making a detectable line through the non-detected mark, placing a removable label over the non-detected mark and marking with the proper device, or placing cellophane tape over the mark and a marked removable label to properly reflect the voter's intent. The election officer must initial the clarification in a non-readable area on the ballot next to the clarification. The election official may also choose to make a true duplicate copy of the ballot utilizing the ballot duplication procedures. If a ballot is truly blank, it shall be sent back for the resolution pass through the scanner, and the ballot tabulated with no races, issues or questions voted.

3. Overvoted ballots shall be inspected by the resolution board. Any marks that are clearly identified as unintentional but register as an overvote on the scanner may be clarified by the election officer by the placement of a removable adhesive sticker over the unintentional mark to properly reflect the voter's intent. The election officer must initial next to the clarification in a non-readable portion of the ballot. The election officer may also choose to make a true duplicate copy of the ballot utilizing the procedures for duplication of ballots.

4. Write-in votes sorted by the optical scan equipment on election day shall be designated for hand counting. In order to be counted, the oval must be darkened or the arrow connected according to the appropriate voting instructions.

H. Recount Procedures for Optical Scan.

1. Optical scan equipment shall be set to consistent sensitivity standards for each system type, shall be tested prior to the recount, and shall be programmed to sort undervotes for the individuals race(s), issue(s) or question(s) being recounted.

2. Recounts will include a visual inspection of all ballots cast for write-in candidates in the contested race(s) to determine voter intent.

R623-2-5. Uniform Counting Standards for Punch Card Voting Systems.

A. Prior to the counting of the ballots by automatic tabulating equipment, at least one team of election personnel shall inspect the ballots for loose chads, ballot damage, including holes that are too large, a ballot that is torn in the

mail, etc., written instructions and corrections, and write-in votes. The purpose of the inspection shall be to insure that all ballots are machine-readable and that the voter's intent will be recorded correctly and accurately. In some instances, duplication of the ballot may be necessary in order to count the ballot.

B. All loose chads shall be removed to insure that all of the voter's choices on the ballot are correctly and accurately reflected in the count.

1. A chad that is unattached on two or more corners represents a vote and shall be removed.

2. If a chad is attached to a punch card ballot by three or four corners, unless there is a complete hole in the chad made by the stylus, no vote shall be recorded for that candidate, issue or question at that particular ballot position, and the chad shall not be removed.

C. Dimpled mark or puncture. If the ballot has been marked according to instructions but there is a dimple mark located wholly on the non removed chad, that mark shall be considered a random mark, no vote shall be recorded for that candidate, issue or question at that particular ballot position, and the chad shall not be removed.

D. Damaged ballots. If the ballot has damage or defects that would cause problems in tallying, the ballot shall be duplicated to the extent possible in accordance with the voter's intent. If the voter's intent cannot be determined for a specific office, issue or question on the damaged ballot, that position shall be left blank on the duplicate ballot.

E. If other material is included with an absentee ballot or is attached to the secrecy envelope, the material shall be inspected to determine if it has a bearing on the voter's intent. If the material has a bearing on the voter's intent, the original ballot shall be duplicated as necessary and the original ballot, along with the material, shall be placed in an envelope marked "Duplicated Ballot". If the material has no bearing on the voter's intent, it shall be discarded.

KEY: elections, ballots, Help America Vote Act, voting
June 16, 2004 Article VII, Sections 1, 5, and 14
Notice of Continuation January 28, 2019 67-1a-2(2)
42 U.S.C. 15481(a)(6)

R623. Lieutenant Governor, Elections.
R623-3. Utah State Plan on Election Reform.
R623-3-1. Purpose.

The purpose of this rule is to incorporate by reference the policies and procedures of the Utah State Plan on Election Reform adopted by the State Plan Committee on November 8, 2004.

R623-3-2. Authority.

This rule is authorized by 42 USC 15404; 42 USC 15403(e); Utah Code Subsection 67-1a-2(2); and Utah Constitution Article VII, Sections 1, 5 and 14.

R623-3-3. Incorporation of the Utah State Plan on Election Reform.

The State Elections Office incorporates by reference the Utah State Plan on Election Reform adopted on November 8, 2004. The Utah State Plan on Election Reform originally adopted on September 25, 2003, was published in the Federal Register (69 FR14002) on March 24, 2004.

KEY: elections, state plan, federal election reform
June 16, 2004 Article VII, Sections 1, 5, and 14
Notice of Continuation January 28, 2019 67-1a-2(2)
42 U.S.C. 15404
42 U.S.C. 15403(e)

R651. Natural Resources, Parks and Recreation.
R651-301. State Recreation Fiscal Assistance Programs.
R651-301-1. Authority and Effective Date.

(a) These rules are established as required by 41-22-1, and 41-22-19, and apply to the following state funded recreation fiscal assistance programs:

(1) Off Highway Vehicles Fiscal Incentive Grant

(2) Off-highway Access and Education

(b) These rules govern procedures for fiscal assistance applications, priorities, and project selection criteria commencing on or after April 15, 2000.

R651-301-2. Definitions.

(a) "Advisory Council" means Off-Highway Vehicle Advisory Council.

(b) "Board" means the Utah Board of Parks and Recreation.

(c) "Division" means the Utah Division of Parks and Recreation.

(d) "OHV Program" means the Off-Highway Vehicle Program of the Utah Division of Parks and Recreation.

(e) "Small Grant" means any request of less than $12,500.

R651-301-3. Fiscal Assistance Application Process.

(a) Deadline for submission of applications is May 1 annually. Submissions post-marked on or before that date will be eligible for funding consideration.

(b) Applications are to be submitted on a form to be provided by the Division. Eligible applicants will be notified by mail of the application deadline and procedures at least 45 days prior to the deadline.

(c) Applications must be submitted to:
Utah Division of Parks and Recreation
Attention: Grants Coordinator
1594 West North Temple, Suite 116
Salt Lake City, Utah 84114-6001

(d) Eligible applicants include:

(1) Trails and Pathways Program

(i) Federal government agencies

(ii) State agencies

(iii) Cities and towns

(iv) Counties

(v) Special Improvement Districts

(2) Off-Highway Vehicle Program

(i) Federal government agencies

(ii) State agencies

(iii) Cities and towns

(iv) Counties

(v) Organized User Group (as defined in U.C.A. 41-22-2(15))

(3) Centennial Non-Motorized Paths and Trail Crossings Program

(i) State agencies

(ii) Cities and towns

(iii) Counties

(2) Off-highway Access and Education Program

(i) Charitable organizations meeting the requirements set forth in U.C.A. 41-22-19.5(6).

R651-301-4. Fiscal Assistance Program Requirements.

(a) Except as provided herein, all programs require a 50/50 match.

(b) An applicant's match may be in the form of cash, force account labor, equipment, or materials; donated materials and labor or donation of land from a third party to be exclusively used for the proposed project. The value of donated labor will be based on a general laborer rate, unless the person is professionally skilled in the work being performed on the project. When this is the case, the wage rate normally paid for performing this service may be charged to the project. A general laborer's wages may be charged in the amount of that which the project sponsor pays its own employees having similar experience and performing similar duties. Donated materials and land will be valued at the fair market value based on an appraisal that is approved by the Division.

(c) Recreational trails that are on lands under the control of the Division must comply with Section 63-11a-203, and require public hearings in the area of proposed trail development.

(d) Program funds may be used for land acquisition, development, and planning. Off-highway vehicle funds may also be used for education, operation and maintenance. No administrative or indirect costs are allowed. Projects funded with Off-highway Access and Education Program funds must be designed to protect access to public lands by motor vehicle and off-highway vehicle operators, and to educate the public about appropriate off-highway vehicle use.

(e) Not more than 50% of program funds may be advanced to the project sponsor, and only after official notice to the Division is made by the sponsor that project costs will be incurred within sixty (60) days.

(f) No more than 50% of the monies available to the Centennial Non-Motorized Paths and Trail Crossings Program in a fiscal year may be allocated to a single project, except upon unanimous recommendation of the Recreational Trails Advisory Council.

(g) The balance of funding shall be provided to sponsors at the project completion, and only after a final accounting is made to the Division of total project costs.

(h) Off-highway Access and Education Program funds are exempt from the matching requirements of this rule.

R651-301-5. Project Selection Procedures.

(a) Advisory Councils shall make recommendations to the Division concerning the project selection criteria and the priority of projects selected for funding.

(b) The Division shall review all eligible applications, evaluate projects based on priority criteria, and submit project description information, proposed funding recommendations and justification to the appropriate Advisory Council for review and comments.

(c) The Board shall select and approve projects based on recommendations from the Division and Advisory Councils, which may be in the form of joint or separate recommendations.

R651-301-6. Priorities and Project Selection Criteria.

(a) All applicants shall be evaluated on administrative considerations, such as prior project performance and proper use of funds.

(b) All applications shall be evaluated on meeting legislative intent, and meeting outdoor recreation needs.

(c) All applications shall be evaluated on cooperative efforts of the project among agencies and user groups. This includes, but is not limited to, cooperative funding.

(d) Location of the proposed project site shall be evaluated based on proximity to the majority of users, adequacy of access to the site, safety, linking similar existing facilities, and convenience to users.

(e) Projects that promote multiple season use for maximum year-round participation and multiple uses or users shall be encouraged.

(f) Planning, design, and projects for the Trails and Pathways Program shall be evaluated to encourage:

(1) Innovative or unique design features that enhance the environment and recreation opportunities.

(2) Linking access to natural, scenic, historic, or recreational areas of statewide significance.

(3) Minimizing adverse effects on wildlife, natural areas,

and adjacent landowners.

(4) Harmony with existing and planned land uses.

(5) Master Planning.

KEY: recreation, fiscal, assistance
January 24, 2019 41-22-1
Notice of Continuation March 23, 2017

R651. Natural Resources, Parks and Recreation.
R651-406. Off-Highway Vehicle Registration Fees.
R651-406-1. Annual Registration Fee.

(1) The annual All-terrain Vehicle and off-highway motorcycle registration fee is $35. The annual snowmobile registration fee is $22. The annual street-legal all-terrain fee is $72.

(2) An annual fee of $2 shall be collected to fund the off-highway vehicle safety and education program in addition to each off-highway vehicle registration.

R651-406-2. Fee For Duplicate Registration.

The fee for a duplicate certificate of registration is $3.

R651-406-3. Fee For Duplicate Numbered Stickers.

The fee for duplicate numbered stickers is $5.

KEY: off-highway vehicles
January 24, 2019 41-22-8
Notice of Continuation January 7, 2016

R657. Natural Resources, Wildlife Resources.
R657-11. Taking Furbearers and Trapping.
R657-11-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking furbearers and trapping.

(2) Specific dates, areas, number of permits, limits, and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking furbearers.

(3) Take of coyotes and raccoons is regulated by the Department of Agriculture and Food pursuant to Title 4, Chapter 23, Agricultural and Wildlife Damage Prevention Act. The division, through the Wildlife Board, is charged in Sections 23-14-1 and 23-14-18 to conserve protected wildlife and establish regulations considered necessary to accomplish that directive, including regulating the means by which protected wildlife may be taken. The trapping device use regulations in this rule concerning coyotes and raccoons are intended solely to minimize take of nontargeted protected wildlife, maximize potential for successful release of nontargeted protected wildlife, detect illegal trap sets targeting protected wildlife, and protect compliant trappers from criminal liability otherwise applicable to taking nontargeted protected wildlife in a trapping device.

R657-11-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Artificial cubby set" means any artificially manufactured container with an opening on one end that houses a trapping device.

(b) "Bait" means any lure containing animal parts larger than one cubic inch with the exception of white-bleached bones with no hide or flesh attached.

(c) "Cage trap" means any enclosure containing a one-way door triggered by a treadle or pan that prevents escape of an animal after the door closes.

(d) "Exposed bait" means bait which is visible from any angle, except when used in an artificial cubby set.

(e) "Foothold trap" means any underspring or jump trap, longspring trap or coil-spring trap with two smooth arms or jaws that come together when an animal steps on a pan in the center of the trap.

(f) "Fur dealer" means any individual engaged in, wholly or in part, the business of buying, selling, or trading skins or pelts of furbearers within Utah.

(g) "Fur dealer's agent" means any person who is employed by a resident or nonresident fur dealer as a buyer.

(h) "Good condition" means the carcass is fresh or frozen and securely wrapped to prevent decomposition so that the tissue remains suitable for analysis.

(i) "Green pelt" means the untanned hide or skin of any furbearer.

(j) "Owner" means the person who has been issued a trap registration number associated with one or more trapping devices.

(k) "Pursue" means to chase, tree, corner, or hold a furbearer at bay.

(l) "Scent" means any lure composed of material of less than one cubic inch that has a smell intended to attract animals.

(m) "Trapping device" means any apparatus used to remotely capture or kill an animal, including a cage trap, foothold trap, snare wire, or any other body gripping mechanism.

R657-11-3. License, Permit and Tag Requirements.

(1) A person who has a valid furbearer license may take furbearers during the established furbearer seasons published in the guidebook of the Wildlife Board for taking furbearers.

(2) A person who has a valid furbearer license and valid bobcat permits may take a bobcat during the established bobcat season published in the guidebook of the Wildlife Board for taking furbearers.

(3) A person who has a valid furbearer license and valid marten trapping permit may take marten during the established marten season published in the guidebook of the Wildlife Board for taking furbearers.

(4) A person who has a valid trap registration license may use a trapping device to take furbearers, coyotes, or raccoons, as authorized in the Wildlife Code, this rule and the guidebooks of the Wildlife Board.

(5) Any license, permit, or tag that is mutilated or otherwise made illegible is invalid and may not be used for taking or possessing furbearers.

R657-11-4. Bobcat Permits.

(1) Bobcat permits can only be obtained and are only valid with a valid furbearer license.

(2)(a) A person may obtain up to the number of bobcat permits authorized each year by the Wildlife Board.

(b) Permit numbers shall be published in the guidebook of the Wildlife Board for taking furbearers.

(3) Bobcat permits will be available during the dates published in the guidebook of the Wildlife Board for taking furbearers and may be obtained by submitting an application through the division's Internet address.

(4) Bobcat permits are valid for the entire bobcat season.

R657-11-5. Tagging Bobcats.

(1)(a) Only a person who possesses a valid bobcat tag issued in their name and who is present upon discovery of a bobcat in their marked trapping device or the device of another under R657-11-9(6) may euthanize the animal.

(b) The person who euthanizes a bobcat caught in a trapping device is required to attach their bobcat tag to the carcass, as provided below.

(2) The pelt or unskinned carcass of any bobcat must be tagged in accordance with Section 23-20-30.

(3) The tag must remain with the pelt or unskinned carcass until a permanent tag has been affixed.

(4) Possession of an untagged green pelt or unskinned carcass is prima facie evidence of unlawful taking and possession.

(5) The lower jaw of each bobcat taken must be removed and tagged with the numbered jaw tag corresponding to the number of the temporary possession tag affixed to the hide.

R657-11-6. Marten Permits.

(1) A person may not trap marten or have marten in possession without having a valid furbearer license and a marten trapping permit in possession.

(2) Marten trapping permits are available free of charge from any division office.

R657-11-7. Permanent Possession Tags for Bobcat and Marten.

(1) A person may not:

(a) possess a green pelt or unskinned carcass from a bobcat or marten that does not have a permanent tag affixed after the second Friday in March;

(b) possess a green pelt or the unskinned carcass of a bobcat with an affixed temporary bobcat possession tag issued to another person, except as provided in Subsections (5) and (6); or

(c) buy, sell, trade, or barter a green pelt from a bobcat or marten that does not have a permanent tag affixed.

(2) Bobcat and marten pelts must be delivered to a division representative to have a permanent tag affixed and to

surrender the lower jaw for each harvested bobcat.

(3) Bobcat and marten pelts may be delivered to the following division offices, by appointment only, during the dates published in the guidebook of the Wildlife Board for taking furbearers:

(a) Cedar City - Regional Office;

(b) Ogden - Regional Office;

(c) Price - Regional Office;

(d) Salt Lake City - Salt Lake Office;

(e) Springville - Regional Office; and

(f) Vernal - Regional Office.

(4) There is no fee for permanent tags.

(5) Bobcat and marten which have been legally taken may be transported from an individual's place of residence by an individual other than the furharvester to have the permanent tag affixed; bobcats must be tagged with a temporary possession tag and accompanied by a valid furbearer license belonging to the furharvester.

(6) Any individual transporting a bobcat or marten for another person must have written authorization stating the following:

(a) date of kill;

(b) location of kill;

(c) species and sex of animal being transported;

(d) origin and destination of such transportation;

(e) the name, address, signature and furbearer license number of the furharvester;

(f) the name of the individual transporting the bobcat or marten; and

(g) the furharvester's marten permit number if marten is being transported.

(7) Green pelts of bobcats and marten legally taken from outside the state may not be possessed, bought, sold, traded, or bartered in Utah unless a permanent tag has been affixed or the pelts are accompanied by a shipping permit issued by the wildlife agency of the state where the animal was taken.

(8)(a) Furharvesters taking marten are required to present the entire skinned carcass to the division in good condition when brought for permanent tagging.

R657-11-8. Trap Registration Numbers.

(1)(a) Except as provided in Subsection (1)(a)(ii), a person must possess a valid trap registration license before using any trapping device to take a furbearer, coyote, or raccoon.

(i) A trap registration license is required in addition to any other license, permit, or tag required by this rule to take a furbearer.

(ii) A trap registration license is not required for trapping a coyote, or raccoon when the trapping device is set within 600 feet of a building or structure occupied or utilized by humans or domestic livestock, provided the trapping device is set with the landowner's or lessee's permission.

(b) To obtain a trap registration license, a person must:

(i) provide the following information when requested by the division:

(A) full name;

(B) complete home address;

(C) email address;

(D) phone number;

(E) date of birth; and

(F) any other information requested by the division; and

(ii) pay a $10 license fee.

(c) The division may deny issuing a trap registration license if the applicant;

(i) is subject to an administrative or judicial order suspending any hunting, trapping or fishing privilege;

(ii) has violated any provision in Title 23 of the Utah Code, or rules or guidebooks of the Wildlife Board; or

(iii) fails to pay the one-time $10 license fee.

(d) The division may suspend a trap registration license, as provided in Sections 23-19-9, 23-25-5, and 23-25-6.

(e) The trap registration license must be carried on the person of the individual it is issued to while setting, checking or moving trapping devices.

(f) A trap registration license shall include a unique trap registration number printed on its face that is permanently assigned to the licensee.

(2)(a) Each trapping device used to take a furbearer, coyote, or raccoon-must be permanently, legibly, and indelibly marked or tagged with the trap registration number of the owner.

(b) A trap registration number is not required on a trapping device set within 600 feet of a building or structure occupied or utilized by humans or domestic livestock, provided the trapping device is set:

(i) to capture a coyote or raccoon; and

(ii) with the landowner's or lessee's permission.

(3) No more than one trap registration number may be on a single trapping device.

(4) Each individual is issued only one trap registration number.

(5) Except as provided in R657-11-9, a person may not take a furbearer, coyote, or raccoon with any trapping device marked with the trap registration number of another person.

(6) A person may not lend, transfer, sell, give, or assign a trap registration license or trap registration number to another person or entity.

(7) Any person who has obtained a trap registration number must notify the division within 30 days of any:

(a) change in address: or

(b) theft of trapping devices.

R657-11-9. Trapping Devices.

(1) Any foothold traps used to take a furbearer, coyote, or raccoon must have spacers on the jaws which leave an opening of at least 3/16 of an inch when the jaws are closed, except;

(a) rubber-padded jaw traps,

(b) traps with jaw spreads less than 4.25 inches, and

(c) traps that are completely submerged under water when set.

(2)(a) Any cable devices (i.e snares), used to take a furbearer, coyote, or raccoon, except those set in water or with a loop size less than 3 inches in diameter, must be equipped with a breakaway lock device that will release when any force greater than 300 lbs. is applied to the loop.

(b) Breakaway cable devices must be fastened to an immovable object solidly secured to the ground.

(c) The use of drags is prohibited.

(3) On the middle section of the Provo River, between Jordanelle Dam and Deer Creek Reservoir, the Green River, between Flaming Gorge Dam and the Utah Colorado state line; the Colorado River, between the Utah Colorado state line and Lake Powell; and the Escalante River, between Escalante and Lake Powell, trapping for a furbearer, coyote, or raccoon within 600 yards of either side of these rivers, including their tributaries from the confluences upstream 1/2 mile, is restricted to the following devices:

(a) Nonlethal-set foot hold traps with a jaw spread less than 5 1/8 inches, and nonlethal-set padded foot hold traps. Drowning sets with these traps are prohibited.

(b) Body-gripping, killing-type traps with body-gripping area less than 30 square inches.

(c) Nonlethal dry land cable devices equipped with a stop-lock device that prevents it from closing to less than a six-inch diameter.

(d) Size 330, body-gripping, killing-type traps modified by replacing the standard V-trigger assembly with one top side parallel trigger assembly, with the trigger placed within one inch

of the side, or butted against the vertical turn in the Canadian bend.

(4) A person may not disturb or remove any trapping device, except:

(a) the owner of the trapping device;

(b) peace officers in the performance of their duties;

(c) the landowner where the trapping device is set;

(d) the owner of a domestic pet caught in the device may disturb the device to remove the domestic pet; or.

(e) as provided in Subsection (6).

(5) A person may not kill or remove wildlife caught in any trapping device, except:

(a) the owner of the trapping device who possesses the permit, license, tag, or legal authorization required for the species that is captured;

(b) a peace officer in the performance of their duties;

(c) as provided in Subsection (6); or

(d) as provided in R657-11-11.

(6)(a) A person, other than the owner, may possess, set, disturb or remove a trapping device; or temporarily possess, kill or remove wildlife caught in a trapping device provided:

(i) the trapping device is appropriately marked with the owner's trap registration number;

(ii) the person possesses a valid furbearer license and appropriate permits or tags when working with furbearer sets;

(iii) the person's trap registration license or furbearer license are neither denied nor suspended; and

(iv) the person has obtained written authorization from the owner of the trapping device with the following information printed on the authorization in permanent ink:

(A) date written authorization was obtained;

(B) name, address, and phone number of the owner;

(C) owner's trap registration number;

(D) the name of the individual being given authorization; and

(E) signature of owner.

(b) Nothing in Subsection (6)(a) authorizes a person to use the owner's trap registration license, furbearer license, permit or tag.

(7) The owner of any trapping device providing written authorization to another person under Subsection (6) may be criminally liable and civilly responsible under Section 23-19-9 for any violations of Title 23, this rule, or applicable guidebooks resulting from the use of the trapping device by the authorized person.

(8) The owner of any trapping device providing written authorization to another person under Subsection (6) must keep a record of all persons obtaining written authorization and furnish a copy of the record upon request from a conservation officer.

(9)(a) A person may not set any trapping device on posted private property without the landowner's or lessee's written permission.

(b) Wildlife officers should be informed as soon as possible of any illegally set trapping devices.

(10) Peace officers in the performance of their duties may seize all trapping devices and wildlife used or held in violation of this rule.

(11) Except as provided in Subsection (6), a person may not possess any trapping device that is not permanently marked or tagged with that person's trap registration number while setting, checking, or moving a trapping device targeting a furbearer, coyote, or raccoon.

(12) All trapping devices used to take a furbearer, coyote, or raccoon must be checked and animals removed at least once every 48 hours, except;

(a) killing traps striking dorso-ventrally;

(b) drowning sets; and

(c) lethal cable devices that are set to capture on the neck, that have a nonrelaxing lock, without a stop, and are anchored to an immoveable object; which must be checked every 96 hours.

(13)(a) A person may not remove from a trapping device and thereafter transport or possess:

(i) live protected wildlife; or

(ii) a live coyote or raccoon in violation of Section 4-23-111.

(b) Any live animal found in a trapping device must be:

(i) euthanized and removed from the device by the trapper within the 48-hour trap check period in R657-11-9(12); or

(ii) released immediately by the trapper unharmed.

(14) The trapping restrictions in Subsections (1), (2), and (3) do not apply to a trapping device set within 600 feet of a building or structure occupied or utilized by humans or domestic livestock, provided the trapping device is set:

(a) to capture a coyote or raccoon; and

(b) with the landowner's or lessee's permission.

R657-11-10. Use of Bait.

(1) A person may not use protected wildlife or its parts as bait or scent to take a furbearer, coyote, or raccoon, except for the following;

(a) White-bleached bones of protected wildlife with no hide or flesh attached; and

(b)(i) parts of legally taken furbearers; and

(ii) nonprotected wildlife.

(2) Trapping devices used to take furbearer, coyote, or raccoon;

(a) may not be set within 30 feet of any exposed bait;

(b) may not be placed near carcasses of protected wildlife provided the carcass has not been moved for the purpose of trapping and the trapping device is not located within 30 feet of the carcass.

(3) White-bleached bones with no hide or flesh attached may be set within 30 feet of a trapping device.

(4)(a) Bait used inside an artificial cubby set must be placed at least eight inches from the opening.

(b) Artificial cubby sets must be placed with the top of the opening even with or below the bottom of the bait so that the bait is not visible from above.

(c) A person using bait is responsible if it becomes exposed for any reason.

(5) The trapping restrictions in Subsections (2) and (4) do not apply to a trapping device set within 600 feet of a building or structure occupied or utilized by humans or domestic livestock, provided the trapping device is set;

(a) to capture a coyote, or raccoon; and

(b) with the landowner's or lessee's permission.

R657-11-11. Accidental Trapping.

(1)(a) Any protected wildlife accidentally caught in a trapping device that is alive must be immediately released unharmed by a person authorized in R657-11-9(5) and (6).

(b) All incidents of accidental trapping of protected wildlife must be reported to the division within 48 hours.

(2)(a) Permission must be obtained from a division representative to remove from a trapping device the carcass of any protected wildlife accidentally caught.

(b) The carcass remains the property of the state and must be turned over to the division.

(3) Black-footed ferret, lynx and wolf are protected species under the Endangered Species Act. Accidental trapping or capture of any federally protected species must be immediately reported to both the U.S. Fish and Wildlife Service and the division.

(4) A person that captures or kills an unauthorized species of protected wildlife in a trapping device is not criminally liable under state law for that take, provided the person:

(a) was not attempting to take the unauthorized species;
(b) possesses a valid trap registration license or a valid written authorization from the owner of the trapping device as provided in R657-11-9(6);
(c) possesses the licenses, permits and tags required to trap the targeted wildlife species; and
(d) otherwise complies with the provisions of the Wildlife Code, this rule, and guidebooks applicable to trapping the targeted wildlife species.

R657-11-12. Methods of Take and Shooting Hours.
(1) Furbearers, except bobcats and marten, may be taken by any means, excluding explosives and poisons, or as otherwise provided in Section 23-13-17.
(2) Bobcats may be taken only by shooting, trapping, or with the aid of dogs as provided in Section R657-11-26.
(3) Marten may be taken only with an elevated, covered set in which the maximum trap size shall not exceed 1 1/2 foothold or 160 Conibear.
(4) Taking furbearers by shooting or with the aid of dogs is restricted to one-half hour before sunrise to one-half hour after sunset, except as provided in Section 23-13-17.
(5) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.

R657-11-13. Spotlighting.
(1) Except as provided in Subsection (3):
(a) a person may not use or cast the rays of any spotlight, headlight, or other artificial light to locate protected wildlife while having in possession a firearm or other weapon or device that could be used to take or injure protected wildlife; and
(b) the use of a spotlight or other artificial light in a field, woodland, or forest where protected wildlife are generally found is probable cause of attempting to locate protected wildlife.
(2) The provisions of this section do not apply to:
(a) the use of the headlights of a motor vehicle or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife; or
(b) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed weapon to hunt or take wildlife.
(3) The provisions of this section do not apply to the use of an artificial light when used by a trapper to illuminate his path and trap sites for the purpose of conducting the required trap checks, provided that:
(a) any artificial light must be carried by the trapper;
(b) a motor vehicle headlight or light attached to or powered by a motor vehicle may not be used; and
(c) while checking trapping devices with the use of an artificial light, the trapper may not occupy or operate any motor vehicle.
(4) Spotlighting may be used to hunt coyote, red fox, striped skunk, or raccoon where allowed by a county ordinance enacted pursuant to Section 23-13-17.
(5) The ordinance shall provide that:
(a) any artificial light used to spotlight coyote, red fox, striped skunk, or raccoon must be carried by the hunter;
(b) a motor vehicle headlight or light attached to or powered by a motor vehicle may not be used to spotlight the animal; and
(c) while hunting with the use of an artificial light, the hunter may not occupy or operate any motor vehicle.
(6) For purposes of the county ordinance, "motor vehicle" shall have the meaning as defined in Section 41-6-1.
(7) The ordinance may specify:
(a) the time of day and seasons when spotlighting is permitted;
(b) areas closed or open to spotlighting within the unincorporated area of the county;
(c) safety zones within which spotlighting is prohibited;
(d) the weapons permitted; and
(e) penalties for violation of the ordinance.
(8)(a) A county may restrict the number of hunters engaging in spotlighting by requiring a permit to spotlight and issuing a limited number of permits.
(b) A fee may be charged for a spotlighting permit.
(9) A county may require hunters to notify the county sheriff of the time and place they will be engaged in spotlighting.
(10) The requirement that a county ordinance must be enacted before a person may use spotlighting to hunt coyote, red fox, striped skunk, or raccoon does not apply to:
(a) a person or his agent who is lawfully acting to protect his crops or domestic animals from predation by those animals; or
(b) a wildlife service's agent acting in his official capacity under a memorandum of agreement with the division.

R657-11-14. Use of Dogs.
(1) Dogs may be used to take furbearers only from one-half hour before sunrise to one-half hour after sunset and only during the prescribed open seasons.
(2) The owner and handler of dogs used to take or pursue a furbearer must have a valid, current furbearer license in possession while engaged in taking furbearers.
(3) When dogs are used in the pursuit of furbearers, the licensed hunter intending to take the furbearer must be present when the dogs are released and must continuously participate in the hunt thereafter until the hunt is completed.

R657-11-15. State Parks.
(1) Taking any wildlife is prohibited within the boundaries of all state park areas except those designated as open by the Division of Parks and Recreation in Section R651-614-4.
(2) Hunting with a rifle, handgun, or muzzleloader on park areas designated open is prohibited within one mile of all park facilities including buildings, camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches.
(3) Hunting with shotguns, crossbows, and archery equipment is prohibited within one quarter mile of the above stated areas.

R657-11-16. Transporting Furbearers.
(1)(a) A person who has obtained the appropriate license and permit may transport green pelts of furbearers. Additional restrictions apply for taking bobcat and marten as provided in Section R657-11-6.
(b) A registered Utah fur dealer or that person's agent may transport or ship green pelts of furbearers within Utah.
(2) A furbearer license is not required to transport red fox or striped skunk.

R657-11-17. Exporting Furbearers from Utah.
(1) A person may not export or ship the green pelt of any furbearer from Utah without first obtaining a valid shipping permit from a division representative.
(2) A furbearer license is not required to export red fox or striped skunk from Utah.

R657-11-18. Sales.
(1) A person with a valid furbearer license may sell, offer for sale, barter, or exchange only those species that person is licensed to take, and which were legally taken.
(2) Any person who has obtained a valid fur dealer or fur dealer's agent certificate of registration may engage in, wholly

or in part, the business of buying, selling, or trading green pelts or parts of furbearers within Utah.

(3) Fur dealers or their agents and taxidermists must keep records of all transactions dealing with green pelts of furbearers.

(4) Records must state the following:

(a) the transaction date; and

(b) the name, address, license number, and tag number of each seller.

(5) A receipt containing the information specified in Subsection (4) must be issued whenever the ownership of a pelt changes.

(6)(a) A person may possess furbearers and tanned hides legally acquired without possessing a license, provided proof of legal ownership or possession can be furnished.

(b) A furbearer license is not required to sell or possess red fox or striped skunk or their parts.

R657-11-19. Wasting Wildlife.

(1) A person may not waste or permit to be wasted or spoiled any protected wildlife or its parts as provided in Section 23-20-8.

(2) The skinned carcass of a furbearer may be left in the field and does not constitute waste of wildlife.

R657-11-20. Depredation by Badger, Weasel, and Spotted Skunk.

(1) Badger, weasel, and spotted skunk may be taken anytime without a license when creating a nuisance or causing damage, provided the animal or its parts are not sold or traded.

(2) Red fox and striped skunk may be taken any time without a license.

R657-11-21. Depredation by Bobcat.

(1) Depredating bobcats may be taken at any time by duly appointed Wildlife Services agents, employed by Wildlife Services, while acting in the performance of their assigned duties and in accordance with procedures approved by the division.

(2) A livestock owner or his employee, on a regular payroll and not hired specifically to take furbearers, may take bobcats that are molesting livestock.

(3) Any bobcat taken by a livestock owner or his employee must be surrendered to the division within 72 hours.

R657-11-22. Depredation by Nuisance Beaver.

(1) Beaver doing damage or other nuisance behaviors may be taken or removed during open and closed seasons with either a valid furbearer license or a nuisance permit.

(2) A nuisance permit to remove beaver must first be obtained from a division office or conservation officer.

R657-11-23. Survey.

Each permittee who is contacted for a survey about their furbearer harvesting experience should participate in the survey regardless of success. Participation in the survey helps the division evaluate population trends, harvest success and collect other valuable information.

R657-11-24. Reserved.

Reserved.

R657-11-25. Season Dates and Bag Limits.

Season dates, bag limits, and areas with special restrictions are published annually in the guidebook of the Wildlife Board for taking furbearers.

R657-11-26. Approval to Trap on State Waterfowl Management Areas.

(1)(a) Trapping wildlife, including nonprotected species, on state waterfowl management areas is prohibited unless specifically authorized by the division. Trapping is a property management tool used to protect waterfowl populations and infrastructure improvements found on the property.

(b) The authorization to trap on state waterfowl management areas shall be provided through a certificate of registration that is awarded to an individual or individuals through a competitive proposal solicitation process.

(c) On or before October 1 of each year, the division shall publicly notice which state waterfowl management areas are available for proposal by publishing the notice on its website and by publishing a notice in a newspaper of general circulation at least once a week for two consecutive weeks.

(d) The notification and advertising shall include:

(i) the deadline for applying for the certificate of registration;

(ii) the wildlife species authorized for trapping;

(iii) a general description of the trapping area authorized under the certificate of registration;

(iv) the desired form of compensation to the division, whether monetary, in-kind, or both;

(v) the division's management objectives for the state waterfowl management area; and

(vi) any special considerations or limitations the division will require of the trapper or trappers while they are on the state waterfowl management area.

(2)(a) Applications must include the following:

(i) a nonrefundable application fee;

(ii) the name of the state waterfowl management area being applied for;

(iii) a description of the applicant's familiarity with the state waterfowl management area being applied for;

(iv) a list of the individuals who will conduct trapping activities under the certificate of registration;

(v) a description of each individual's experience trapping and their ability to utilize removal of targeted species to protect waterfowl and wildlife populations and infrastructure found at state waterfowl management areas;

(vi) the projected number of animals, specifically muskrat, that may be removed via trapping;

(vii) how the proposal accomplishes the identified management objectives for the waterfowl management area;

(viii) how the proposal conforms with any special considerations or limitations identified by the division in its public notice; and

(viii) a bid amount to be paid to the Division in exchange for the authorization to trap on the state waterfowl management area.

(c) All individuals listed on the application who will conduct trapping activities under the certificate of registration must:

(i) possess a trap registration license;

(ii) use traps marked with the owner's trap registration number; and

(iii) meet all age, proof of hunter education and furharvester requirements, including youth restrictions as provided in Utah Code 23-19-24, 23-19-11 and 23-20-20.

(d) The bid amount described in Subsection (vi) above may include non-monetary, in-kind contributions.

(3)(a) Late or incomplete applications may be rejected.

(b) A separate application must be submitted for each state waterfowl management area the applicant wishes to trap on.

(c) In the event that there is more than one application for a certain state waterfowl management area, the division will analyze each application and select a successful applicant or applicants whose proposal best accomplishes the division objectives identified in the public notice.

(4) The selected applicant will be issued a certificate of registration authorizing trapping activities on the state waterfowl

management area for a period of up to two years.

(5) A certificate of registration issued pursuant to this Part may be revoked, suspended, or terminated consistent with the terms of Utah Code 23-19-9 and Utah Admin. Code R657-26.

R657-11-27. Trapping Fees on State Waterfowl Management Areas.

(1) Upon verified payment of required fees, certificates of registration will be mailed to successful applicants granted trapping privileges on state waterfowl management areas.

(2) If a successful applicant fails to make full payment within 14 days of the results posting date, an alternate trapper will be selected.

(3) Certificates of registration are not valid until signed by the superintendent in charge of the area to be trapped.

R657-11-28. Vehicle Travel on State Waterfowl Management Areas.

Vehicle travel is restricted to developed roads. However, written permission for other travel may be obtained from the waterfowl management area superintendent.

R657-11-29. Trapping Hours on State Waterfowl Management Areas.

On waterfowl management areas traps may be checked only between one-half hour before official sunrise to one-half hour after official sunset.

R657-11-30. Trapper Responsibilities on State Waterfowl Management Areas.

(1) All trappers are directly responsible to the waterfowl management area superintendent.

(2) Violation of management or trapping rules, including failure to return a trapping permit within five days of cessation of trapping activities, or failure to properly trap an area, as determined and recommended by the superintendent, may be cause for cancellation of trapping privileges, existing and future, on all waterfowl management areas.

R657-11-31. Reserved.

Reserved.

R657-11-32. Wildlife Management Areas.

A person may not use motor vehicles on division-owned wildlife management areas closed to motor vehicle use without first obtaining written authorization from the appropriate division regional office.

KEY: wildlife, furbearers, game laws, wildlife law

January 24, 2019	**23-14-18**
Notice of Continuation July 13, 2015	**23-14-19**
	23-13-17

R657. Natural Resources, Wildlife Resources.
R657-13. Taking Fish and Crayfish.
R657-13-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19 of the Utah Code, the Wildlife Board has established this rule for taking fish and crayfish.

(2) Specific dates, areas, methods of take, requirements and other administrative details which may change annually and are pertinent are published in the proclamation of the Wildlife Board for taking fish and crayfish.

R657-13-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Aggregate" means the combined total of two or more species of fish or two or more size classes of fish which are covered by a limit distinction.

(b) "Angling" means fishing with a rod, pole, tipup, handline, or trollboard that has a single line with legal hooks, baits, or lures attached to it, and is held in the hands of, or within sight (not to exceed 100 feet) of, the person fishing.

(c)(i) "Artificial fly" means a fly made by the method known as fly tying.

(ii) "Artificial fly" does not mean a weighted jig, lure, spinner, attractor blade, or bait.

(d) "Artificial lure" means a device made of rubber, wood, metal, glass, fiber, feathers, hair, or plastic with a hook or hooks attached. Artificial lures, including artificial flies, do not include fish eggs or other chemically treated or processed natural baits or any natural or human-made food, or any lures that have been treated with a natural or artificial fish attractant or feeding stimulant.

(e) "Daily limit" means the maximum limit, in number or amount, of protected aquatic wildlife that one person may legally take during one day.

(f) "Bait" means a digestible substance, including corn, worms, cheese, salmon eggs, marshmallows, or manufactured baits including human-made items that are chemically treated with food stuffs, chemical fish attractants or feeding stimulants.

(g) "Camp" means, for the purposes of this rule, any place providing temporary overnight accommodation for anglers including a camper, campground, tent, trailer, cabin, houseboat, boat, or hotel.

(h) "Chumming" means dislodging or depositing in the water any substance not attached to a hook, line, or trap, which may attract fish.

(i) "Commercially prepared and chemically treated baitfish" means any fish species or fish parts which have been processed using a chemical or physical preservation technique other than freezing including irradiation, salting, cooking, or oiling and are marketed, sold or traded for financial gain as bait.

(j) "Dipnet" means a small bag net with a handle that is used to scoop fish or crayfish from the water.

(k) "Filleting" means the processing of fish for human consumption typically done by cutting away flesh from bones, skin, and body.

(l) "Fishing contest" means any organized event or gathering where anglers are awarded prizes, points or money for their catch.

(m) "Float tube" means an inflatable floating device less than 48 inches in any dimension, capable of supporting one person.

(n) "Free Shafting" means to release a pointed shaft that is not tethered or attached by physical means to the diver in an attempt to take fish while engaged in underwater spearfishing.

(o) "Gaff" means a spear or hook, with or without a handle, used for holding or lifting fish.

(p) "Game fish" means Bonneville cisco; bluegill; bullhead; channel catfish; crappie; green sunfish; largemouth bass; northern pike; Sacramento perch; smallmouth bass; striped bass, trout (rainbow, albino, cutthroat, brown, golden, brook, lake/mackinaw, kokanee salmon, and grayling or any hybrid of the foregoing); tiger muskellunge; walleye; white bass; whitefish; wiper; and yellow perch.

(q) "Handline" means a piece of line held in the hand and not attached to a pole used for taking fish or crayfish.

(r) "Immediately Released" means that the fish should be quickly unhooked and released back into the water where caught. Fish that must be immediately released cannot be held on a stringer, or in a live well or any other container or restraining device.

(s) "Lake" means the standing water level existing at any time within a lake basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the lake.

(t) "Length measurement" means the greatest length between the tip of the head or snout and the tip of the caudal (tail) fin when the fin rays are squeezed together. Measurement is taken in a straight line and not over the curve of the body.

(u) "Liftnet" means a small net that is drawn vertically through the water column to take fish or crayfish.

(v) "Motor" means an electric or internal combustion engine.

(w) "Nongame fish" means species of fish not listed as game fish.

(x) "Permanent residence" means, for the purposes of this rule only, the domicile an individual claims pursuant to Utah Code 23-13-2(13).

(y) "Possession limit" means, for purposes of this rule only, two daily limits, including fish in a cooler, camper, tent, freezer, livewell or any other place of storage, excluding fish stored in an individual's permanent residence.

(z) "Protected aquatic wildlife" means, for purposes of this rule only, all species of fish, crustaceans, or amphibians.

(aa) "Reservoir" means the standing water level existing at any time within a reservoir basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the reservoir.

(bb) "Seine" means a small mesh net with a weighted line on the bottom and float line on the top that is drawn through the water. This type of net is used to enclose fish when its ends are brought together.

(cc) "Setline" means a line anchored to a non-moving object and not attached to a fishing pole.

(dd) "Single hook" means a hook or multiple hooks having a common shank.

(ee) "Snagging" or "gaffing" means to take a fish in a manner that the fish does not take the hook voluntarily into its mouth.

(ff) "Spear" means a long-shafted, sharply pointed, hand held instrument with or without barbs used to spear fish from above the surface of the water.

(gg) "Tributary" means a stream flowing into a larger stream, lake, or reservoir.

(hh)(i) "Trout" means species of the family Salmonidae, including rainbow, albino, cutthroat, brown, golden, brook, tiger, lake (mackinaw), splake, kokanee salmon, and grayling or any hybrid of the foregoing.

(ii) "Trout" does not include whitefish or Bonneville cisco.

(ii) "Underwater spearfishing" means fishing by a person swimming, snorkeling, or diving and using a mechanical device held in the hand, which uses a rubber band, spring, pneumatic power, or other device to propel a pointed shaft to take fish from under the surface of the water.

R657-13-3. Fishing License Requirements and Free Fishing Day.

(1) A license is not required on free fishing day, a

Saturday in June, annually. All other laws and rules apply.

(2) A person 12 years of age or older shall purchase a fishing license before engaging in any regulated fishing activity pursuant to Section 23-19-18.

(3) A person under 12 years of age may fish without a license and take a full daily and possession limit.

R657-13-4. Fishing Contests.

All fishing contests shall be held pursuant to R657-58 Fishing Contests and Clinics.

R657-13-5. Interstate Waters and Reciprocal Fishing Permits.

(1) When fishing interstate waters, an individual must:

(a) obtain the necessary fishing licenses and permits, as provided below; and

(b) comply with angling regulations applicable to the state where they are fishing.

(2) Bear Lake.

(a) A person possessing a valid Utah or Idaho fishing or combination license, whether resident or nonresident, may fish both the Utah and Idaho portions of the Lake in accordance with the angling regulations applicable to the state where they are fishing.

(b) Only one daily limit may be taken in a single day, even if licensed in both states.

(3) Lake Powell Reservoir.

(a) A person possessing a valid Utah or Arizona fishing or combination license, whether resident or nonresident, may fish both the Utah and Arizona portions of the Reservoir in accordance with the angling regulations applicable to the state where they are fishing.

(b) Only one daily limit may be taken in a single day, even if licensed in both states.

(4) Flaming Gorge Reservoir.

(a)(i) A Utah resident possessing a valid Utah fishing or combination license and a Wyoming reciprocal fishing permit for Flaming Gorge Reservoir may fish the Wyoming portions of the Reservoir as prescribed in Wyoming angling regulations.

(ii) Utah residents may obtain reciprocal fishing permits for Flaming Gorge Reservoir by contacting the Wyoming Game and Fish Department.

(b)(i) A Wyoming resident possessing a valid Wyoming fishing or combination license and a Utah reciprocal fishing permit for Flaming Gorge Reservoir may fish the Utah portions of the Reservoir as prescribed in Utah angling regulations.

(ii) A Utah reciprocal fishing permit for Flaming Gorge Reservoir may be obtained through the division's web site, authorized license agents, or regional offices.

(iii) The Utah reciprocal fishing permit must be:

(A) used in conjunction with a valid resident Wyoming fishing or combination license; and

(B) signed by the holder as the holder's name appears on the Wyoming fishing or combination license.

(iv) A Utah reciprocal fishing permit is valid for 365 days from the date of purchase.

(c) Only one daily limit may be taken in a single day, even if licensed in both states.

R657-13-6. Angling.

(1) While angling, the angler shall be within sight (not to exceed 100 feet) of the equipment being used at all times, except setlines.

(2) Angling with more than two lines is unlawful, except:

(a) while fishing for crayfish without the use of fish hooks as provided in R657-13-15; or

(b) while fishing through the ice at Flaming Gorge Reservoir as provided in R657-13-7.

(3) No artificial lure may have more than three hooks. (4) No line may have attached to it more than three baited hooks, three artificial flies, or three artificial lures, except for a setline.

(5) When angling through the ice, the hole may not exceed 12 inches across at the widest point, except at Bear Lake, Flaming Gorge Reservoir, and Fish Lake where specific limitations apply.

R657-13-7. Fishing With More than One Pole.

(1) A person may use up to two fishing poles to take fish on all waters open to fishing, provided they possess an unexpired fishing or combination license, except as provided in Subsection (2) below.

(2) A person may use up to six lines when fishing at Flaming Gorge Reservoir through the ice. When using more than one line at Flaming Gorge Reservoir, the angler's name shall be attached to each line, pole, or tip-up, and the angler shall check only their lines.

(3) Regardless of the number of poles or lines used, an angler may not take more than one daily limit or possess more than one possession limit. (4) When fishing on waters located within another state, a person must abide by that state's regulations regarding fishing with more than one pole.

R657-13-8. Setline Fishing.

(1) A person may use a setline to take fish only in the Bear River proper downstream from the Idaho state line, including Cutler Reservoir and outlet canals; Little Bear River below Valley View Highway (SR-30); Malad River; and Utah Lake.

(2) A person may use up to two lines for angling while setline fishing.

(3) No more than one setline per angler may be used and it may not contain more than 15 hooks.

(4)(a) A setline permit may be obtained through the division's web site, from license agents and division offices.

(b) A setline permit is required in addition to any valid Utah fishing or combination license.

(c) A setline permit is a 365 day permit valid only when used in conjunction with any unexpired Utah fishing or combination license.

(5) When fishing with a setline, the angler shall be within 100 yards of the surface or bank of the water being fished.

(6) A setline shall have one end attached to a nonmoving object, not attached to a fishing pole, and shall have attached a legible tag with the name, address, and setline permit number of the angler.

R657-13-9. Underwater Spearfishing.

(1) A person possessing a valid Utah fishing or combination license may engage in underwater spearfishing, only as provided in this Section.

(2) The following waters are open to underwater spearfishing from January 1 through December 31 for all species of game fish, unless specified otherwise by individual water:

(a) Big Sand Wash Reservoir (Duchesne County);

(b) Brown's Draw Reservoir (Duchesne County);

(c) Causey Reservoir (Weber County);

(d) Deer Creek Reservoir (Wasatch County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(e) East Canyon Reservoir (Morgan County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(f) Echo Reservoir (Summit County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(g) Electric Lake (Emery County);

(h) Fish Lake (Sevier County), except underwater spearfishing for any game fish is closed from September 16 to

the first Saturday in June the following year;

(i) Flaming Gorge Reservoir (Daggett County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(j) Grantsville Reservoir (Tooele County);

(k) Ken's Lake (San Juan County);

(l) Lake Powell (Garfield, Kane and San Juan Counties), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(m) Newcastle Reservoir (Iron County), except underwater spearfishing is closed for all species of game fish other than wipers and rainbow trout;

(n) Pineview Reservoir (Weber County), except underwater spearfishing is closed for:

(i) largemouth and small mouth bass from April 1 through the fourth Saturday in June; and

(ii) tiger musky year round.

(o) Porcupine Reservoir (Cache County);

(p) Recapture Reservoir (San Juan County);

(q) Red Fleet Reservoir (Uintah County);

(r) Rockport Reservoir (Summit County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(s) Sand Lake (Uintah County);

(t) Smith-Moorehouse Reservoir (Summit County);

(u) Starvation Reservoir (Duchesne County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(v) Steinaker Reservoir (Uintah County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(w) Willard Bay Reservoir (Box Elder County); and

(x) Yuba Reservoir (Juab and Sanpete Counties).

(3) Nongame fish, excluding prohibited species listed in Section R657-13-13, may be taken by underwater spearfishing:

(a) in the waters listed in Subsection (2) and at Blue Lake (Tooele County) for tilapia and pacu only; and

(b) during the open angling season set for a given body of water.

(4) The waters listed in Subsections (2) and (3)(a) are the only waters open to underwater spearfishing for game or nongame fish, except carp may be taken by means of underwater spearfishing from any water open to angling during the open angling season set for a given body of water.

(5)(a) Underwater spearfishing is permitted from official sunrise to official sunset only, except burbot may be taken by underwater spearfishing at Flaming Gorge Reservoir (Daggett County) between official sunset and official sunrise.

(b) No other species of fish may be taken with underwater spearfishing techniques at Flaming Gorge Reservoir or any other water in the state between official sunset and official sunrise.

(6)(a) Use of artificial light is unlawful while engaged in underwater spearfishing, except artificial light may be used when underwater spearfishing for burbot at Flaming Gorge Reservoir (Daggett County).

(b) Artificial light may not be used when underwater spearfishing for fish species other than burbot at Flaming Gorge Reservoir.

(7) Free shafting is prohibited while engaged in underwater spearfishing.

(8) The daily limit and possession limit for underwater spearfishing is the same as the daily limit and possession limit applied to anglers using other techniques in the waters listed in Subsections (2) and (3)(a), and as identified in the annual Utah Fishing Guidebook issued by the Utah Wildlife Board.

R657-13-10. Dipnetting.

(1) Hand-held dipnets may be used to land game fish legally taken by angling. However, they may not be used as a primary method to take game fish from Utah waters except at Bear Lake where they are permitted for Bonneville Cisco.

(2) The opening of the dipnet may not exceed 18 inches.

(3) When dipnetting through the ice, the size of the hole is unrestricted.

(4) Hand held dipnets may also be used to take crayfish and nongame fish, except prohibited fish.

R657-13-11. Restrictions on Taking Fish and Crayfish.

(1) Artificial light is permitted while angling, except when underwater spearfishing. However artificial light is permitted while underwater spearfishing for burbot in Flaming Gorge or while fishing for carp with a bow, crossbow, or spear statewide.

(2) A person may not obstruct a waterway, use a chemical, explosive, electricity, poison, crossbow, firearm, pellet gun, or archery equipment to take fish or crayfish, except as provided in Subsection R657-13-14(2) and Section R657-13-20.

(3)(a) A person may not possess a gaff while angling, or take protected aquatic wildlife by snagging or gaffing, except:

(i) a gaff may be used at Lake Powell to land striped bass; and

(ii) snagging may be used at Bear Lake to take Bonneville cisco.

(b) Except as provided in Subsection (3)(a)(ii) and Section R657-13-21, a fish hooked anywhere other than the mouth must be immediately released.

(4) Chumming is prohibited on all waters, except as provided in Section R657-13-20.

(5) The use of a float tube or a boat, with or without a motor, to take protected aquatic wildlife is permitted on many public waters. However, boaters should be aware that other agencies may have additional restrictions on the use of float tubes, boats, or boats with motors on some waters.

(6) Nongame fish and crayfish may be taken only as provided in Sections R657-13-14 and R657-13-15.

R657-13-12. Bait.

(1) Use or possession of corn while fishing is lawful, except as otherwise prohibited by the Wildlife Board in the Fishing Guidebook.

(2) Use or possession of live baitfish while fishing is unlawful, except as authorized by the Wildlife Board in the Fishing Guidebook.

(3) Use or possession of tiger salamanders (live or dead) while fishing is unlawful.

(4) Use or possession of any bait while fishing on waters designated artificial fly and lure only is unlawful.

(5) Use or possession of artificial baits which are commercially imbedded or covered with fish or fish parts while fishing is unlawful.

(6) Use or possession of bait in the form of fresh or frozen fish or fish parts while fishing is unlawful, except as provided below and in Subsections (7) and (8).

(a) Dead Bonneville cisco may be used as bait only in Bear Lake.

(b) Dead yellow perch may be used as bait only in: Big Sand Wash, Deer Creek, Echo, Fish Lake, Gunnison, Hyrum, Johnson, Jordanelle, Mantua, Mill Meadow, Newton, Pineview, Red Fleet, Rockport, Starvation, Utah Lake, Willard Bay and Yuba reservoirs.

(c) Dead white bass may be used as bait only in Utah Lake and the Jordan River.

(d) Dead shad, from Lake Powell, may be used as bait only in Lake Powell. Dead shad must not be removed from the Glen Canyon National Recreation Area.

(e) Dead striped bass, from Lake Powell, may be used as bait only in Lake Powell.

(f) Dead fresh or frozen salt water species including sardines and anchovies may be used as bait in any water where

bait is permitted.

(g) Dead mountain sucker, white sucker, Utah sucker, redside shiner, speckled dace, mottled sculpin, fat head minnow (all color variants including rosy red minnows), Utah chub, and common carp may be used as bait in any water where bait is permitted.

(h) Dead burbot, from Flaming Gorge Reservoir, may be used as bait only in Flaming Gorge Reservoir.

(7) Commercially prepared and chemically treated baitfish or their parts may be used as bait in any water where bait is permitted.

(8) The eggs of any species of fish caught in Utah, except prohibited fish, may be used in any water where bait is permitted. However, eggs may not be taken or used from fish that are being released.

(9) Use of live crayfish for bait is legal only on the water where the crayfish is captured. It is unlawful to transport live crayfish away from the water where captured.

(10) Manufactured, human-made items that may not be digestible, that are chemically treated with food stuffs, chemical fish attractants, or feeding stimulants may not be used on waters where bait is prohibited.

(11) On any water declared infested by the Wildlife Board with an aquatic invasive species, or that is subject to a closure order or control plan under R657-60, it shall be unlawful to transport any species of baitfish (live or dead) from the infested water for use as bait in any other water of the State. Baitfish are defined as those species listed in sections (5)(b), (5)(c), (5)(f) and (8).

R657-13-13. Prohibited Fish.

(1) The following species of fish are classified as prohibited and may not be taken or held in possession:

(a) Bonytail (Gila elegans);

(b) Bluehead sucker (Catostomus discobolus);

(c) Colorado pikeminnow (Ptychocheilus lucius);

(d) Flannelmouth sucker (Catostomus latipinnis);

(e) Gizzard shad (Dorosoma cepedianum), except at Lake Powell;

(f) Grass carp (Ctenopharyngodon idella);

(g) Humpback chub (Gila cypha);

(h) June sucker (Chasmistes liorus);

(i) Least chub (Iotichthys phlegethontis);

(j) Northern Leatherside chub (Lepidomeda copei);

(k) Razorback sucker (Xyrauchen texanus);

(l) Roundtail chub (Gila robusta);

(m) Southern Leatherside chub (Lepidomede aliciae);

(n) Virgin River chub (Gila seminuda);

(o) Virgin spinedace (Lepidomeda mollispinis); and

(p) Woundfin (Plagopterus argentissimus).

(2) Any of these species taken while attempting to take other legal species shall be immediately released.

R657-13-14. Taking Nongame Fish.

(1)(a) As provided in this Section, a person possessing a valid Utah fishing or combination license may take nongame fish for personal, noncommercial purposes during the open fishing season set for the given body of water.

(b) A person may not take any species of fish designated as prohibited in Section R657-13-13.

(2)(a) Except as provided in Subsection (2)(b), nongame fish may be taken by angling, traps, bow and arrow, liftnets, dipnets, cast nets, seine, or spear in any water of the state with an open fishing season.

(b) Nongame fish may not be taken in the following waters, except carp may be taken by angling, archery, crossbow, spear, or underwater spearfishing statewide:

(i) San Juan River;

(ii) Colorado River;

(iii) Green River (from confluence with Colorado River upstream to Colorado state line in Dinosaur National Monument);

(iv) Green River (from Colorado state line in Brown's Park upstream to Flaming Gorge Dam, including Gorge Creek, a tributary entering the Green River at Little Hole);

(v) White River (Uintah County);

(vi) Duchesne River (from Myton to confluence with Green River);

(vii) Virgin River (Main stem, North, and East Forks).

(viii) Ash Creek;

(ix) Beaver Dam Wash;

(x) Fort Pierce Wash;

(xi) La Verkin Creek;

(xii) Santa Clara River (Pine Valley Reservoir downstream to the confluence with the Virgin River);

(xiii) Diamond Fork;

(xiv) Thistle Creek;

(xv) Main Canyon Creek (tributary to Wallsburg Creek);

(xvi) Provo River (below Deer Creek Dam);

(xvii) Spanish Fork River;

(xviii) Hobble Creek (Utah County);

(xix) Snake Valley waters (west and north of US-6 and that part of US-6 and US-50 in Millard and Juab counties);

(xx) Raft River (from the Idaho state line, including all tributaries);

(xxi) Weber River; and

(xxii) Yellow Creek.

(c) Nongame fish, may be taken by underwater spearfishing in the waters and under the conditions specified in Section R657-13-9.

(3) Seines shall not exceed 10 feet in length or width.

(4) Cast nets must not exceed 10 feet in diameter.

(5) Except as provided in Section R657-13-21, lawfully taken nongame fish shall be either released or killed immediately upon removing them from the water, however, they may not be left or abandoned on the shoreline.

R657-13-15. Taking Crayfish.

(1) A person possessing a valid Utah fishing or combination license may take crayfish for personal, noncommercial purposes during the open fishing season set for the given body of water.

(2) Crayfish may be taken by hand or with a trap, pole, liftnet, dipnet, handline, or seine, provided that:

(a) game fish or their parts, or any substance unlawful for angling, is not used for bait;

(b) seines shall not exceed 10 feet in length or width;

(c) no more than five lines are used, and no more than two lines may have hooks attached. On unhooked lines, bait is tied to the line so that the crayfish grasps the bait with its claw; and

(d) live crayfish are not transported from the body of water where taken.

R657-13-16. Possession and Transportation of Dead Fish and Crayfish.

(1)(a) At all waters except Strawberry Reservoir, Scofield Reservoir, Panguitch Lake, Jordanelle Reservoir and Lake Powell, game fish may be dressed, filleted, have heads and/or tails removed, or otherwise be physically altered after completing the act of fishing or reaching a fish cleaning station, camp, or principal means of land transportation. It is unlawful to possess fish while engaged in the act of fishing that have been dressed or filleted. This shall not apply to fish that are processed for immediate consumption or to fish held from a previous day's catch.

(b) Trout and/or salmon taken at Strawberry Reservoir, Scofield Reservoir and Panguitch Lake, and smallmouth bass taken at Jordanelle may not be filleted and the heads or tails may

not be removed in the field or in transit.

(c) Fish may be filleted at any time and anglers may possess filleted fish at any time at Lake Powell.

(2) A legal limit of game fish or crayfish may accompany the holder of a valid fishing or combination license within Utah or when leaving Utah.

(3) A person may possess or transport a legal limit of game fish or crayfish for another person when accompanied by a donation letter.

(4)(a) A person may not :

(i) take more than one daily limit of game fish in any one day; or;

(ii) possess more than one daily limit of each species or species aggregate, unless the additional fish are:

(A) from a previous days catch;

(B) eviscerated; and

(C) within the possession limit for each species or species aggregate.

(b) Fish kept at the angler's permanent residence do not count towards an angler's possession limit for that species or species aggregate.

(c) A person may possess a full possession limit of Bonneville cisco without eviscerating the fish from a previous days catch.

(5) A person may possess or transport dead fish on a receipt from a registered commercial fee fishing installation, a private pond owner, or a short-term fishing event. This receipt shall specify:

(a) the number and species of fish;

(b) date caught;

(c) the certificate of registration number of the installation, pond, or short-term fishing event; and

(d) the name, address, telephone number of the seller.

R657-13-17. Possession of Live Fish and Crayfish.

(1) A person may not possess or transport live protected aquatic wildlife except as provided by the Wildlife Code or the rules and proclamation of the Wildlife Board.

(2) For purposes of this rule, a person may not transport live fish or crayfish away from the water where taken.

(3) This does not preclude the use of live fish stringers, live wells, or hold type cages as part of normal angling procedures while on the same water in which the fish or crayfish are taken.

R657-13-18. Release of Tagged or Marked Fish.

Without prior authorization from the division, a person may not:

(1) tag, mark, or fin-clip fish for the purpose of offering a prize or reward as part of a contest;

(2) introduce a tagged, marked, or fin-clipped fish into the water; or

(3) tag, mark, or fin-clip a fish and return it to the water.

R657-13-19. Season Dates and Daily and Possession Limits.

(1) All waters of state fish rearing and spawning facilities are closed to fishing.

(2) State waterfowl management areas are closed to fishing except as specified in the proclamation of the Wildlife Board for taking fish and crayfish.

(3) The season for taking fish and crayfish is January 1 through December 31, 24 hours each day. Exceptions are specified in the proclamation of the Wildlife Board for taking fish and crayfish.

(4)(a) Daily limits and possession limits are specified in the proclamation of the Wildlife Board for taking fish and crayfish and apply statewide unless otherwise specified.

(b)(i) A person may not fish in waters that have a specific daily, possession, or size limit while possessing fish in violation of that limit.

(ii) Fish not meeting the size, daily limit, or species provisions on specified waters shall be returned to the water immediately.

(c)(i) Trout, salmon and grayling that are not immediately released and are held in possession, dead or alive, are included in the person's daily limit and possession limit.

(ii) Once a trout, salmon or grayling is held in or on a stringer, fish basket, livewell, or by any other device, a trout, salmon or grayling may not be released.

(5)(a) A person may not:

(i) take more than one daily limit in any one day; or

(ii) possess more than one daily limit of each species or species aggregate unless the additional fish are:

(A) from a previous days catch;

(B) eviscerated; and

(C) within the possession limit for each species or species aggregate.

(b) A person may possess a full possession limit of Bonneville cisco without eviscerating the fish from a previous days catch.

R657-13-20. Variations to General Provisions.

Variations to season dates, times, daily and possession limits, methods of take, use of a float tube or a boat for fishing, and exceptions to closed areas are specified in the proclamation of the Wildlife Board for taking fish and crayfish.

R657-13-21. Catch-and-Kill Regulations.

(1) The Wildlife Board may designate in proclamation and guidebook waters where anglers are required to kill specified aquatic animal species that are caught.

(2) A person shall immediately kill any aquatic animal caught in a water identified by the Wildlife Board in proclamation or guidebook as catch-and-kill for that species.

(a) An aquatic animal killed subject to a catch-and-kill regulation may be:

(i) retained and consumed by the angler; or

(ii) disposed of:

(A) in the water where the aquatic animal was caught;

(B) at a fish cleaning station;

(C) at the angler's permanent residence; or

(D) at another location where disposal is authorized by law.

(3) A person may not release a live aquatic animal subject to a catch-and-kill regulation in the water it was caught or in any other water in the state.

KEY: fish, fishing, wildlife, wildlife law

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Notice of Continuation September 28, 2017	**23-14-19**
	23-19-1
	23-22-3

R710. Public Safety, Fire Marshal.
R710-15. Seizure and Disposal of Fireworks, Class A Explosives, and Class B Explosives.
R710-15-1. Purpose.

The purpose of this rule is to establish a statewide policy for the safe seizure, storage, and repurposing, destruction, or disposal of a firework, class A explosive, or class B explosive that is illegal or used or handled in an illegal manner.

R710-15-2. Authority.

This rule is authorized by Subsection 53-7-204(1)(b)(v).

R710-15-3. Definitions.

(1) Terms used in this rule are defined in Sections 53-7-202 and 19-6-102.

(2) In addition:

(a) "ATF" means the Bureau of Alcohol, Tobacco, Firearms and Explosives; and

(b) "FBI" means the Federal Bureau of Investigations.

R710-15-4. Seizure and Storage.

(1) Seized fireworks, class A explosives, and class B explosives:

(a) shall be secured against tampering or theft; and

(b) shall be stored according to Federal law.

R710-15-5. Repurposing, Destruction, or Disposal.

(1) A state, county, special district, or local government agency is prohibited from disposing of any seized firework, class A explosive, or class B explosive by burning except under circumstances described in this rule.

(2) A state, county, special district, or local government agency may dispose of seized fireworks, class A explosives, or class B explosives by:

(a) returning them to a state licensed wholesaler or manufacturer for repurposing, testing, or display;

(b) detonating them on scene as directed by the incident commander or the regional bomb team commander following FBI or ATF standards;

(c) detonating them in another safe location as directed by the incident commander or the regional bomb team commander following FBI or ATF standards;

(d) using them for training or testing purposes;

(e) burning them in an enclosed incinerator designed for that purpose;

(f) open burning in compliance with Subsection R307-202-7; or

(g) other methods as approved by the FBI or the ATF.

(3) A state, county, special district, or local government agency may not use seized fireworks, class A explosives, or class B explosives for display, entertainment, or celebration purposes.

KEY: seizure of fireworks, storage of fireworks, disposal of fireworks, repurposing of fireworks
January 14, 2019 53-7-204(1)(b)(v)

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-5. Abatement or Deferral of Property Taxes of Indigent Persons Pursuant to Utah Code Ann. Sections 59-2-1107 through 59-2-1109 and 59-2-1202(5).

A. "Household income" includes net rents, interest, retirement income, welfare, social security, and all other sources of cash income.

B. Absence from the residence due to vacation, confinement to hospital, or other similar temporary situation shall not be deducted from the ten-month residency requirement of Section 59-2-1109(4)(a)(ii).

C. Written notification shall be given to any applicant whose application for abatement or deferral is denied.

R884-24P-7. Assessment of Mining Properties Pursuant to Utah Code Ann. Section 59-2-201.

A. Definitions.

1. "Allowable costs" means those costs reasonably and necessarily incurred to own and operate a productive mining property and bring the minerals or finished product to the customary or implied point of sale.

a) Allowable costs include: salaries and wages, payroll taxes, employee benefits, workers compensation insurance, parts and supplies, maintenance and repairs, equipment rental, tools, power, fuels, utilities, water, freight, engineering, drilling, sampling and assaying, accounting and legal, management, insurance, taxes (including severance, property, sales/use, and federal and state income taxes), exempt royalties, waste disposal, actual or accrued environmental cleanup, reclamation and remediation, changes in working capital (other than those caused by increases or decreases in product inventory or other nontaxable items), and other miscellaneous costs.

b) For purposes of the discounted cash flow method, allowable costs shall include expected future capital expenditures in addition to those items outlined in A.1.a).

c) For purposes of the capitalized net revenue method, allowable costs shall include straight- line depreciation of capital expenditures in addition to those items outlined in A.1.a).

d) Allowable costs does not include interest, depletion, depreciation other than allowed in A.1.c), amortization, corporate overhead other than allowed in A.1.a), or any expenses not related to the ownership or operation of the mining property being valued.

e) To determine applicable federal and state income taxes, straight line depreciation, cost depletion, and amortization shall be used.

2. "Asset value" means the value arrived at using generally accepted cost approaches to value.

3. "Capital expenditure" means the cost of acquiring property, plant, and equipment used in the productive mining property operation and includes:

a) purchase price of an asset and its components;
b) transportation costs;
c) installation charges and construction costs; and
d) sales tax.

4. "Constant or real dollar basis" means cash flows or net revenues used in the discounted cash flow or capitalized net revenue methods, respectively, prepared on a basis where inflation or deflation are adjusted back to the lien date. For this purpose, inflation or deflation shall be determined using the gross domestic product deflator produced by the Congressional Budget Office, or long-term inflation forecasts produced by reputable analysts, other similar sources, or any combination thereof.

5. "Discount rate" means the rate that reflects the current yield requirements of investors purchasing comparable properties in the mining industry, taking into account the industry's current and projected market, financial, and economic conditions.

6. "Economic production" means the ability of the mining property to profitably produce and sell product, even if that ability is not being utilized.

7. "Exempt royalties" means royalties paid to this state or its political subdivisions, an agency of the federal government, or an Indian tribe.

8. "Expected annual production" means the economic production from a mine for each future year as estimated by an analysis of the life-of-mine mining plan for the property.

9. "Fair market value" is as defined in Section 59-2-102.

10. "Federal and state income taxes" mean regular taxes based on income computed using the marginal federal and state income tax rates for each applicable year.

11. "Implied point of sale" means the point where the minerals or finished product change hands in the normal course of business.

12. "Net cash flow" for the discounted cash flow method means, for each future year, the expected product price multiplied by the expected annual production that is anticipated to be sold or self-consumed, plus related revenue cash flows, minus allowable costs.

13. "Net revenue" for the capitalized net revenue method means, for any of the immediately preceding five years, the actual receipts from the sale of minerals (or if self - consumed, the value of the self-consumed minerals), plus actual related revenue cash flows, minus allowable costs.

14. "Non-operating mining property" means a mine that has not produced in the previous calendar year and is not currently capable of economic production, or land held under a mineral lease not reasonably necessary in the actual mining and extraction process in the current mine plan.

15. "Productive mining property" means the property of a mine that is either actively producing or currently capable of having economic production. Productive mining property includes all taxable interests in real property, improvements and tangible personal property upon or appurtenant to a mine that are used for that mine in exploration, development, engineering, mining, crushing or concentrating, processing, smelting, refining, reducing, leaching, roasting, other processes used in the separation or extraction of the product from the ore or minerals and the processing thereof, loading for shipment, marketing and sales, environmental clean-up, reclamation and remediation, general and administrative operations, or transporting the finished product or minerals to the customary point of sale or to the implied point of sale in the case of self-consumed minerals.

16. "Product price" for each mineral means the price that is most representative of the price expected to be received for the mineral in future periods.

a) Product price is determined using one or more of the following approaches:

(1) an analysis of average actual sales prices per unit of production for the minerals sold by the taxpayer for up to five years preceding the lien date; or,

(2) an analysis of the average posted prices for the minerals, if valid posted prices exist, for up to five calendar years preceding the lien date; or,

(3) the average annual forecast prices for each of up to five years succeeding the lien date for the minerals sold by the taxpayer and one average forecast price for all years thereafter for those same minerals, obtained from reputable forecasters, mutually agreed upon between the Property Tax Division and the taxpayer.

b) If self-consumed, the product price will be determined by one of the following two methods:

(1) Representative unit sales price of like minerals. The representative unit sales price is determined from:

(a) actual sales of like mineral by the taxpayer;
(b) actual sales of like mineral by other taxpayers; or
(c) posted prices of like mineral; or
(2) If a representative unit sales price of like minerals is unavailable, an imputed product price for the self-consumed minerals may be developed by dividing the total allowable costs by one minus the taxpayer's discount rate to adjust to a cost that includes profit, and dividing the resulting figure by the number of units mined.

17. "Related revenue cash flows" mean non-product related cash flows related to the ownership or operation of the mining property being valued. Examples of related revenue cash flows include royalties and proceeds from the sale of mining equipment.

18. "Self consumed minerals" means the minerals produced from the mining property that the mining entity consumes or utilizes for the manufacture or construction of other goods and services.

19. "Straight line depreciation" means depreciation computed using the straight line method applicable in calculating the regular federal tax. For this purpose, the applicable recovery period shall be seven years for depreciable tangible personal mining property and depreciable tangible personal property appurtenant to a mine, and 39 years for depreciable real mining property and depreciable real property appurtenant to a mine.

B. Valuation.

1. The discounted cash flow method is the preferred method of valuing productive mining properties. Under this method the taxable value of the mine shall be determined by:

a) discounting the future net cash flows for the remaining life of the mine to their present value as of the lien date; and

b) subtracting from that present value the fair market value, as of the lien date, of licensed vehicles and nontaxable items.

2. The mining company shall provide to the Property Tax Division an estimate of future cash flows for the remaining life of the mine. These future cash flows shall be prepared on a constant or real dollar basis and shall be based on factors including the life-of-mine mining plan for proven and probable reserves, existing plant in place, capital projects underway, capital projects approved by the mining company board of directors, and capital necessary for sustaining operations. All factors included in the future cash flows, or which should be included in the future cash flows, shall be subject to verification and review for reasonableness by the Property Tax Division.

3. If the taxpayer does not furnish the information necessary to determine a value using the discounted cash flow method, the Property Tax Division may use the capitalized net revenue method. This method is outlined as follows:

a) Determine annual net revenue, both net losses and net gains, from the productive mining property for each of the immediate past five years, or years in operation, if less than five years. Each year's net revenue shall be adjusted to a constant or real dollar basis.

b) Determine the average annual net revenue by summing the values obtained in B.3.a) and dividing by the number of operative years, five or less.

c) Divide the average annual net revenue by the discount rate to determine the fair market value of the entire productive mining property.

d) Subtract from the fair market value of the entire productive mining property the fair market value, as of the lien date, of licensed vehicles and nontaxable items, to determine the taxable value of the productive mining property.

4. The discount rate shall be determined by the Property Tax Division.

a) The discount rate shall be determined using the weighted average cost of capital method, a survey of reputable mining industry analysts, any other accepted methodology, or any combination thereof.

b) If using the weighted average cost of capital method, the Property Tax Division shall include an after-tax cost of debt and of equity. The cost of debt will consider market yields. The cost of equity shall be determined by the capital asset pricing model, arbitrage pricing model, risk premium model, discounted cash flow model, a survey of reputable mining industry analysts, any other accepted methodology, or a combination thereof.

5. Where the discount rate is derived through the use of publicly available information of other companies, the Property Tax Division shall select companies that are comparable to the productive mining property. In making this selection and in determining the discount rate, the Property Tax Division shall consider criteria that includes size, profitability, risk, diversification, or growth opportunities.

6. A non-operating mine will be valued at fair market value consistent with other taxable property.

7. If, in the opinion of the Property Tax Division, these methods are not reasonable to determine the fair market value, the Property Tax Division may use other valuation methods to estimate the fair market value of a mining property.

8. The fair market value of a productive mining property may not be less than the fair market value of the land, improvements, and tangible personal property upon or appurtenant to the mining property. The mine value shall include all equipment, improvements and real estate upon or appurtenant to the mine. All other tangible property not appurtenant to the mining property will be separately valued at fair market value.

9. Where the fair market value of assets upon or appurtenant to the mining property is determined under the cost method, the Property Tax Division shall use the replacement cost new less depreciation approach. This approach shall consider the cost to acquire or build an asset with like utility at current prices using modern design and materials, adjusted for loss in value due to physical deterioration or obsolescence for technical, functional and economic factors.

C. When the fair market value of a productive mining property in more than one tax area exceeds the asset value, the fair market value will be divided into two components and apportioned as follows:

1. Asset value that includes machinery and equipment, improvements, and land surface values will be apportioned to the tax areas where the assets are located.

2. The fair market value less the asset value will give an income increment of value. The income increment will be apportioned as follows:

a) Divide the asset value by the fair market value to determine a quotient. Multiply the quotient by the income increment of value. This value will be apportioned to each tax area based on the percentage of the total asset value in that tax area.

b) The remainder of the income increment will be apportioned to the tax areas based on the percentage of the known mineral reserves according to the mine plan.

D. The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, 1998.

R884-24P-10. Taxation of Underground Rights in Land That Contains Deposits of Oil or Gas Pursuant to Utah Code Ann. Sections 59-2-201 and 59-2-210.

(1) Definitions.

(a) "Person" is as defined in Section 68-3-12.

(b) "Working interest owner" means the owner of an interest in oil, gas, or other hydrocarbon substances burdened with a share of the expenses of developing and operating the property.

(c) "Unit operator" means a person who operates all producing wells in a unit.

(d) "Independent operator" means a person operating an oil or gas producing property not in a unit.

(e) One person can, at the same time, be a unit operator, a working interest owner, and an independent operator and must comply with all requirements of this rule based upon the person's status in the respective situations.

(f) "Expected annual production" means the future economic production of an oil and gas property as estimated by the Property Tax Division using decline curve analysis. Expected annual production does not include production used on the same well, lease, or unit for the purpose of repressuring or pressure maintenance.

(g) "Product price" means:

(i) Oil: The weighted average posted price for the calendar year preceding January 1, specific for the field in which the well is operating as designated by the Division of Oil, Gas, and Mining. The weighted average posted price is determined by weighing each individual posted price based on the number of days it was posted during the year, adjusting for gravity, transportation, escalation, or deescalation.

(ii) Gas:

(A) If sold under contract, the price shall be the stated price as of January 1, adjusted for escalation and deescalation.

(B) If sold on the spot market or to a direct end-user, the price shall be the average price received for the 12-month period immediately preceding January 1, adjusted for escalation and deescalation.

(h) "Future net revenue" means annual revenues less costs of the working interests and royalty interest.

(i) "Revenue" means expected annual gross revenue, calculated by multiplying the product price by expected annual production for the remaining economic life of the property.

(j) "Costs" means expected annual allowable costs applied against revenue of cost-bearing interests:

(i) Examples of allowable costs include management salaries; labor; payroll taxes and benefits; workers' compensation insurance; general insurance; taxes (excluding income and property taxes); supplies and tools; power; maintenance and repairs; office; accounting; engineering; treatment; legal fees; transportation; miscellaneous; capital expenditures; and the imputed cost of self consumed product.

(ii) Interest, depreciation, or any expense not directly related to the unit may not be included as allowable costs.

(k) "Production asset" means any asset located at the well site that is used to bring oil or gas products to a point of sale or transfer of ownership.

(2) The discount rate shall be determined by the Property Tax Division using methods such as the weighted cost of capital method.

(a) The cost of debt shall consider market yields. The cost of equity shall be determined by the capital asset pricing model, risk premium model, discounted cash flow model, a combination thereof, or any other accepted methodology.

(b) The discount rate shall reflect the current yield requirements of investors purchasing similar properties, taking into consideration income, income taxes, risk, expenses, inflation, and physical and locational characteristics.

(c) The discount rate shall contain the same elements as the expected income stream.

(3) Assessment Procedures.

(a) Underground rights in lands containing deposits of oil or gas and the related tangible property shall be assessed by the Property Tax Division in the name of the unit operator, the independent operator, or other person as the facts may warrant.

(b) The taxable value of underground oil and gas rights shall be determined by discounting future net revenues to their present value as of the lien date of the assessment year and then subtracting the value of applicable exempt federal, state, and Indian royalty interests.

(c) The reasonable taxable value of productive underground oil and gas rights shall be determined by the methods described in Subsection (3)(b) or such other valuation method that the Tax Commission believes to be reasonably determinative of the property's fair market value.

(d) The value of the production assets shall be considered in the value of the oil and gas reserves as determined in Subsection (3)(b). Any other tangible property shall be separately valued at fair market value by the Property Tax Division.

(e) The minimum value of the property shall be the value of the production assets.

(4) Collection by Operator.

(a) The unit operator may request the Property Tax Division to separately list the value of the working interest, and the value of the royalty interest on the Assessment Record. When such a request is made, the unit operator is responsible to provide the Property Tax Division with the necessary information needed to compile this list. The unit operator may make a reasonable estimate of the ad valorem tax liability for a given period and may withhold funds from amounts due to royalty. Withheld funds shall be sufficient to ensure payment of the ad valorem tax on each fractional interest according to the estimate made.

(i) If a unit operating agreement exists between the unit operator and the fractional working interest owners, the unit operator may withhold or collect the tax according to the terms of that agreement.

(ii) In any case, the unit operator and the fractional interest owner may make agreements or arrangements for withholding or otherwise collecting this tax. This may be done whether or not that practice is consistent with the preceding paragraphs so long as all requirements of the law are met. When a fractional interest owner has had funds withheld to cover the estimated ad valorem tax liability and the operator fails to remit such taxes to the county when due, the fractional interest owner shall be indemnified from any further ad valorem tax liability to the extent of the withholding.

(iii) The unit operator shall compare the amount withheld to the taxes actually due, and return any excess amount to the fractional interest owner within 60 days after the delinquent date of the tax. At the request of the fractional interest owner the excess may be retained by the unit operator and applied toward the fractional interest owner's tax liability for the subsequent year.

(b) The penalty provided for in Section 59-2-210 is intended to ensure collection by the county of the entire tax due. Any unit operator who has paid this county imposed penalty, and thereafter collects from the fractional interest holders any part of their tax due, may retain those funds as reimbursement against the penalty paid.

(c) Interest on delinquent taxes shall be assessed as set forth in Section 59-2-1331.

(d) Each unit operator may be required to submit to the Property Tax Division a listing of all fractional interest owners and their interests upon specific request of the Property Tax Division. Working interest owners, upon request, shall be required to submit similar information to unit operators.

R884-24P-14. Valuation of Real Property Encumbered by Preservation Easements Pursuant to Utah Code Ann. Section 59-2-303.

(1) The assessor shall take into consideration any preservation easements attached to historically significant real property and structures when determining the property's value.

(2) After the preservation easement has been recorded with the county recorder, the property owner of record shall submit to the county assessor a notice of the preservation easement containing the following information:

(a) the property owner's name;
(b) the address of the property; and
(c) the serial number of the property.
(3) The county assessor shall review the property and incorporate any value change due to the preservation easement in the following year's assessment roll.

R884-24P-16. Assessment of Interlocal Cooperation Act Project Entity Properties Pursuant to Utah Code Ann. Section 11-13-302.

(1) Definitions:
(a) "Utah fair market value" means the fair market value of that portion of the property of a project entity located within Utah upon which the fee in lieu of ad valorem property tax may be calculated.
(b) "Fee" means the annual fee in lieu of ad valorem property tax payable by a project entity pursuant to Section 11-13-302.
(c) "Energy supplier" means an entity that purchases any capacity, service or other benefit of a project to provide electrical service.
(d) "Exempt energy supplier" means an energy supplier whose tangible property is exempted by Article XIII, Sec. 3 of the Constitution of Utah from the payment of ad valorem property tax.
(e) "Optimum operating capacity" means the capacity at which a project is capable of operating on a sustained basis taking into account its design, actual operating history, maintenance requirements, and similar information from comparable projects, if any. The determination of the projected and actual optimum operating capacities of a project shall recognize that projects are not normally operated on a sustained basis at 100 percent of their designed or actual capacities and that the optimum level for operating a project on a sustained basis may vary from project to project.
(f) "Property" means any electric generating facilities, transmission facilities, distribution facilities, fuel facilities, fuel transportation facilities, water facilities, land, water or other existing facilities or tangible property owned by a project entity and required for the project which, if owned by an entity required to pay ad valorem property taxes, would be subject to assessment for ad valorem tax purposes.
(g) "Sold," for the purpose of interpreting Subsection (4), means the first sale of the capacity, service, or other benefit produced by the project without regard to any subsequent sale, resale, or lay-off of that capacity, service, or other benefit.
(h) "Taxing jurisdiction" means a political subdivision of this state in which any portion of the project is located.
(i) All definitions contained in Section 11-13-103 apply to this rule.
(2) The Tax Commission shall determine the fair market value of the property of each project entity. Fair market value shall be based upon standard appraisal theory and shall be determined by correlating estimates derived from the income and cost approaches to value described below.
(a) The income approach to value requires the imputation of an income stream and a capitalization rate. The income stream may be based on recognized indicators such as average income, weighted income, trended income, present value of future income streams, performance ratios, and discounted cash flows. The imputation of income stream and capitalization rate shall be derived from the data of other similarly situated companies. Similarity shall be based on factors such as location, fuel mix, customer mix, size and bond ratings. Estimates may also be imputed from industry data generally. Income data from similarly situated companies will be adjusted to reflect differences in governmental regulatory and tax policies.
(b) The cost approach to value shall consist of the total of the property's net book value of the project's property. This total shall then be adjusted for obsolescence if any.
(c) In addition to, and not in lieu of, any adjustments for obsolescence made pursuant to Subsection (2)(b), a phase-in adjustment shall be made to the assessed valuation of any new project or expansion of an existing project on which construction commenced by a project entity after January 1, 1989 as follows:
(i) During the period the new project or expansion is valued as construction work in process, its assessed valuation shall be multiplied by the percentage calculated by dividing its projected production as of the projected date of completion of construction by its projected optimum operating capacity as of that date.
(ii) Once the new project or expansion ceases to be valued as construction work in progress, its assessed valuation shall be multiplied by the percentage calculated by dividing its actual production by its actual optimum operating capacity. After the new project or expansion has sustained actual production at its optimum operating capacity during any tax year, this percentage shall be deemed to be 100 percent for the remainder of its useful life.
(3) If portions of the property of the project entity are located in states in addition to Utah and those states do not apply a unit valuation approach to that property, the fair market value of the property allocable to Utah shall be determined by computing the cost approach to value on the basis of the net book value of the property located in Utah and imputing an estimated income stream based solely on the value of the Utah property as computed under the cost approach. The correlated value so determined shall be the Utah fair market value of the property.
(4) Before fixing and apportioning the Utah fair market value of the property to the respective taxing jurisdictions in which the property, or a portion thereof is located, the Utah fair market value of the property shall be reduced by the percentage of the capacity, service, or other benefit sold by the project entity to exempt energy suppliers.
(5) For purposes of calculating the amount of the fee payable under Section 11-13-302(3), the percentage of the project that is used to produce the capacity, service or other benefit sold shall be deemed to be 100 percent, subject to adjustments provided by this rule, from the date the project is determined to be commercially operational.
(6) In computing its tax rate pursuant to the formula specified in Section 59-2-924(2), each taxing jurisdiction in which the project property is located shall add to the amount of its budgeted property tax revenues the amount of any credit due to the project entity that year under Section 11-13-302(3), and shall divide the result by the sum of the taxable value of all property taxed, including the value of the project property apportioned to the jurisdiction, and further adjusted pursuant to the requirements of Section 59-2-924.
(7) Subsections (2)(a) and (2)(b) are retroactive to the lien date of January 1, 1984. Subsection (2)(c) is effective as of the lien date of January 1, 1989. The remainder of this rule is retroactive to the lien date of January 1, 1988.

R884-24P-19. Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702.

(1) "State certified general appraiser," "state certified residential appraiser," "state licensed appraiser," and trainee are as defined in Section 61-2b-2.
(2) The ad valorem training and designation program consists of several courses and practica.
(a) Certain courses must be sanctioned by either the Appraiser Qualification Board of the Appraisal Foundation (AQB) or the Western States Association of Tax Administrators (WSATA).

(b) The courses comprising the basic designation program are:

(i) Course 101 - Basic Appraisal Principles;

(ii) Course 103 - Uniform Standards of Professional Appraisal Practice (AQB);

(iii) Course 501 - Assessment Practice in Utah;

(iv) Course 502 - Mass Appraisal of Land;

(v) Course 503 - Development and Use of Personal Property Schedules;

(vi) Course 504 - Appraisal of Public Utilities and Railroads (WSATA); and

(vii) Course 505 - Income Approach Application.

(3) Candidates must attend 90 percent of the classes in each course and pass the final examination for each course with a grade of 70 percent or more to be successful.

(4) There are four recognized ad valorem designations: ad valorem residential appraiser, ad valorem general real property appraiser, ad valorem personal property auditor/appraiser, and ad valorem centrally assessed valuation analyst.

(a) These designations are granted only to individuals employed in a county assessor office or the Property Tax Division, working as appraisers, review appraisers, valuation auditors, or analysts/administrators providing oversight and direction to appraisers and auditors.

(b) An assessor, county employee, or state employee must hold the appropriate designation to value property for ad valorem taxation purposes.

(5) Ad valorem residential appraiser.

(a) To qualify for this designation, an individual must:

(i) successfully complete courses 501 and 502;

(ii) successfully complete a comprehensive residential field practicum; and

(iii) attain and maintain state licensed or state certified appraiser status.

(b) Upon designation, the appraiser may value residential, vacant, and agricultural property for ad valorem taxation purposes.

(6) Ad valorem general real property appraiser.

(a) In order to qualify for this designation, an individual must:

(i) successfully completecourses 501, 502, and 505;

(ii) successfully complete a comprehensive field practicum including residential and commercial properties; and

(iii) attain and maintain state certified appraiser status.

(b) Upon designation, the appraiser may value all types of locally assessed real property for ad valorem taxation purposes.

(7) Ad valorem personal property auditor/appraiser.

(a) To qualify for this designation, an individual must:

(i) successfully complete courses 101, 103, 501, and 503; and

(ii) successfully complete a comprehensive auditing practicum.

(b) Upon designation, the auditor/appraiser may value locally assessed personal property for ad valorem taxation purposes.

(8) Ad valorem centrally assessed valuation analyst.

(a) In order to qualify for this designation, an individual must:

(i) successfully completecourses 501 and 504;

(ii) successfully complete a comprehensive valuation practicum; and

(iii) attain and maintain state licensed or state certified appraiser status.

(b) Upon designation, the analyst may value centrally assessed property for ad valorem taxation purposes.

(9) If a candidate fails to receive a passing grade on a final examination, two re-examinations are allowed. If the re-examinations are not successful, the individual must retake the failed course. The cost to retake the failed course will not be borne by the Tax Commission.

(10) A practicum involves the appraisal or audit of selected properties. The candidate's supervisor must formally request that the Property Tax Division administer a practicum.

(a) Emphasis is placed on those types of properties the candidate will most likely encounter on the job.

(b) The practicum will be administered by a designated appraiser assigned from the Property Tax Division.

(11) An appraiser trainee referred to in Section 59-2-701 shall be designated an ad valorem associate if the appraiser trainee:

(a) has completed all education and practicum requirements for designation under Subsections (5), (6), or (8); and

(b) has not completed the non-education requirements for licensure or certification under Title 61, Chapter 2b, Real Estate Appraiser Licensing and Certification.

(12) An individual holding a specified designation can qualify for other designations by meeting the additional requirements under Subsections (5), (6), (7), or (8).

(13)(a) Maintaining designated status for individuals designated under Subsection (7) requires completion of 14 hours of Tax Commission approved classroom work every two years.

(b) Maintaining designated status for individuals designated under Subsections (5), (6), and (8) requires maintaining their appraisal license or certification under Title 61, Chapter 2b, Real Estate Appraiser Licensing and Certification.

(14) Upon termination of employment from any Utah assessment jurisdiction, or if the individual no longer works primarily as an appraiser, review appraiser, valuation auditor, or analyst/administrator in appraisal matters, designation is automatically revoked.

(a) Ad valorem designation status may be reinstated if the individual secures employment in any Utah assessment jurisdiction within four years from the prior termination.

(b) If more than four years elapse between termination and rehire, and:

(i) the individual has been employed in a closely allied field, then the individual may challenge the course examinations. Upon successfully challenging all required course examinations, the prior designation status will be reinstated; or

(ii) if the individual has not been employed in real estate valuation or a closely allied field, the individual must retake all required courses and pass the final examinations with a score of 70 percent or more.

(15) All appraisal work performed by Tax Commission designated appraisers shall meet the standards set forth in section 61-2b-27.

(16) If appropriate Tax Commission designations are not held by assessor's office personnel, the appraisal work must be contracted out to qualified private appraisers. An assessor's office may elect to contract out appraisal work to qualified private appraisers even if personnel with the appropriate designation are available in the office. If appraisal work is contracted out, the following requirements must be met:

(a) The private sector appraisers performing the contracted work must hold the state certified residential appraiser or state certified general appraiser license issued by the Division of Real Estate of the Utah Department of Commerce. Only state certified general appraisers may appraise nonresidential properties.

(b) All appraisal work shall meet the standards set forth in Section 61-2b-27.

(17) The completion and delivery of the assessment roll required under Section 59-2-311 is an administrative function of the elected assessor.

(a) There are no specific licensure, certification, or

educational requirements related to this function.

(b) An elected assessor may complete and deliver the assessment roll as long as the valuations and appraisals included in the assessment roll were completed by persons having the required designations.

R884-24P-20. Construction Work in Progress Pursuant to Utah Constitution Art. XIII, Section 2 and Utah Code Ann. Sections 59-2-201 and 59-2-301.

A. For purposes of this rule:

1. Construction work in progress means improvements as defined in Section 59-2-102, and personal property as defined in Section 59-2-102, not functionally complete as defined in A.6.

2. Project means any undertaking involving construction, expansion or modernization.

3. "Construction" means:

a) creation of a new facility;

b) acquisition of personal property; or

c) any alteration to the real property of an existing facility other than normal repairs or maintenance.

4. Expansion means an increase in production or capacity as a result of the project.

5. Modernization means a change or contrast in character or quality resulting from the introduction of improved techniques, methods or products.

6. Functionally complete means capable of providing economic benefit to the owner through fulfillment of the purpose for which it was constructed. In the case of a cost-regulated utility, a project shall be deemed to be functionally complete when the operating property associated with the project has been capitalized on the books and is part of the rate base of that utility.

7. Allocable preconstruction costs means expenditures associated with the planning and preparation for the construction of a project. To be classified as an allocable preconstruction cost, an expenditure must be capitalized.

8. Cost regulated utility means a power company, oil and gas pipeline company, gas distribution company or telecommunication company whose earnings are determined by a rate of return applied to rate base. Rate of return and rate base are set and approved by a state or federal regulatory commission.

9. Residential means single-family residences and duplex apartments.

10. Unit method of appraisal means valuation of the various physical components of an integrated enterprise as a single going concern. The unit method may employ one or more of the following approaches to value: the income approach, the cost approach, and the stock and debt approach.

B. All construction work in progress shall be valued at "full cash value" as described in this rule.

C. Discount Rates

For purposes of this rule, discount rates used in valuing all projects shall be determined by the Tax Commission, and shall be consistent with market, financial and economic conditions.

D. Appraisal of Allocable Preconstruction Costs.

1. If requested by the taxpayer, preconstruction costs associated with properties, other than residential properties, may be allocated to the value of the project in relation to the relative amount of total expenditures made on the project by the lien date. Allocation will be allowed only if the following conditions are satisfied by January 30 of the tax year for which the request is sought:

a) a detailed list of preconstruction cost data is supplied to the responsible agency;

b) the percent of completion of the project and the preconstruction cost data are certified by the taxpayer as to their accuracy.

2. The preconstruction costs allocated pursuant to D.1. of this rule shall be discounted using the appropriate rate determined in C. The discounted allocated value shall either be added to the values of properties other than residential properties determined under E.1. or shall be added to the values determined under the various approaches used in the unit method of valuation determined under F.

3. The preconstruction costs allocated under D. are subject to audit for four years. If adjustments are necessary after examination of the records, those adjustments will be classified as property escaping assessment.

E. Appraisal of Properties not Valued under the Unit Method.

1. The full cash value, projected upon completion, of all properties valued under this section, with the exception of residential properties, shall be reduced by the value of the allocable preconstruction costs determined D. This reduced full cash value shall be referred to as the "adjusted full cash value."

2. On or before January 1 of each tax year, each county assessor and the Tax Commission shall determine, for projects not valued by the unit method and which fall under their respective areas of appraisal responsibility, the following:

a) The full cash value of the project expected upon completion.

b) The expected date of functional completion of the project currently under construction.

(1) The expected date of functional completion shall be determined by the county assessor for locally assessed properties and by the Tax Commission for centrally-assessed properties.

c) The percent of the project completed as of the lien date.

(1) Determination of percent of completion for residential properties shall be based on the following percentage of completion:

(a) 10 - Excavation-foundation

(b) 30 - Rough lumber, rough labor

(c) 50 - Roofing, rough plumbing, rough electrical, heating

(d) 65 - Insulation, drywall, exterior finish

(e) 75 - Finish lumber, finish labor, painting

(f) 90 - Cabinets, cabinet tops, tile, finish plumbing, finish electrical

(g) 100 - Floor covering, appliances, exterior concrete, misc.

(2) In the case of all other projects under construction and valued under this section the percent of completion shall be determined by the county assessor for locally assessed properties and by the Tax Commission for centrally-assessed properties.

3. Upon determination of the adjusted full cash value for nonresidential projects under construction or the full cash value expected upon completion of residential projects under construction, the expected date of completion, and the percent of the project completed, the assessor shall do the following:

a) multiply the percent of the residential project completed by the total full cash value of the residential project expected upon completion; or in the case of nonresidential projects,

b) multiply the percent of the nonresidential project completed by the adjusted full cash value of the nonresidential project;

c) adjust the resulting product of E.3.a) or E.3.b) for the expected time of completion using the discount rate determined under C.

F. Appraisal of Properties Valued Under the Unit Method of Appraisal.

1. No adjustments under this rule shall be made to the income indicator of value for a project under construction that is owned by a cost-regulated utility when the project is allowed in rate base.

2. The full cash value of a project under construction as of

January 1 of the tax year, shall be determined by adjusting the cost and income approaches as follows:

a) Adjustments to reflect the time value of money in appraising construction work in progress valued under the cost and income approaches shall be made for each approach as follows:

(1) Each company shall report the expected completion dates and costs of the projects. A project expected to be completed during the tax year for which the valuation is being determined shall be considered completed on January 1 or July 1, whichever is closest to the expected completion date. The Tax Commission shall determine the expected completion date for any project whose completion is scheduled during a tax year subsequent to the tax year for which the valuation is being made.

(2) If requested by the company, the value of allocable preconstruction costs determined in D. shall then be subtracted from the total cost of each project. The resulting sum shall be referred to as the adjusted cost value of the project.

(3) The adjusted cost value for each of the future years prior to functional completion shall be discounted to reflect the present value of the project under construction. The discount rate shall be determined under C.

(4) The discounted adjusted cost value shall then be added to the values determined under the income approach and cost approach.

b) No adjustment will be made to reflect the time value of money for a project valued under the stock and debt approach to value.

G. This rule shall take effect for the tax year 1985.

R884-24P-24. Form for Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918.5 through 59-2-924.

(1) The county auditor must notify all real property owners of property valuation and tax changes on the Notice of Property Valuation and Tax Changes form.

(a) If a county desires to use a modified version of the Notice of Property Valuation and Tax Changes, a copy of the proposed modification must be submitted for approval to the Property Tax Division of the Tax Commission no later than March 1.

(i) Within 15 days of receipt, the Property Tax Division will issue a written decision, including justifications, on the use of the modified Notice of Property Valuation and Tax Changes.

(ii) If a county is not satisfied with the decision, it may petition for a hearing before the Tax Commission as provided in R861-1A-22.

(b) The Notice of Property Valuation and Tax Changes, however modified, must contain the same information as the unmodified version. A property description may be included at the option of the county.

(2) The Notice of Property Valuation and Tax Changes must be completed by the county auditor in its entirety, except in the following circumstances:

(a) New property is created by a new legal description; or

(b) The status of the improvements on the property has changed.

(c) In instances where partial completion is allowed, the term nonapplicable will be entered in the appropriate sections of the Notice of Property Valuation and Tax Changes.

(d) If the county auditor determines that conditions other than those outlined in this section merit deletion, the auditor may enter the term "nonapplicable" in appropriate sections of the Notice of Property Valuation and Tax Changes only after receiving approval from the Property Tax Division in the manner described in Subsection (1).

(3) Real estate assessed under the Farmland Assessment Act of 1969 must be reported at full market value, with the value based upon Farmland Assessment Act rates shown parenthetically.

(4)(a) All completion dates specified for the disclosure of property tax information must be strictly observed.

(b) Requests for deviation from the statutory completion dates must be submitted in writing on or before June 1, and receive the approval of the Property Tax Division in the manner described in Subsection (1).

(5) If the cost of public notice required under Section 59-2-919 is greater than one percent of the property tax revenues to be received, an entity may combine its advertisement with other entities, or use direct mail notification.

(6) Calculation of the amount and percentage increase in property tax revenues required by Section 59-2-919 shall be computed by comparing property taxes levied for the current year with property taxes budgeted the prior year, without adjusting for revenues attributable to new growth.

(7) If a taxing district has not completed the tax rate setting process as prescribed in Sections 59-2-919 and 59-2-920 by August 17, the county auditor must seek approval from the Tax Commission to use the certified rate in calculating taxes levied.

(8) The value of property subject to the uniform fee under Sections 59-2-405 through 59-2-405.3 is excluded from taxable value for purposes of calculating new growth, the certified tax rate, and the proposed tax rate.

(9) The value and taxes of property subject to the uniform fee under Sections 59-2-405 through 59-2-405.3 are excluded when calculating the percentage of property taxes collected as provided in Section 59-2-924.

(10) Entities required to set levies for more than one fund must compute an aggregate certified rate. The aggregate certified rate is the sum of the certified rates for individual funds for which separate levies are required by law. The aggregate certified rate computation applies where:

(a) the valuation bases for the funds are contained within identical geographic boundaries; and

(b) the funds are under the levy and budget setting authority of the same governmental entity.

(11) For purposes of determining the certified tax rate of a municipality incorporated on or after July 1, 1996, the levy imposed for municipal-type services or general county purposes shall be the certified tax rate for municipal-type services or general county purposes, as applicable.

(12) No new entity, including a new city, may have a certified tax rate or levy a tax for any particular year unless that entity existed on the first day of that calendar year.

R884-24P-27. Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Sections 59-2-704 and 59-2-704.5.

(1) Definitions.

(a) "Coefficient of dispersion (COD)" means the average deviation of a group of assessment ratios taken around the median and expressed as a percent of that measure.

(b) "Coefficient of variation (COV)" means the standard deviation expressed as a percentage of the mean.

(c) "Division" means the Property Tax Division of the commission.

(d) "Nonparametric" means data samples that are not normally distributed.

(e) "Parametric" means data samples that are normally distributed.

(f) "Urban counties" means counties classified as first or second class counties pursuant to Section 17-50-501.

(2) The commission adopts the following standards of assessment performance.

(a) For assessment level in each property class, subclass, and geographical area in each county, the measure of central

tendency shall meet one of the following measures;

(i) For a county of the first, second, third or fourth class, the measure of central tendency shall be within:

(A) 5 percent of the legal level of assessment for county-wide residential property; or

(B) 10 percent of the legal level of assessment for all other classes of property.

(ii) For a county of the fifth or sixth class, the measure of central tendency shall be within 10 percent of the legal level of assessment for all property.

(iii) The 95 percent confidence interval of the measure of central tendency shall contain the legal level of assessment.

(b) For uniformity of the property assessments in each class of property for which a detailed review is conducted during the current year, the measure of dispersion shall be within the following limits.

(i) In urban counties:

(A) a COD of 15 percent or less for primary residential property, and 20 percent or less for commercial property, vacant land, and secondary residential property; and

(B) a COV of 19 percent or less for primary residential property, and 25 percent or less for commercial property, vacant land, and secondary residential property.

(ii) In rural counties:

(A) a COD of 20 percent or less for primary residential property, and 25 percent or less for commercial property, vacant land, and secondary residential property; and

(B) a COV of 25 percent or less for primary residential property, and 31 percent or less for commercial property, vacant land, and secondary residential property.

(iii) For a rural or small jurisdiction with limited development, or for a jurisdiction with a depressed market, the county assessor may petition the division for a five percentage point increase in the COD or COV for one year only. After sufficient examination, the division may determine that a one-year expansion of the COD or COV is appropriate.

(c) Statistical measures.

(i) The measure of central tendency shall be the mean for parametric samples and the median for nonparametric samples.

(ii) The measure of dispersion shall be the COV for parametric samples and the COD for nonparametric samples.

(iii) To achieve statistical accuracy in determining assessment level under Subsection (2)(a) and uniformity under Subsection (2)(b) for any property class, subclass, or geographical area, the minimum sample size shall consist of 10 or more ratios.

(3) Each year the division shall conduct and publish an assessment-to-sale ratio study to determine if each county complies with the standards in Subsection (2).

(a) To meet the minimum sample size, the study period may be extended.

(b) A smaller sample size may be used if:

(i) that sample size is at least 10 percent of the class or subclass population; or

(ii) both the division and the county agree that the sample may produce statistics that imply corrective action appropriate to the class or subclass of property.

(c) If the division, after consultation with the counties, determines that the sample size does not produce reliable statistical data, an alternate performance evaluation may be conducted, which may result in corrective action. The alternate performance evaluation shall include review and analysis of the following:

(i) the county's procedures for collection and use of market data, including sales, income, rental, expense, vacancy rates, and capitalization rates;

(ii) the county-wide land, residential, and commercial valuation guidelines and their associated procedures for maintaining current market values;

(iii) the accuracy and uniformity of the county's individual property data through a field audit of randomly selected properties; and

(iv) the county's level of personnel training, ratio of appraisers to parcels, level of funding, and other workload and resource considerations.

(d) All input to the sample used to measure performance shall be completed by March 31 of each study year.

(e) The division shall conduct a preliminary annual assessment-to-sale ratio study by April 30 of the study year, allowing counties to apply adjustments to their tax roll prior to the May 22 deadline.

(f) The division shall complete the final study immediately following the closing of the tax roll on May 22.

(4) The division shall order corrective action if the results of the final study do not meet the standards set forth in Subsection (2).

(a) Assessment level adjustments, or factor orders, shall be calculated by dividing the legal level of assessment by one of the following:

(i) the measure of central tendency, if the uniformity of the ratios meets the standards outlined in Subsection (2)(b); or

(ii) the 95 percent confidence interval limit nearest the legal level of assessment, if the uniformity of the ratios does not meet the standards outlined in Subsection (2)(b).

(b) Uniformity adjustments or other corrective action shall be ordered if the property fails to meet the standards outlined in Subsections (2)(b) and (c). A corrective action order may contain language requiring a county to create, modify, or follow its five-year plan for a detailed review of property characteristics.

(d) All corrective action orders shall be issued by June 10 of the study year, or within five working days after the completion of the final study, whichever is later.

(5) The commission adopts the following procedures to insure compliance and facilitate implementation of ordered corrective action.

(a) Prior to the filing of an appeal, the division shall retain authority to correct errors and, with agreement of the affected county, issue amended orders or stipulate with the affected county to any appropriate alternative action without commission approval. Any stipulation by the division subsequent to an appeal is subject to commission approval.

(b) A county receiving a corrective action order resulting from this rule may file and appeal with the commission pursuant to rule R861-1A-11.

(c) A corrective action order will become the final commission order if the county does not appeal in a timely manner, or does not prevail in the appeals process.

(d) The division may assist local jurisdictions to ensure implementation of any corrective action orders by the following deadlines.

(i) Factor orders shall be implemented in the current study year prior to the mailing of valuation notices.

(ii) Other corrective action shall be implemented prior to May 22 of the year following the study year.

(e) The division shall complete audits to determine compliance with corrective action orders as soon after the deadlines set forth in Subsection (5)(d) as practical. The division shall review the results of the compliance audit with the county and make any necessary adjustments to the compliance audit within 15 days of initiating the audit. These adjustments shall be limited to the analysis performed during the compliance audit and may not include review of the data used to arrive at the underlying factor order. After any adjustments, the compliance audit will then be given to the commission for any necessary action.

(f) The county shall be informed of any adjustment required as a result of the compliance audit.

R884-24P-28. Reporting Requirements For Leased or Rented Personal Property Pursuant to Utah Code Ann. Section 59-2-306.

(1) The procedure set forth herein is required in reporting heavy equipment leased or rented during the tax year.

(2) The owner of leased or rented heavy equipment shall file annual reports with the commission, either on forms provided by the commission or electronically, for the periods January 1 through June 30, and July 1 through December 31 of each year. The reports shall contain the following information:

(a) a description of the leased or rented equipment;

(b) the year of manufacture and acquisition cost;

(c) a listing, by month, of the counties where the equipment has situs; and

(d) any other information required.

(3) For purposes of this rule, situs is established when leased or rented equipment is kept in an area for thirty days. Once situs is established, any portion of thirty days during which that equipment stays in that area shall be counted as a full month of situs. In no case may situs exceed twelve months for any year.

(4)(a) The completed report shall be submitted to the Property Tax Division of the commission within thirty days after each reporting period.

(b) Noncompliance will require accelerated reporting.

R884-24P-29. Taxable Household Furnishings Pursuant to Utah Code Ann. Section 59-2-1113.

(1) Except as provided in Section 59-2-1115, household furnishings, furniture, and equipment are subject to property taxation if:

(a) the owner of the dwelling unit commonly receives legal consideration for its use, whether in the form of rent, exchange, or lease payments; or

(b) the dwelling unit is held out as available for the rent, lease, or use by others.

(2) Household furnishings, furniture, and equipment that meet the definition of qualifying exempt primary residential rental personal property in Section 59-2-102:

(a) qualify for the primary residential exemption under Section 59-2-103; and

(b) are valued for tax under this chapter by:

(i) calculating the value of the personal property using the tables in Tax Commission rule R884-24P-33; and

(ii) multiplying the value calculated under Subsection (2)(b)(i) by 0.55.

R884-24P-32. Leasehold Improvements Pursuant to Utah Code Ann. Section 59-2-303.

A. The value of leasehold improvements shall be included in the value of the underlying real property and assessed to the owner of the underlying real property.

B. The combined valuation of leasehold improvements and underlying real property required in A. shall satisfy the requirements of Section 59-2-103(1).

C. The provisions of this rule shall not apply if the underlying real property is owned by an entity exempt from tax under Section 59-2-1101.

D. The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, 2000.

R884-24P-33. 2019 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.

(1) Definitions.

(a)(i) "Acquisition cost" does not include indirect costs such as debugging, licensing fees and permits, insurance, or security.

(ii) Acquisition cost may correspond to the cost new for new property, or cost used for used property.

(b)(i) "Actual cost" includes the value of components necessary to complete the vehicle, such as tanks, mixers, special containers, passenger compartments, special axles, installation, engineering, erection, or assembly costs.

(ii) Actual cost does not include sales or excise taxes, maintenance contracts, registration and license fees, dealer charges, tire tax, freight, or shipping costs.

(c) "Cost new" means the actual cost of the property when purchased new.

(i) Except as otherwise provided in this rule, the Tax Commission and assessors shall rely on the following sources to determine cost new:

(A) documented actual cost of the new or used vehicle; or

(B) recognized publications that provide a method for approximating cost new for new or used vehicles.

(ii) For the following property purchased used, the taxing authority may determine cost new by dividing the property's actual cost by the percent good factor for that class:

(A) class 6 heavy and medium duty trucks;

(B) class 13 heavy equipment;

(C) class 14 motor homes;

(D) class 17 vessels equal to or greater than 31 feet in length; and

(E) class 21 commercial trailers.

(d) For purposes of Sections 59-2-108 and 59-2-1115, "item of taxable tangible personal property" means a piece of equipment, machinery, furniture, or other piece of tangible personal property that is functioning at its highest and best use for the purpose it was designed and constructed and is generally capable of performing that function without being combined with other items of personal property. An item of taxable tangible personal property is not an individual component part of a piece of machinery or equipment, but the piece of machinery or equipment. For example, a fully functioning computer is an item of taxable tangible personal property, but the motherboard, hard drive, tower, or sound card are not.

(e) "Percent good" means an estimate of value, expressed as a percentage, based on a property's acquisition cost or cost new, adjusted for depreciation and appreciation of all kinds.

(i) The percent good factor is applied against the acquisition cost or the cost new to derive taxable value for the property.

(ii) Percent good schedules are derived from an analysis of the Internal Revenue Service Class Life, the Marshall and Swift Cost index, other data sources or research, and vehicle valuation guides such as Penton Price Digests.

(2) Each year the Property Tax Division shall update and publish percent good schedules for use in computing personal property valuation.

(a) Proposed schedules shall be transmitted to county assessors and interested parties for comment before adoption.

(b) A public comment period will be scheduled each year and a public hearing will be scheduled if requested by ten or more interested parties or at the discretion of the Commission.

(c) County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal property. When a deviation will affect an entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.

(d) A party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value for the property at the retail level of trade on the lien date, including any relevant installation and assemblage value.

(3) The provisions of this rule do not apply to:

(a) a vehicle subject to the age-based uniform fee under Section 59-2-405.1;

(b) the following personal property subject to the age-based uniform fee under Section 59-2-405.2:
(i) an all-terrain vehicle;
(ii) a camper;
(iii) an other motorcycle;
(iv) an other trailer;
(v) a personal watercraft;
(vi) a small motor vehicle;
(vii) a snowmobile;
(viii) a street motorcycle;
(ix) a tent trailer;
(x) a travel trailer; and
(xi) a vessel, including an outboard motor of the vessel, that is less than 31 feet in length;
(c) a motorhome subject to the uniform statewide fee under Section 59-2-405.3; and
(d) an aircraft subject to the uniform statewide fee under Section 72-10-110.5.
(4) Other taxable personal property that is not included in the listed classes includes:
(a) Supplies on hand as of January 1 at 12:00 noon, including office supplies, shipping supplies, maintenance supplies, replacement parts, lubricating oils, fuel and consumable items not held for sale in the ordinary course of business. Supplies are assessed at total cost, including freight-in.
(b) Equipment leased or rented from inventory is subject to ad valorem tax. Refer to the appropriate property class schedule to determine taxable value.
(c) Property held for rent or lease is taxable, and is not exempt as inventory. For entities primarily engaged in rent-to-own, inventory on hand at January 1 is exempt and property out on rent-to-own contracts is taxable.
(5) Personal property valuation schedules may not be appealed to, or amended by, county boards of equalization.
(6) All taxable personal property, other than personal property subject to an age-based uniform fee under Section 59-2-405.1 or 59-2-405.2, or a uniform statewide fee under Section 59-2-404, is classified by expected economic life as follows:
(a) Class 1 - Short Life Property. Property in this class has a typical life of more than one year and less than four years. It is fungible in that it is difficult to determine the age of an item retired from service.
(i) Examples of property in the class include:
(A) barricades/warning signs;
(B) library materials;
(C) patterns, jigs and dies;
(D) pots, pans, and utensils;
(E) canned computer software;
(F) hotel linen;
(G) wood and pallets;
(H) video tapes, compact discs, and DVDs; and
(I) uniforms.
(ii) With the exception of video tapes, compact discs, and DVDs, taxable value is calculated by applying the percent good factor against the acquisition cost of the property.
(iii) A licensee of canned computer software shall use one of the following substitutes for acquisition cost of canned computer software if no acquisition cost for the canned computer software is stated:
(A) retail price of the canned computer software;
(B) if a retail price is unavailable, and the license is a nonrenewable single year license agreement, the total sum of expected payments during that 12-month period; or
(C) if the licensing agreement is a renewable agreement or is a multiple year agreement, the present value of all expected licensing fees paid pursuant to the agreement.
(iv) Video tapes, compact discs, and DVDs are valued at $15.00 per tape or disc for the first year and $3.00 per tape or disc thereafter.

TABLE 1

Year of Acquisition	Percent Good of Acquisition Cost
18	72%
17	42%
16 and prior	11%

(b) Class 2 - Computer Integrated Machinery.
(i) Machinery shall be classified as computer integrated machinery if all of the following conditions are met:
(A) The equipment is sold as a single unit. If the invoice breaks out the computer separately from the machine, the computer must be valued as Class 12 property and the machine as Class 8 property.
(B) The machine cannot operate without the computer and the computer cannot perform functions outside the machine.
(C) The machine can perform multiple functions and is controlled by a programmable central processing unit.
(D) The total cost of the machine and computer combined is depreciated as a unit for income tax purposes.
(E) The capabilities of the machine cannot be expanded by substituting a more complex computer for the original.
(ii) Examples of property in this class include:
(A) CNC mills;
(B) CNC lathes;
(C) high-tech medical and dental equipment such as MRI equipment, CAT scanners, and mammography units.
(iii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 2

Year of Acquisition	Percent Good of Acquisition Cost
18	91%
17	81%
16	70%
15	59%
14	48%
13	38%
12	25%
11 and prior	13%

(c) Class 3 - Short Life Trade Fixtures. Property in this class generally consists of electronic types of equipment and includes property subject to rapid functional and economic obsolescence or severe wear and tear.
(i) Examples of property in this class include:
(A) office machines;
(B) alarm systems;
(C) shopping carts;
(D) ATM machines;
(E) small equipment rentals;
(F) rent-to-own merchandise;
(G) telephone equipment and systems;
(H) music systems;
(I) vending machines;
(J) video game machines; and
(K) cash registers.
(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 3

Year of Acquisition	Percent Good of Acquisition Cost
18	86%
17	70%
16	53%
15	35%
14 and prior	18%

(d) Class 5 - Long Life Trade Fixtures. Class 5 property is subject to functional obsolescence in the form of style changes.

(i) Examples of property in this class include:

(A) furniture;

(B) bars and sinks:

(C) booths, tables and chairs;

(D) beauty and barber shop fixtures;

(E) cabinets and shelves;

(F) displays, cases and racks;

(G) office furniture;

(H) theater seats;

(I) water slides;

(J) signs, mechanical and electrical; and

(K) LED component of a billboard.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 5

Year of Acquisition	Percent Good of Acquisition Cost
18	92%
17	84%
16	74%
15	64%
14	55%
13	45%
12	34%
11	23%
10 and prior	12%

(e) Class 6 - Heavy and Medium Duty Trucks.

(i) Examples of property in this class include:

(A) heavy duty trucks;

(B) medium duty trucks;

(C) crane trucks;

(D) concrete pump trucks; and

(E) trucks with well-boring rigs.

(ii) Taxable value is calculated by applying the percent good factor against the cost new.

(iii) Cost new of vehicles in this class is defined as follows:

(A) the documented actual cost of the vehicle for new vehicles; or

(B) 75 percent of the manufacturer's suggested retail price.

(iv) For state assessed vehicles, cost new shall include the value of attached equipment.

(v) The 2019 percent good applies to 2019 models purchased in 2018.

(vi) Trucks weighing two tons or more have a residual taxable value of $1,750.

TABLE 6

Model Year	Percent Good of Cost New
19	90%
18	71%
17	66%
16	61%
15	56%
14	51%
13	45%
12	40%
11	35%
10	30%
09	20%
08	15%
07	10%
06 and prior	4%

(f) Class 7 - Medical and Dental Equipment. Class 7 has been merged into Class 8.

(g) Class 8 - Machinery and Equipment and Medical and Dental Equipment.

(i) Machinery and equipment is subject to considerable functional and economic obsolescence created by competition as technologically advanced and more efficient equipment becomes available.

Examples of machinery and equipment include:

(A) manufacturing machinery;

(B) amusement rides;

(C) bakery equipment;

(D) distillery equipment;

(E) refrigeration equipment;

(F) laundry and dry cleaning equipment;

(G) machine shop equipment;

(H) processing equipment;

(I) auto service and repair equipment;

(J) mining equipment;

(K) ski lift machinery;

(L) printing equipment;

(M) bottling or cannery equipment;

(N) packaging equipment; and

(O) pollution control equipment.

(ii) Medical and dental equipment is subject to a high degree of technological development by the health industry. Examples of medical and dental equipment include:

(A) medical and dental equipment and instruments;

(B) exam tables and chairs;

(C) microscopes; and

(D) optical equipment.

(iii) Except as provided in Subsection (6)(g)(iv), taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(iv)(A) Notwithstanding Subsection (6)(g)(iii), the taxable value of the following oil refinery pollution control equipment required by the federal Clean Air Act shall be calculated pursuant to Subsection (6)(g)(iv)(B):

(I) VGO (Vacuum Gas Oil) reactor;

(II) HDS (Diesel Hydrotreater) reactor;

(III) VGO compressor;

(IV) VGO furnace;

(V) VGO and HDS high pressure exchangers;

(VI) VGO, SRU (Sulfur Recovery Unit), SWS (Sour Water Stripper), and TGU; (Tail Gas Unit) low pressure exchangers;

(VII) VGO, amine, SWS, and HDS separators and drums;

(VIII) VGO and tank pumps;

(IX) TGU modules; and

(X) VGO tank and VGO tank air coolers.

(B) The taxable value of the oil refinery pollution control equipment described in Subsection (6)(g)(iv)(A) shall be calculated by:

(I) applying the percent good factor in Table 8 against the acquisition cost of the property; and

(II) multiplying the product described in Subsection (6)(g)(iv)(B)(I) by 50%.

TABLE 8

Year of Acquisition	Percent Good of Acquisition Cost
18	94%
17	87%
16	79%
15	71%
14	64%
13	56%
12	47%
11	38%
10	30%
09	21%
08 and prior	11%

(h) Class 9 - Off-Highway Vehicles.

(i) Because Section 59-2-405.2 subjects off-highway vehicles to an age-based uniform fee, a percent good schedule is not necessary.

(i) Class 10 - Railroad Cars. The Class 10 schedule was developed to value the property of railroad car companies. Functional and economic obsolescence is recognized in the developing technology of the shipping industry. Heavy wear and tear is also a factor in valuing this class of property.

(i) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 10

Year of Acquisition	Percent Good of Acquisition Cost
18	96%
17	91%
16	84%
15	78%
14	73%
13	68%
12	60%
11	54%
10	48%
09	42%
08	35%
07	28%
06	20%
05 and prior	9%

(j) Class 11 - Street Motorcycles.

(i) Because Section 59-2-405.2 subjects street motorcycles to an age-based uniform fee, a percent good schedule is not necessary.

(k) Class 12 - Computer Hardware.

(i) Examples of property in this class include:

(A) data processing equipment;

(B) personal computers;

(C) main frame computers;

(D) computer equipment peripherals;

(E) cad/cam systems; and

(F) copiers.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 12

Year of Acquisition	Percent Good of Acquisition Cost
18	62%
17	46%
16	21%
15	9%
14 and prior	7%

(l) Class 13 - Heavy Equipment.

(i) Examples of property in this class include:

(A) construction equipment;

(B) excavation equipment;

(C) loaders;

(D) batch plants;

(E) snow cats; and

(F) pavement sweepers.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(iii) 2019 model equipment purchased in 2018 is valued at 100 percent of acquisition cost.

TABLE 13

Year of Acquisition	Percent Good of Acquisition Cost
18	49%
17	47%
16	44%
15	42%
14	39%
13	37%
12	35%
11	32%
10	30%
09	28%
08	25%
07	23%
06	20%
05 and prior	13%

(m) Class 14 - Motor Homes.

(i) Because Section 59-2-405.3 subjects motor homes to an age-based uniform fee, a percent good schedule is not necessary.

(n) Class 15 - Semiconductor Manufacturing Equipment. Class 15 applies only to equipment used in the production of semiconductor products. Equipment used in the semiconductor manufacturing industry is subject to significant economic and functional obsolescence due to rapidly changing technology and economic conditions.

(i) Examples of property in this class include:

(A) crystal growing equipment;

(B) die assembly equipment;

(C) wire bonding equipment;

(D) encapsulation equipment;

(E) semiconductor test equipment;

(F) clean room equipment;

(G) chemical and gas systems related to semiconductor manufacturing;

(H) deionized water systems;

(I) electrical systems; and

(J) photo mask and wafer manufacturing dedicated to semiconductor production.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 15

Year of Acquisition	Percent Good of Acquisition Cost
18	47%
17	34%
16	24%
15	15%
14 and prior	6%

(o) Class 16 - Long-Life Property. Class 16 property has a long physical life with little obsolescence.

(i) Examples of property in this class include:

(A) billboard (excluding LED component);

(B) sign towers;

(C) radio towers;

(D) ski lift and tram towers;

(E) non-farm grain elevators;

(F) bulk storage tanks;

(G) underground fiber optic cable;

(H) solar panels and supporting equipment; and

(I) pipe laid in or affixed to land.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 16

Year of Acquisition	Percent Good of Acquisition Cost
18	96%
17	94%
16	89%
15	85%
14	82%
13	79%
12	73%

11	69%
10	64%
09	63%
08	59%
07	57%
06	51%
05	45%
04	38%
03	30%
02	23%
01	15%
00 and prior	8%

(p) Class 17 - Vessels Equal to or Greater Than 31 Feet in Length.

(i) Examples of property in this class include:

(A) houseboats equal to or greater than 31 feet in length;

(B) sailboats equal to or greater than 31 feet in length; and

(C) yachts equal to or greater than 31 feet in length.

(ii) A vessel, including an outboard motor of the vessel, under 31 feet in length:

(A) is not included in Class 17;

(B) may not be valued using Table 17; and

(C) is subject to an age-based uniform fee under Section 59-2-405.2.

(iii) Taxable value is calculated by applying the percent good factor against the cost new of the property.

(iv) The Tax Commission and assessors shall rely on the following sources to determine cost new for property in this class:

(A) the following publications or valuation methods:

(I) the manufacturer's suggested retail price listed in the ABOS Marine Blue Book;

(II) for property not listed in the ABOS Marine Blue Book but listed in the NADA Marine Appraisal Guide, the NADA average value for the property divided by the percent good factor; or

(III) for property not listed in the ABOS Marine Blue Book or the NADA Appraisal Guide:

(aa) the manufacturer's suggested retail price for comparable property; or

(bb) the cost new established for that property by a documented valuation source; or

(B) the documented actual cost of new or used property in this class.

(v) The 2019 percent good applies to 2019 models purchased in 2018.

(vi) Property in this class has a residual taxable value of $1,000.

TABLE 17

Model Year	Percent Good of Cost New
19	90%
18	67%
17	64%
16	62%
15	60%
14	57%
13	55%
12	53%
11	50%
10	48%
09	46%
08	43%
07	41%
06	39%
05	36%
04	34%
03	32%
02	29%
01	27%
00	25%
99	21%
98 and prior	17%

(q) Class 17a - Vessels Less Than 31 Feet in Length

(i) Because Section 59-2-405.2 subjects vessels less than 31 feet in length to an age-based uniform fee, a percent good schedule is not necessary.

(r) Class 18 - Travel Trailers and Class 18a - Tent Trailers/Truck Campers.

(i) Because Section 59-2-405.2 subjects travel trailers and tent trailers/truck campers to an age-based uniform fee, a percent good schedule is not necessary.

(s) Class 20 - Petroleum and Natural Gas Exploration and Production Equipment. Class 20 property is subject to significant functional and economic obsolescence due to the volatile nature of the petroleum industry.

(i) Examples of property in this class include:

(A) oil and gas exploration equipment;

(B) distillation equipment;

(C) wellhead assemblies;

(D) holding and storage facilities;

(E) drill rigs;

(F) reinjection equipment;

(G) metering devices;

(H) cracking equipment;

(I) well-site generators, transformers, and power lines;

(J) equipment sheds;

(K) pumps;

(L) radio telemetry units; and

(M) support and control equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 20

Year of Acquisition	Percent Good of Acquisition Cost
18	95%
17	87%
16	81%
15	74%
14	67%
13	61%
12	55%
11	46%
10	40%
09	34%
08	27%
07	19%
06 and prior	10%

(t) Class 21 - Commercial Trailers.

(i) Examples of property in this class include:

(A) dry freight van trailers;

(B) refrigerated van trailers;

(C) flat bed trailers;

(D) dump trailers;

(E) livestock trailers; and

(F) tank trailers.

(ii) Taxable value is calculated by applying the percent good factor against the cost new of the property. For state assessed vehicles, cost new shall include the value of attached equipment.

(iii) The 2019 percent good applies to 2019 models purchased in 2018.

(iv) Commercial trailers have a residual taxable value of $1,000.

TABLE 21

Model Year	Percent Good of Cost New
19	95%
18	85%
17	82%
16	78%
15	74%
14	69%

13	65%
12	61%
11	57%
10	53%
09	50%
08	46%
07	41%
06	36%
05	30%
04	25%
03 and prior	17%

(u) Class 21a - Other Trailers (Non-Commercial).

(i) Because Section 59-2-405.2 subjects this class of trailers to an age-based uniform fee, a percent good schedule is not necessary.

(v) Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans.

(i) Class 22 vehicles fall within four subcategories: domestic passenger cars, foreign passenger cars, light trucks, including utility vehicles, and vans.

(ii) Because Section 59-2-405.1 subjects Class 22 property to an age-based uniform fee, a percent good schedule is not necessary.

(w) Class 22a - Small Motor Vehicles.

(i) Because Section 59-2-405.2 subjects small motor vehicles to an age-based uniform fee, a percent good schedule is not necessary.

(x) Class 23 - Aircraft Required to be Registered With the State.

(i) Because Section 59-2-404 subjects aircraft required to be registered with the state to a statewide uniform fee, a percent good schedule is not necessary.

(y) Class 24 - Leasehold Improvements on Exempt Real Property.

(i) The Class 24 schedule is to be used only for those leasehold improvements where the underlying real property is owned by an entity exempt from property tax under Section 59-2-1101. See Tax Commission rule R884-24P-32. Leasehold improvements include:

(A) walls and partitions;

(B) plumbing and roughed-in fixtures;

(C) floor coverings other than carpet;

(D) store fronts;

(E) decoration;

(F) wiring;

(G) suspended or acoustical ceilings;

(H) heating and cooling systems; and

(I) iron or millwork trim.

(ii) Taxable value is calculated by applying the percent good factor against the cost of acquisition, including installation.

(iii) The Class 3 schedule is used to value short life leasehold improvements.

TABLE 24

Year of Installation	Percent of Installation Cost
18	94%
17	88%
16	82%
15	77%
14	71%
13	65%
12	59%
11	54%
10	48%
09	42%
08	36%
07 and prior	30%

(z) Class 25 - Aircraft Parts Manufacturing Tools and Dies. Property in this class is generally subject to rapid physical, functional, and economic obsolescence due to rapid technological and economic shifts in the airline parts manufacturing industry. Heavy wear and tear is also a factor in valuing this class of property.

(i) Examples of property in this class include:

(A) aircraft parts manufacturing jigs and dies;

(B) aircraft parts manufacturing molds;

(C) aircraft parts manufacturing patterns;

(D) aircraft parts manufacturing taps and gauges; and

(E) aircraft parts manufacturing test equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 25

Year of Acquisition	Percent Good of Acquisition Cost
18	86%
17	70%
16	53%
15	36%
14	19%
13 and prior	4%

(aa) Class 26 - Personal Watercraft.

(i) Because Section 59-2-405.2 subjects personal watercraft to an age-based uniform fee, a percent good schedule is not necessary.

(bb) Class 27 - Electrical Power Generating Equipment and Fixtures

(i) Examples of property in this class include:

(A) electrical power generators; and

(B) control equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 27

Year of Acquisition	Percent Good of Acquisition Cost
18	97%
17	95%
16	92%
15	90%
14	87%
13	84%
12	82%
11	79%
10	77%
09	74%
08	71%
07	69%
06	66%
05	64%
04	61%
03	58%
02	56%
01	53%
00	51%
99	48%
98	45%
97	43%
96	40%
95	38%
94	35%
93	32%
92	30%
91	27%
90	25%
89	22%
88	19%
87	17%
86	14%
85	12%
84 and prior	9%

(cc) Class 28 - Noncapitalized Personal Property. Property shall be classified as noncapitalized personal property if the following conditions are met:

(i) the property is an item of taxable tangible personal

property with an acquisition cost of $1,000 or less; and

(ii) the property is eligible as a deductible expense under Section 162 or Section 179, Internal Revenue Code, in the year of acquisition, regardless of whether the deduction is actually claimed.

TABLE 28

Year of Acquisition	Percent Good of Acquisition Cost
18	75%
17	50%
16	25%
15 and prior	0%

The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, 2019.

R884-24P-35. Annual Statement for Certain Exempt Uses of Property Pursuant to Utah Code Ann. Section 59-2-1102.

(1) The purpose of this rule is to provide guidance to property owners required to file an annual statement under Section 59-2-1102 in order to claim a property tax exemption under Subsection 59-2-1101(3)(a)(iv) or (v).

(2) The annual statement filed pursuant to Section 59-2-1102 shall contain the following information for the specific property for which an exemption is sought:

(a) the owner of record of the property;

(b) the property parcel, account, or serial number;

(c) the location of the property;

(d) the tax year in which the exemption was originally granted;

(e) a description of any change in the use of the real or personal property since January 1 of the prior year;

(f) the name and address of any person or organization conducting a business for profit on the property;

(g) the name and address of any organization that uses the real or personal property and pays a fee for that use that is greater than the cost of maintenance and utilities associated with the property;

(h) a description of any personal property leased by the owner of record for which an exemption is claimed;

(i) the name and address of the lessor of property described in Subsection (2)(h);

(j) the signature of the owner of record or the owner's authorized representative; and

(k) any other information the county may require.

(3) The annual statement shall be filed:

(a) with the county legislative body in the county in which the property is located;

(b) on or before March 1; and

(c) using:

(i) Tax Commission form PT-21, Annual Statement for Continued Property Tax Exemption; or

(ii) a form that contains the information required under Subsection (2).

R884-24P-36. Contents of Real Property Tax Notice Pursuant to Utah Code Ann. Section 59-2-1317.

A. In addition to the information required by Section 59-2-1317, the tax notice for real property shall specify the following:

1. the property identification number;

2. the appraised value of the property and, if applicable, any adjustment for residential exemptions expressed in terms of taxable value;

3. if applicable, tax relief for taxpayers eligible for blind, veteran, or poor abatement or the circuit breaker, which shall be shown as credits to total taxes levied; and

4. itemized tax rate information for each taxing entity and total tax rate.

R884-24P-37. Separate Values of Land and Improvements Pursuant to Utah Code Ann. Sections 59-2-301 and 59-2-305.

A. The county assessor shall maintain an appraisal record of all real property subject to assessment by the county. The record shall include the following information:

1. owner of the property;

2. property identification number;

3. description and location of the property; and

4. full market value of the property.

B. Real property appraisal records shall show separately the value of the land and the value of any improvements.

R884-24P-38. Nonoperating Railroad Properties Pursuant to Utah Code Ann. Section 59-2-201.

(1)(a) "Railroad right of way" (RR-ROW) means a strip of land upon which a railroad company constructs the road bed.

(b) RR-ROW within incorporated towns and cities shall consist of 50 feet on each side of the main line main track, branch line main track or main spur track. Variations to the 50-foot standard shall be approved on an individual basis.

(c) RR-ROW outside incorporated towns and cities shall consist of the actual right-of-way owned if not in excess of 100 feet on each side of the center line of the main line main track, branch line main track, or main spur track. In cases where unusual conditions exist, such as mountain cuts, fills, etc., and more than 100 feet on either side of the main track is required for ROW and where small parcels of land are otherwise required for ROW purposes, the necessary additional area shall be reported as RR-ROW.

(2) Assessment of nonoperating railroad properties. Railroad property formerly assessed by the unitary method that has been determined to be nonoperating, and that is not necessary to the conduct of the business, shall be assessed separately by the local county assessor.

(3) Assessment procedures.

(a) Properties charged to nonoperating accounts are reviewed by the Property Tax Division, and if taxable, are assessed and placed on the local county assessment rolls separately from the operating properties.

(b) RR-ROW is considered operating and necessary to the conduct and contributing to the income of the business. Any revenue derived from leasing of property within the RR-ROW is considered railroad operating revenues.

(c) Real property outside of the RR-ROW that is necessary to the conduct of the railroad operation is considered part of the unitary value. Some examples are:

(i) company homes occupied by superintendents and other employees on 24-hour call;

(ii) storage facilities for railroad operations;

(iii) communication facilities; and

(iv) spur tracks outside of RR-ROW.

(d) Abandoned RR-ROW is considered nonoperating and shall be reported as such by the railroad companies.

(e) Real property outside of the RR-ROW that is not necessary to the conduct of the railroad operations is classified as nonoperating and therefore assessed by the local county assessor. Some examples are:

(i) land leased to service station operations;

(ii) grocery stores;

(iii) apartments;

(iv) residences; and

(v) agricultural uses.

(f) RR-ROW obtained by government grant or act of Congress is deemed operating property.

(4) Notice of Determination. It is the responsibility of the Property Tax Division to provide a notice of determination to the owner of the railroad property and the assessor of the county where the railroad property is located immediately after such determination of operating or nonoperating status has been

made. If there is no appeal to the notice of determination, the Property Tax Division shall notify the assessor of the county where the property is located so that the property may be placed on the roll for local assessment.

(5) Appeals. Any interested party who wishes to contest the determination of operating or nonoperating property may do so by filing a request for agency action within ten days of the notice of determination of operating or nonoperating properties. Request for agency action may be made pursuant to Title 63G, Chapter 4.

R884-24P-40. Exemption of Parsonages, Rectories, Monasteries, Homes and Residences Pursuant to Utah Code Annotated 59-2-1101(d) and Article XIII, Section 2 of the Utah Constitution.

A. Parsonages, rectories, monasteries, homes and residences if used exclusively for religious purposes, are exempt from property taxes if they meet all of the following requirements:

1. The land and building are owned by a religious organization which has qualified with the Internal Revenue Service as a Section 501(c)(3) organization and which organization continues to meet the requirements of that section.

2. The building is occupied only by persons whose full time efforts are devoted to the religious organization and the immediate families of such persons.

3. The religious organization, and not the individuals who occupy the premises, pay all payments, utilities, insurance, repairs, and all other costs and expenses related to the care and maintenance of the premises and facilities.

B. The exemption for one person and the family of such person is limited to the real estate that is reasonable for the residence of the family and which remains actively devoted exclusively to the religious purposes. The exemption for more than one person, such as a monastery, is limited to that amount of real estate actually devoted exclusively to religious purposes.

C. Vacant land which is not actively used by the religious organization, is not deemed to be devoted exclusively to religious purposes, and is therefore not exempt from property taxes.

1. Vacant land which is held for future development or utilization by the religious organization is not deemed to be devoted exclusively to religious purposes and therefore not tax exempt.

2. Vacant land is tax exempt after construction commences or a building permit is issued for construction of a structure or other improvements used exclusively for religious purposes.

R884-24P-42. Farmland Assessment Audits and Personal Property Audits Pursuant to Utah Code Ann. Subsection 59-2-508, and Section 59-2-705.

(1) Upon completion of commission audits of personal property accounts or land subject to the Farmland Assessment Act, the following procedures shall be implemented:

(a) If an audit reveals an incorrect assignment of property, or an increase or decrease in value, the county assessor shall correct the assessment on the assessment roll and the tax roll.

(b) A revised Notice of Property Valuation and Tax Changes or tax notice or both shall be mailed to the taxpayer for the current year and any previous years affected.

(c) The appropriate tax rate for each year shall be applied when computing taxes due for previous years.

(2) Assessors shall not alter results of an audit without first submitting the changes to the commission for review and approval.

(3) The commission shall review assessor compliance with this rule. Noncompliance may result in an order for corrective action.

R884-24P-44. Farm Machinery and Equipment Exemption Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-1101.

A. The use of the machinery and equipment, whether by the claimant or a lessee, shall determine the exemption.

1. For purposes of this rule, the term owner includes a purchaser under an installment purchase contract or capitalized lease where ownership passes to the purchaser at the end of the contract without the exercise of an option on behalf of the purchaser or seller.

B. Farm machinery and equipment is used primarily for agricultural purposes if it is used primarily for the production or harvesting of agricultural products.

C. The following machinery and equipment is used primarily for the production or harvesting of agricultural products:

1. Machinery and equipment used on the farm for storage, cooling, or freezing of fruits or vegetables;

2. Except as provided in C.3., machinery and equipment used in fruit or vegetable growing operations if the machinery and equipment does not physically alter the fruit or vegetables; and

3. Machinery and equipment that physically alters the form of fruits or vegetables if the operations performed by the machinery or equipment are reasonable and necessary in the preparation of the fruit or vegetables for wholesale marketing.

D. Machinery and equipment used for processing of agricultural products are not exempt.

R884-24P-49. Calculating the Utah Apportioned Value of a Rail Car Fleet Pursuant to Utah Code Ann. Section 59-2-201.

A. Definitions.

1. "Average market value per rail car" means the fleet rail car market value divided by the number of rail cars in the fleet.

2. "Fleet rail car market value" means the sum of:

a)(1) the yearly acquisition costs of the fleet's rail cars;

(2) multiplied by the appropriate percent good factors contained in Class 10 of R884-24P- 33, Personal Property Valuation Guides and Schedules; and

b) the sum of betterments by year.

(1) Except as provided in A.2.b)(2), the sum of betterments by year shall be depreciated on a 14-year straight line method.

(2) Notwithstanding the provisions of A.2.b)(1), betterments shall have a residual value of two percent.

3. "In-service rail cars" means the number of rail cars in the fleet, adjusted for out-of- service rail cars.

4. a) "Out-of-service rail cars" means rail cars:

(1) out-of-service for a period of more than ten consecutive hours; or

(2) in storage.

b) Rail cars cease to be out-of-service once repaired or removed from storage.

c) Out-of-service rail cars do not include rail cars idled for less than ten consecutive hours due to light repairs or routine maintenance.

5. "System car miles" means both loaded and empty miles accumulated in the U.S., Canada, and Mexico during the prior calendar year by all rail cars in the fleet.

6. "Utah car miles" mean both loaded and empty miles accumulated within Utah during the prior calendar year by all rail cars in the fleet.

7. "Utah percent of system factor" means the Utah car miles divided by the system car miles.

B. The provisions of this rule apply only to private rail car companies.

C. To receive an adjustment for out-of-service rail cars, the rail car company must report the number of out-of-service days

to the commission for each of the company's rail car fleets.

D. The out-of-service adjustment is calculated as follows.

1. Divide the out-of-service days by 365 to obtain the out-of-service rail car equivalent.

2. Subtract the out-of-service rail car equivalent calculated in D.1. from the number of rail cars in the fleet.

E. The taxable value for each rail car fleet apportioned to Utah, for which the Utah percent of system factor is more than 50 percent, shall be determined by multiplying the Utah percent of system factor by the fleet rail car market value.

F. The taxable value for each rail car company apportioned to Utah, for which the Utah percent of system factor is less than or equal to 50 percent, shall be determined in the following manner.

1. Calculate the number of fleet rail cars allocated to Utah under the Utah percent of system factor. The steps for this calculation are as follows.

a) Multiply the Utah percent of system factor by the in-service rail cars in the fleet.

b) Multiply the product obtained in F.1.a) by 50 percent.

2. Calculate the number of fleet rail cars allocated to Utah under the time speed factor. The steps for this calculation are as follows.

a) Divide the fleet's Utah car miles by the average rail car miles traveled in Utah per year. The Commission has determined that the average rail car miles traveled in Utah per year shall equal 200,000 miles.

b) Multiply the quotient obtained in F.2.a) by the percent of in-service rail cars in the fleet.

c) Multiply the product obtained in F.2.b) by 50 percent.

3. Add the number of fleet rail cars allocated to Utah under the Utah percent of system factor, calculated in F.1.b), and the number of fleet rail cars allocated to Utah under the time speed factor, calculated in F.2.c), and multiply that sum by the average market value per rail car.

R884-24P-50. Apportioning the Utah Proportion of Commercial Aircraft Valuations Pursuant to Utah Code Ann. Section 59-2-201.

A. Definitions.

1. "Commercial air carrier" means any air charter service, air contract service or airline as defined by Section 59-2-102.

2. "Ground time" means the time period beginning at the time an aircraft lands and ending at the time an aircraft takes off.

B. The commission shall apportion to a tax area the assessment of the mobile flight equipment owned by a commercial air carrier in the proportion that the ground time in the tax area bears to the total ground time in the state.

C. The provisions of this rule shall be implemented and become binding on taxpayers beginning with the 1999 calendar year.

R884-24P-52. Criteria for Determining Primary Residence Pursuant to Utah Code Ann. Sections 59-2-102, 59-2-103, and 59-2-103.5.

(1) "Household" is as defined in Section 59-2-102.

(2) "Primary residence" means the location where domicile has been established.

(3) Except as provided in Subsections (4) and (6)(c) and (f), the residential exemption provided under Section 59-2- 103 is limited to one primary residence per household.

(4) An owner of multiple properties may receive the residential exemption on all properties for which the property is the primary residence of the tenant.

(5) Factors or objective evidence determinative of domicile include:

(a) whether or not the individual voted in the place he claims to be domiciled;

(b) the length of any continuous residency in the location claimed as domicile;

(c) the nature and quality of the living accommodations that an individual has in the location claimed as domicile as opposed to any other location;

(d) the presence of family members in a given location;

(e) the place of residency of the individual's spouse or the state of any divorce of the individual and his spouse;

(f) the physical location of the individual's place of business or sources of income;

(g) the use of local bank facilities or foreign bank institutions;

(h) the location of registration of vehicles, boats, and RVs;

(i) membership in clubs, churches, and other social organizations;

(j) the addresses used by the individual on such things as:

(i) telephone listings;

(ii) mail;

(iii) state and federal tax returns;

(iv) listings in official government publications or other correspondence;

(v) driver's license;

(vi) voter registration; and

(vii) tax rolls;

(k) location of public schools attended by the individual or the individual's dependents;

(l) the nature and payment of taxes in other states;

(m) declarations of the individual:

(i) communicated to third parties;

(ii) contained in deeds;

(iii) contained in insurance policies;

(iv) contained in wills;

(v) contained in letters;

(vi) contained in registers;

(vii) contained in mortgages; and

(viii) contained in leases.

(n) the exercise of civil or political rights in a given location;

(o) any failure to obtain permits and licenses normally required of a resident;

(p) the purchase of a burial plot in a particular location;

(q) the acquisition of a new residence in a different location.

(6) Administration of the Residential Exemption.

(a) Except as provided in Subsections (6)(b), (d), and (e), the first one acre of land per residential unit shall receive the residential exemption.

(b) If a parcel has high density multiple residential units, such as an apartment complex or a mobile home park, the amount of land, up to the first one acre per residential unit, eligible to receive the residential exemption shall be determined by the use of the land. Land actively used for residential purposes qualifies for the exemption.

(c) If the county assessor determines that a property under construction will qualify as a primary residence upon completion, the property shall qualify for the residential exemption while under construction.

(d) A property assessed under the Farmland Assessment Act shall receive the residential exemption only for the homesite.

(e) A property with multiple uses, such as residential and commercial, shall receive the residential exemption only for the percentage of the property that is used as a primary residence.

(f) If the county assessor determines that an unoccupied property will qualify as a primary residence when it is occupied, the property shall qualify for the residential exemption while unoccupied.

(g)(i) An application for the residential exemption required by an ordinance enacted under Section 59-2-103.5 shall contain the following information for the specific property for which the

exemption is requested:

(A) the owner of record of the property;

(B) the property parcel number;

(C) the location of the property;

(D) the basis of the owner's knowledge of the use of the property;

(E) a description of the use of the property;

(F) evidence of the domicile of the inhabitants of the property; and

(G) the signature of all owners of the property certifying that the property is residential property.

(ii) The application under Subsection (6)(g)(i) shall be:

(A) on a form provided by the county; or

(B) in a writing that contains all of the information listed in Subsection (6)(g)(i).

R884-24P-53. 2019 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

(1) Each year the Property Tax Division shall update and publish schedules to determine the taxable value for land subject to the Farmland Assessment Act on a per acre basis.

(a) The schedules shall be based on the productivity of the various types of agricultural land as determined through crop budgets and net rents.

(b) Proposed schedules shall be transmitted by the Property Tax Division to county assessors for comment before adoption.

(c) County assessors may not deviate from the schedules.

(d) Not all types of agricultural land exist in every county. If no taxable value is shown for a particular county in one of the tables, that classification of agricultural land does not exist in that county.

(2) All property qualifying for agricultural use assessment pursuant to Section 59-2-503 shall be assessed on a per acre basis as follows:

(a) Irrigated farmland shall be assessed under the following classifications.

(i) Irrigated I. The following counties shall assess Irrigated I property based upon the per acre values listed below:

TABLE 1
Irrigated I

1)	Box Elder	677
2)	Cache	582
3)	Carbon	451
4)	Davis	719
5)	Emery	427
6)	Iron	683
7)	Kane	357
8)	Millard	674
9)	Salt Lake	616
10)	Utah	641
11)	Washington	557
12)	Weber	694

(ii) Irrigated II. The following counties shall assess Irrigated II property based upon the per acre values listed below:

TABLE 2
Irrigated II

1)	Box Elder	595
2)	Cache	497
3)	Carbon	359
4)	Davis	633
5)	Duchesne	417
6)	Emery	344
7)	Grand	332
8)	Iron	599
9)	Juab	380
10)	Kane	275
11)	Millard	592
12)	Salt Lake	529
13)	Sanpete	460
14)	Sevier	484
15)	Summit	393
16)	Tooele	381
17)	Utah	554
18)	Wasatch	416
19)	Washington	475
20)	Weber	608

(iii) Irrigated III. The following counties shall assess Irrigated III property based upon the per acre values listed below:

TABLE 3
Irrigated III

1)	Beaver	514
2)	Box Elder	468
3)	Cache	376
4)	Carbon	239
5)	Davis	509
6)	Duchesne	292
7)	Emery	216
8)	Garfield	181
9)	Grand	210
10)	Iron	475
11)	Juab	256
12)	Kane	152
13)	Millard	468
14)	Morgan	328
15)	Piute	285
16)	Rich	152
17)	Salt Lake	403
18)	San Juan	146
19)	Sanpete	338
20)	Sevier	360
21)	Summit	269
22)	Tooele	255
23)	Uintah	316
24)	Utah	425
25)	Wasatch	289
26)	Washington	349
27)	Wayne	281
28)	Weber	483

(iv) Irrigated IV. The following counties shall assess Irrigated IV property based upon the per acre values listed below:

TABLE 4
Irrigated IV

1)	Beaver	424
2)	Box Elder	387
3)	Cache	292
4)	Carbon	153
5)	Daggett	162
6)	Davis	425
7)	Duchesne	205
8)	Emery	134
9)	Garfield	97
10)	Grand	127
11)	Iron	389
12)	Juab	170
13)	Kane	68
14)	Millard	380
15)	Morgan	243
16)	Piute	199
17)	Rich	70
18)	Salt Lake	312
19)	San Juan	66
20)	Sanpete	254
21)	Sevier	276
22)	Summit	185
23)	Tooele	174
24)	Uintah	234
25)	Utah	341
26)	Wasatch	206
27)	Washington	263
28)	Wayne	198
29)	Weber	395

(b) Fruit orchards shall be assessed per acre based upon the following schedule:

TABLE 5
Fruit Orchards

1)	Beaver	586
2)	Box Elder	634
3)	Cache	586
4)	Carbon	586
5)	Davis	639
6)	Duchesne	586
7)	Emery	586
8)	Garfield	586
9)	Grand	586
10)	Iron	586
11)	Juab	586
12)	Kane	586
13)	Millard	586
14)	Morgan	586
15)	Piute	586
16)	Salt Lake	586
17)	San Juan	586
18)	Sanpete	586
19)	Sevier	586
20)	Summit	586
21)	Tooele	586
22)	Uintah	586
23)	Utah	644
24)	Wasatch	586
25)	Washington	693
26)	Wayne	586
27)	Weber	639

(c) Meadow IV property shall be assessed per acre based upon the following schedule:

TABLE 6
Meadow IV

1)	Beaver	218
2)	Box Elder	216
3)	Cache	223
4)	Carbon	113
5)	Daggett	134
6)	Davis	226
7)	Duchesne	143
8)	Emery	118
9)	Garfield	89
10)	Grand	115
11)	Iron	225
12)	Juab	130
13)	Kane	93
14)	Millard	166
15)	Morgan	168
16)	Piute	163
17)	Rich	90
18)	Salt Lake	198
19)	Sanpete	167
20)	Sevier	172
21)	Summit	173
22)	Tooele	158
23)	Uintah	177
24)	Utah	214
25)	Wasatch	179
26)	Washington	195
27)	Wayne	147
28)	Weber	259

(d) Dry land shall be classified as one of the following two categories and shall be assessed on a per acre basis as follows:

(i) Dry III. The following counties shall assess Dry III property based upon the per acre values listed below:

TABLE 7
Dry III

1)	Beaver	47
2)	Box Elder	79
3)	Cache	100
4)	Carbon	42
5)	Davis	44
6)	Duchesne	47
7)	Garfield	41
8)	Grand	42
9)	Iron	42
10)	Juab	44
11)	Kane	41
12)	Millard	40
13)	Morgan	55
14)	Rich	41
15)	Salt Lake	47
16)	San Juan	45
17)	Sanpete	47
18)	Summit	41
19)	Tooele	45
20)	Uintah	47
21)	Utah	43
22)	Wasatch	41
23)	Washington	41
24)	Weber	68

(ii) Dry IV. The following counties shall assess Dry IV property based upon the per acre values listed below:

TABLE 8
Dry IV

1)	Beaver	14
2)	Box Elder	50
3)	Cache	70
4)	Carbon	13
5)	Davis	13
6)	Duchesne	16
7)	Garfield	13
8)	Grand	13
9)	Iron	13
10)	Juab	13
11)	Kane	13
12)	Millard	12
13)	Morgan	23
14)	Rich	13
15)	Salt Lake	15
16)	San Juan	17
17)	Sanpete	16
18)	Summit	13
19)	Tooele	13
20)	Uintah	16
21)	Utah	13
22)	Wasatch	13
23)	Washington	12
24)	Weber	38

(e) Grazing land shall be classified as one of the following four categories and shall be assessed on a per acre basis as follows:

(i) Graze 1. The following counties shall assess Graze I property based upon the per acre values listed below:

TABLE 9
GR I

1)	Beaver	65
2)	Box Elder	63
3)	Cache	60
4)	Carbon	45
5)	Daggett	45
6)	Davis	52
7)	Duchesne	59
8)	Emery	61
9)	Garfield	66
10)	Grand	67
11)	Iron	64
12)	Juab	56
13)	Kane	65
14)	Millard	65
15)	Morgan	57
16)	Piute	77
17)	Rich	56
18)	Salt Lake	61
19)	San Juan	63
20)	Sanpete	54
21)	Sevier	56
22)	Summit	62
23)	Tooele	61
24)	Uintah	69
25)	Utah	56
26)	Wasatch	45
27)	Washington	56
28)	Wayne	75
29)	Weber	60

(ii) Graze II. The following counties shall assess Graze II property based upon the per acre values listed below:

TABLE 10
GR II

1)	Beaver	20

2)	Box Elder	20
3)	Cache	19
4)	Carbon	13
5)	Daggett	12
6)	Davis	16
7)	Duchesne	16
8)	Emery	18
9)	Garfield	20
10)	Grand	19
11)	Iron	19
12)	Juab	16
13)	Kane	21
14)	Millard	21
15)	Morgan	18
16)	Piute	22
17)	Rich	17
18)	Salt Lake	18
19)	San Juan	21
20)	Sanpete	15
21)	Sevier	15
22)	Summit	17
23)	Tooele	17
24)	Uintah	24
25)	Utah	20
26)	Wasatch	14
27)	Washington	18
28)	Wayne	24
29)	Weber	17

(iii) Graze III. The following counties shall assess Graze III property based upon the per acre values below:

TABLE 11
GR III

1)	Beaver	15
2)	Box Elder	14
3)	Cache	12
4)	Carbon	11
5)	Daggett	10
6)	Davis	11
7)	Duchesne	12
8)	Emery	12
9)	Garfield	13
10)	Grand	13
11)	Iron	13
12)	Juab	12
13)	Kane	13
14)	Millard	13
15)	Morgan	11
16)	Piute	15
17)	Rich	11
18)	Salt Lake	13
19)	San Juan	14
20)	Sanpete	12
21)	Sevier	12
22)	Summit	12
23)	Tooele	12
24)	Uintah	16
25)	Utah	12
26)	Wasatch	11
27)	Washington	11
28)	Wayne	15
29)	Weber	12

(iv) Graze IV. The following counties shall assess Graze IV property based upon the per acre values listed below:

TABLE 12
GR IV

1)	Beaver	5
2)	Box Elder	5
3)	Cache	5
4)	Carbon	5
5)	Daggett	5
6)	Davis	5
7)	Duchesne	5
8)	Emery	5
9)	Garfield	5
10)	Grand	5
11)	Iron	5
12)	Juab	5
13)	Kane	5
14)	Millard	5
15)	Morgan	5
16)	Piute	5
17)	Rich	5
18)	Salt Lake	5
19)	San Juan	5
20)	Sanpete	5
21)	Sevier	5
22)	Summit	5
23)	Tooele	5
24)	Uintah	5
25)	Utah	5
26)	Wasatch	5
27)	Washington	5
28)	Wayne	5
29)	Weber	5

(f) Land classified as nonproductive shall be assessed as follows on a per acre basis:

TABLE 13
Nonproductive Land

Nonproductive Land		
1)	All Counties	5

R884-24P-55. Counties to Establish Ordinance for Tax Sale Procedures Pursuant to Utah Code Ann. Section 59-2-1351.1.

A. "Collusive bidding" means any agreement or understanding reached by two or more parties that in any way alters the bids the parties would otherwise offer absent the agreement or understanding.

B. Each county shall establish a written ordinance for real property tax sale procedures.

C. The written ordinance required under B. shall be displayed in a public place and shall be available to all interested parties.

D. The tax sale ordinance shall address, as a minimum, the following issues:

1. bidder registration procedures;
2. redemption rights and procedures;
3. prohibition of collusive bidding;
4. conflict of interest prohibitions and disclosure requirements;
5. criteria for accepting or rejecting bids;
6. sale ratification procedures;
7. criteria for granting bidder preference;
8. procedures for recording tax deeds;
9. payments methods and procedures;
10. procedures for contesting bids and sales;
11. criteria for striking properties to the county;
12. procedures for disclosing properties withdrawn from the sale for reasons other than redemption; and
13. disclaimers by the county with respect to sale procedures and actions.

R884-24P-56. Assessment, Collection, and Apportionment of Property Tax on Commercial Transportation Property Pursuant to Utah Code Ann. Sections 41-1a-301 and 59-2-801.

A. For purposes of Section 59-2-801, the previous year's statewide rate shall be calculated as follows:

1. Each county's overall tax rate is multiplied by the county's percent of total lane miles of principal routes.

2. The values obtained in A.1. for each county are summed to arrive at the statewide rate.

B. The assessment of vehicles apportioned under Section 41-1a-301 shall be apportioned at the same percentage ratio that has been filed with the Motor Vehicle Division of the State Tax Commission for determining the proration of registration fees.

C. For purposes of Section 59-2-801(2), principal route means lane miles of interstate highways and clover leafs, U.S. highways, and state highways extending through each county as determined by the Commission from current state Geographic Information System databases.

R884-24P-57. Judgment Levies Pursuant to Utah Code Ann. Sections 59-2-918.5, 59-2-924, 59-2-1328, and 59-2-1330.

(1) Definitions.

(a) "Issued" means the date on which the judgment is signed.

(b) "2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year" includes any revenues collected by a judgment levy imposed in the prior year.

(2) A taxing entity's share of a judgment or order shall include the taxing entity's share of any interest that must be paid with the judgment or order.

(3) The judgment levy public hearing required by Section 59-2-918.5 shall be held as follows:

(a) For taxing entities operating under a July 1 through June 30 fiscal year, the public hearing shall be held at least 10 days after the Notice of Property Valuation and Tax Changes is mailed.

(b) For taxing entities operating under a January 1 through December 31 fiscal year:

(i) for judgments issued from the prior March 1 through September 15, the public hearing shall be held at the same time as the hearing at which the annual budget is adopted;

(ii) for judgments issued from the prior September 16 through the last day of February, the public hearing shall be held at least 10 days after the Notice of Property Valuation and Tax Changes is mailed.

(c) If the taxing entity is required to hold a hearing under Section 59-2-919, the judgment levy hearing required by Subsections (3)(a) and (3)(b)(ii) shall be held at the same time as the hearing required under Section 59-2-919.

(4) If the Section 59-2-918.5 advertisement is combined with the Section 59-2-919 advertisement, the combined advertisement shall aggregate the general tax increase and judgment levy information.

(5) In the case of taxing entities operating under a January 1 through December 31 fiscal year, the advertisement for judgments issued from the previous December 16 through May 31 shall include any judgments issued from the previous June 1 through December 15 that the taxing entity advertised and budgeted for at its December budget hearing.

(6) All taxing entities imposing a judgment levy shall file with the commission a signed statement certifying that all judgments for which the judgment levy is imposed have met the statutory requirements for imposition of a judgment levy.

(a) The signed statement shall contain the following information for each judgment included in the judgment levy:

(i) the name of the taxpayer awarded the judgment;

(ii) the appeal number of the judgment; and

(iii) the taxing entity's pro rata share of the judgment.

(b) Along with the signed statement, the taxing entity must provide the commission the following:

(i) a copy of all judgment levy newspaper advertisements required;

(ii) the dates all required judgment levy advertisements were published in the newspaper;

(iii) a copy of the final resolution imposing the judgment levy;

(iv) a copy of the Notice of Property Valuation and Tax Changes, if required; and

(v) any other information required by the commission.

(7) The provisions of House Bill 268, Truth in Taxation - Judgment Levy (1999 General Session), do not apply to judgments issued prior to January 1, 1999.

R884-24P-58. One-Time Decrease in Certified Rate Based on Estimated County Option Sales Tax Pursuant to Utah Code Ann. Section 59-2-924.

A. The estimated sales tax revenue to be distributed to a county under Section 59-12-1102 shall be determined based on the following formula:

1. sharedown of the commission's sales tax econometric model based on historic patterns, weighted 40 percent;

2. time series models, weighted 40 percent; and

3. growth rate of actual taxable sales occurring from January 1 through March 31 of the year a tax is initially imposed under Title 59, Chapter 12, Part 11, County Option Sales and Use Tax, weighted 20 percent.

R884-24P-59. One-Time Decrease in Certified Rate Based on Estimated Additional Resort Communities Sales Tax Pursuant to Utah Code Ann. Section 59-2-924.

A. The estimated additional resort communities sales tax revenue to be distributed to a municipality under Section 59-12-402 shall be determined based on the following formula:

1. time series model, econometric model, or simple average, based upon the availability of and variation in the data, weighted 75 percent; and

2. growth rate of actual taxable sales occurring from January 1 through March 31 of the year a tax is initially imposed under Section 59-12-402, weighted 25 percent.

R884-24P-60. Age-Based Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Section 59-2-405.1.

A. For purposes of Section 59-2-405.1, "motor vehicle" is as defined in Section 41-1a-102, except that motor vehicle does not include motorcycles as defined in Section 41-1a-102.

B. The uniform fee established in Section 59-2-405.1 is levied against motor vehicles and state-assessed commercial vehicles classified under Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans, in Tax Commission rule R884-24P- 33.

C. Personal property subject to the uniform fee imposed in Section 59-2-405 is not subject to the Section 59-2-405.1 uniform fee.

D. The following classes of personal property are not subject to the Section 59-2-405.1 uniform fee, but remain subject to the ad valorem property tax:

1. vintage vehicles;

2. state-assessed commercial vehicles not classified under Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans;

3. any personal property that is neither required to be registered nor exempt from the ad valorem property tax;

4. mobile and manufactured homes;

5. machinery or equipment that can function only when attached to or used in conjunction with motor vehicles or state-assessed commercial vehicles.

E. The age of a motor vehicle or state-assessed commercial vehicle, for purposes of Section 59-2-405.1, shall be determined by subtracting the vehicle model year from the current calendar year.

F. The only Section 59-2-405.1 uniform fee due upon registration or renewal of registration is the uniform fee calculated based on the age of the vehicle under E. on the first day of the registration period for which the registrant:

1. in the case of an original registration, registers the vehicle; or

2. in the case of a renewal of registration, renews the registration of the vehicle in accordance with Section 41-1a-216.

G. Centrally assessed taxpayers shall use the following formula to determine the value of locally assessed motor vehicles that may be deducted from the allocated unit valuation:

1. Divide the system value by the book value to determine the market to book ratio.

2. Multiply the market to book ratio by the book value of motor vehicles registered in Utah and subject to Section 59-2-

405.1 to determine the value of motor vehicles that may be subtracted from the allocated unit value.

H. The motor vehicle of a nonresident member of the armed forces stationed in Utah may be registered in Utah without payment of the Section 59-2-405.1 uniform fee.

I. A motor vehicle belonging to a Utah resident member of the armed forces stationed in another state is not subject to the Section 59-2-405.1 uniform fee at the time of registration or renewal of registration as long as the motor vehicle is kept in the other state.

J. The situs of a motor vehicle or state-assessed commercial vehicle subject to the Section 59-2-405.1 uniform fee is determined in accordance with Section 59-2-104. Situs of purchased motor vehicles or state-assessed commercial vehicles shall be the tax area of the purchaser's domicile, unless the motor vehicle or state-assessed commercial vehicle will be kept in a tax area other than the tax area of the purchaser's domicile for more than six months of the year.

1. If an assessor discovers a motor vehicle or state-assessed commercial vehicle that is kept in the assessor's county but registered in another, the assessor may submit an affidavit along with evidence that the vehicle is kept in that county to the assessor of the county in which the vehicle is registered. Upon agreement, the assessor of the county of registration shall forward the fee collected to the county of situs within 30 working days.

2. If the owner of a motor vehicle or state-assessed commercial vehicle registered in Utah is domiciled outside of Utah, the taxable situs of the vehicle is presumed to be the county in which the uniform fee was paid, unless an assessor's affidavit establishes otherwise.

3. The Tax Commission shall, on an annual basis, provide each county assessor information indicating all motor vehicles and state-assessed commercial vehicles subject to state registration and their corresponding taxable situs.

4. Section 59-2-405.1 uniform fees received by a county that require distribution to a purchaser's domicile outside of that county shall be deposited into an account established by the Commission, pursuant to procedures prescribed by the Commission.

5. Section 59-2-405.1 uniform fees received by the Commission pursuant to J.4. shall be distributed to the appropriate county at least monthly.

K. The blind exemption provided in Section 59-2-1106 is applicable to the Section 59-2-405.1 uniform fee.

L. The veteran's exemption provided in Section 59-2-1104 is applicable to the Section 59-2-405.1 uniform fee.

M. The value of motor vehicles and state-assessed commercial vehicles to be considered part of the tax base for purposes of determining debt limitations pursuant to Article XIII, Section 14 of the Utah Constitution, shall be determined by dividing the Section 59-2-405.1 uniform fee collected by .015.

N. The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, 1999.

R884-24P-61. 1.5 Percent Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Section 59-2-405.

A. Definitions.

1. For purposes of Section 59-2-405, "motor vehicle" is as defined in Section 41-1a-102, except that motor vehicle does not include motorcycles as defined in Section 41-1a-102.

2. "Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, which is either self-propelled or pulled by another vehicle.

a) Recreational vehicle includes a travel trailer, a camping trailer, a motor home, and a fifth wheel trailer.

b) Recreational vehicle does not include a van unless specifically designed or modified for use as a temporary dwelling.

B. The uniform fee established in Section 59-2-405 is levied against the following types of personal property, unless specifically excluded by Section 59-2-405:

1. motor vehicles that are not classified under Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans, in Tax Commission rule R884-24P-33;

2. watercraft required to be registered with the state;

3. recreational vehicles required to be registered with the state; and

4. all other tangible personal property required to be registered with the state before it is used on a public highway, on a public waterway, on public land, or in the air.

C. The following classes of personal property are not subject to the Section 59-2-405 uniform fee, but remain subject to the ad valorem property tax:

1. vintage vehicles;

2. state-assessed commercial vehicles not classified under Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans;

3. any personal property that is neither required to be registered nor exempt from the ad valorem property tax;

4. machinery or equipment that can function only when attached to or used in conjunction with motor vehicles.

D. The fair market value of tangible personal property subject to the Section 59-2-405 uniform fee is based on depreciated cost new as established in Tax Commission rule R884-24P-33, "Personal Property Valuation Guides and Schedules," published annually by the Tax Commission.

E. Centrally assessed taxpayers shall use the following formula to determine the value of locally assessed personal property that may be deducted from the allocated unit valuation:

1. Divide the system value by the book value to determine the market to book ratio.

2. Multiply the market to book ratio by the book value of personal property registered in Utah and subject to Section 59-2- 405 to determine the value of personal property that may be subtracted from the allocated unit value.

F. If a property's valuation is appealed to the county board of equalization under Section 59-2-1005, the property shall become subject to a total revaluation. All adjustments are made on the basis of their effect on the property's average retail value as of the January 1 lien date and according to Tax Commission rule R884-24P-33.

G. The county assessor may change the fair market value of any individual item of personal property in his jurisdiction for any of the following reasons:

1. The manufacturer's suggested retail price ("MSRP") or the cost new was not included on the state printout, computer tape, or registration card;

2. The MSRP or cost new listed on the state records was inaccurate; or

3. In the assessor's judgment, an MSRP or cost new adjustment made as a result of a property owner's informal request will continue year to year on a percentage basis.

H. If the personal property is of a type subject to annual registration, the Section 59-2-405 uniform fee is due at the time the registration is due. If the personal property is not registered during the year, the owner remains liable for payment of the Section 59-2-405 uniform fee to the county assessor.

1. No additional uniform fee may be levied upon personal property transferred during a calendar year if the Section 59-2-405 uniform fee has been paid for that calendar year.

2. If the personal property is of a type registered for periods in excess of one year, the Section 59-2-405 uniform fee shall be due annually.

3. The personal property of a nonresident member of the

armed forces stationed in Utah may be registered in Utah without payment of the Section 59-2-405 uniform fee.

4. Personal property belonging to a Utah resident member of the armed forces stationed in another state is not subject to the Section 59-2-405 uniform fee as long as the personal property is kept in another state.

5. Noncommercial trailers weighing 750 pounds or less are not subject to the Section 59-2-405 uniform fee or ad valorem property tax but may be registered at the request of the owner.

I. If the personal property is of a type subject to annual registration, registration of that personal property may not be completed unless the Section 59-2-405 uniform fee has been paid, even if the taxpayer is appealing the uniform fee valuation. Delinquent fees may be assessed in accordance with Sections 59-2- 217 and 59-2-309 as a condition precedent to registration.

J. The situs of personal property subject to the Section 59-2-405 uniform fee is determined in accordance with Section 59-2- 104. Situs of purchased personal property shall be the tax area of the purchaser's domicile, unless the personal property will be kept in a tax area other than the tax area of the purchaser's domicile for more than six months of the year.

1. If an assessor discovers personal property that is kept in the assessor's county but registered in another, the assessor may submit an affidavit along with evidence that the property is kept in that county to the assessor of the county in which the personal property is registered. Upon agreement, the assessor of the county of registration shall forward the fee collected to the county of situs within 30 working days.

2. If the owner of personal property registered in Utah is domiciled outside of Utah, the taxable situs of the property is presumed to be the county in which the uniform fee was paid, unless an assessor's affidavit establishes otherwise.

3. The Tax Commission shall, on an annual basis, provide each county assessor information indicating all personal property subject to state registration and its corresponding taxable situs.

4. Section 59-2-405 uniform fees received by a county that require distribution to a purchaser's domicile outside of that county shall be deposited into an account established by the Commission, pursuant to procedures prescribed by the Commission.

5. Section 59-2-405 uniform fees received by the Commission pursuant to J.4. shall be distributed to the appropriate county at least monthly.

K. The blind exemption provided in Section 59-2-1106 is applicable to the Section 59-2-405 uniform fee.

L. The veteran's exemption provided in Section 59-2-1104 is applicable to the Section 59-2-405 uniform fee.

M. The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, 1999.

R884-24P-62. Valuation of State Assessed Unitary Properties Pursuant to Utah Code Ann. Section 59-2-201.

(1) Purpose. The purpose of this rule is to:

(a) specify consistent mass appraisal methodologies to be used by the Property Tax Division (Division) in the valuation of tangible property assessable by the Commission; and

(b) identify preferred valuation methodologies to be considered by any party making an appraisal of an individual unitary property.

(2) Definitions:

(a) "Cost regulated utility" means any public utility assessable by the Commission whose allowed revenues are determined by a rate of return applied to a rate base set by a state or federal regulatory commission.

(b) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. Fair market value reflects the value of property at its highest and best use, subject to regulatory constraints.

(c) "Rate base" means the aggregate account balances reported as such by the cost regulated utility to the applicable state or federal regulatory commission.

(d) "Unitary property" means operating property that is assessed by the Commission pursuant to Section 59-2-201(1)(a) through (c).

(i) Unitary properties include:

(A) all property that operates as a unit across county lines, if the values must be apportioned among more than one county or state; and

(B) all property of public utilities as defined in Section 59-2-102.

(ii) These properties, some of which may be cost regulated utilities, are defined under one of the following categories.

(A) "Telecommunication properties" include the operating property of local exchange carriers, local access providers, long distance carriers, cellular telephone or personal communication service (PCS) providers and pagers, and other similar properties.

(B) "Energy properties" include the operating property of natural gas pipelines, natural gas distribution companies, liquid petroleum products pipelines, and electric corporations, including electric generation, transmission, and distribution companies, and other similar entities.

(C) "Transportation properties" include the operating property of all airlines, air charter services, air contract services, including major and small passenger carriers and major and small air freighters, long haul and short line railroads, and other similar properties.

(3) All tangible operating property owned, leased, or used by unitary companies is subject to assessment and taxation according to its fair market value as of January 1, and as provided in Utah Constitution Article XIII, Section 2. Intangible property as defined under Section 59-2-102 is not subject to assessment and taxation.

(4) General Valuation Principles. Unitary properties shall be assessed at fair market value based on generally accepted appraisal theory as provided under this rule.

(a) The assemblage or enhanced value attributable to the tangible property should be included in the assessed value. See Beaver County v. WilTel, Inc., 995 P.2d 602 (Utah 2000). The value attributable to intangible property must, when possible, be identified and removed from value when using any valuation method and before that value is used in the reconciliation process.

(b) The preferred methods to determine fair market value are the cost approach and a yield capitalization income indicator as set forth in Subsection (5).

(i) Other generally accepted appraisal methods may also be used when it can be demonstrated that such methods are necessary to more accurately estimate fair market value.

(ii) Direct capitalization and the stock and debt method typically capture the value of intangible property at higher levels than other methods. To the extent intangible property cannot be identified and removed, relatively less weight shall be given to such methods in the reconciliation process, as set forth in Subsection (5)(d).

(iii) Preferred valuation methods as set forth in this rule are, unless otherwise stated, rebuttable presumptions, established for purposes of consistency in mass appraisal. Any party challenging a preferred valuation method must demonstrate, by a preponderance of evidence, that the proposed alternative establishes a more accurate estimate of fair market value.

(c) Non-operating Property. Property that is not necessary to the operation of unitary properties and is assessed by a local county assessor, and property separately assessed by the

Division, such as registered motor vehicles, shall be removed from the correlated unit value or from the state allocated value.

(5) Appraisal Methodologies.

(a) Cost Approach. Cost is relevant to value under the principle of substitution, which states that no prudent investor would pay more for a property than the cost to construct a substitute property of equal desirability and utility without undue delay. A cost indicator may be developed under one or more of the following methods: replacement cost new less depreciation (RCNLD), reproduction cost less depreciation (reproduction cost), and historic cost less depreciation (HCLD).

(i) "Depreciation" is the loss in value from any cause. Different professions recognize two distinct definitions or types of depreciation.

(A) Accounting. Depreciation, often called "book" or "accumulated" depreciation, is calculated according to generally accepted accounting principles or regulatory guidelines. It is the amount of capital investment written off on a firm's accounting records in order to allocate the original or historic cost of an asset over its life. Book depreciation is typically applied to historic cost to derive HCLD.

(B) Appraisal. Depreciation, sometimes referred to as "accrued" depreciation, is the difference between the market value of an improvement and its cost new. Depreciation is typically applied to replacement or reproduction cost, but should be applied to historic cost if market conditions so indicate. There are three types of depreciation:

(I) Physical deterioration results from regular use and normal aging, which includes wear and tear, decay, and the impact of the elements.

(II) Functional obsolescence is caused by internal property characteristics or flaws in the structure, design, or materials that diminish the utility of an improvement.

(III) External, or economic, obsolescence is an impairment of an improvement due to negative influences from outside the boundaries of the property, and is generally incurable. These influences usually cannot be controlled by the property owner or user.

(ii) Replacement cost is the estimated cost to construct, at current prices, a property with utility equivalent to that being appraised, using modern materials, current technology and current standards, design, and layout. The use of replacement cost instead of reproduction cost eliminates the need to estimate some forms of functional obsolescence.

(iii) Reproduction cost is the estimated cost to construct, at current prices, an exact duplicate or replica of the property being assessed, using the same materials, construction standards, design, layout and quality of workmanship, and embodying any functional obsolescence.

(iv) Historic cost is the original construction or acquisition cost as recorded on a firm's accounting records. Depending upon the industry, it may be appropriate to trend HCLD to current costs. Only trending indexes commonly recognized by the specific industry may be used to adjust HCLD.

(v) RCNLD may be impractical to implement; therefore the preferred cost indicator of value in a mass appraisal environment for unitary property is HCLD. A party may challenge the use of HCLD by proposing a different cost indicator that establishes a more accurate cost estimate of value.

(b) Income Capitalization Approach. Under the principle of anticipation, benefits from income in the future may be capitalized into an estimate of present value.

(i) Yield Capitalization. The yield capitalization formula is CF/(k-g), where "CF" is a single year's normalized cash flow, "k" is the nominal, risk adjusted discount or yield rate, and "g" is the expected growth rate of the cash flow.

(A) Cash flow is restricted to the operating property in existence on the lien date, together with any replacements intended to maintain, but not expand or modify, existing capacity or function. Cash flow is calculated as net operating income (NOI) plus non-cash charges (e.g., depreciation and deferred income taxes), less capital expenditures and additions to working capital necessary to achieve the expected growth "g". Information necessary for the Division to calculate the cash flow shall be summarized and submitted to the Division by March 1 on a form provided by the Division.

(I) NOI is defined as net income plus interest.

(II) Capital expenditures should include only those necessary to replace or maintain existing plant and should not include any expenditure intended primarily for expansion or productivity and capacity enhancements.

(III) Cash flow is to be projected for the year immediately following the lien date, and may be estimated by reviewing historic cash flows, forecasting future cash flows, or a combination of both.

(Aa) If cash flows for a subsidiary company are not available or are not allocated on the parent company's cash flow statements, a method of allocating total cash flows must be developed based on sales, fixed assets, or other reasonable criteria. The subsidiary's total is divided by the parent's total to derive the allocation percentage to estimate the subsidiary's cash flow.

(Bb) If the subject company does not provide the Commission with its most recent cash flow statements by March 1 of the assessment year, the Division may estimate cash flow using the best information available.

(B) The discount rate (k) shall be based upon a weighted average cost of capital (WACC) considering current market debt rates and equity yields. WACC should reflect a typical capital structure for comparable companies within the industry.

(I) The cost of debt should reflect the current market rate (yield to maturity) of debt with the same credit rating as the subject company.

(II) The cost of equity is estimated using standard methods such as the capital asset pricing model (CAPM), the Risk Premium and Dividend Growth models, or other recognized models.

(Aa) The CAPM is the preferred method to estimate the cost of equity. More than one method may be used to correlate a cost of equity, but only if the CAPM method is weighted at least 50% in the correlation.

(Bb) The CAPM formula is k(e) = R(f) + (Beta x Risk Premium), where k(e) is the cost of equity and R(f) is the risk free rate.

(Cc) The risk free rate shall be the current market rate on 20-year Treasury bonds.

(Dd) The beta should reflect an average or value-weighted average of comparable companies and should be drawn consistently from Value Line or an equivalent source. The beta of the specific assessed property should also be considered.

(Ee) The risk premium shall be the arithmetic average of the spread between the return on stocks and the income return on long term bonds for the entire historical period contained in the Ibbotson Yearbook published immediately following the lien date.

(C) The growth rate "g" is the expected future growth of the cash flow attributable to assets in place on the lien date, and any future replacement assets.

(I) If insufficient information is available to the Division, either from public sources or from the taxpayer, to determine a rate, "g" will be the expected inflationary rate in the Gross Domestic Product Price Deflator obtained in Value Line. The growth rate and the methodology used to produce it shall be disclosed in a capitalization rate study published by the Commission by February 15 of the assessment year.

(ii) A discounted cash flow (DCF) method may be impractical to implement in a mass appraisal environment, but may be used when reliable cash flow estimates can be

established.

(A) A DCF model should incorporate for the terminal year, and to the extent possible for the holding period, growth and discount rate assumptions that would be used in the yield capitalization method defined under Subsection (5)(b)(i).

(B) Forecasted growth may be used where unusual income patterns are attributed to

(I) unused capacity;

(II) economic conditions; or

(III) similar circumstances.

(C) Growth may not be attributed to assets not in place as of the lien date.

(iii) Direct Capitalization is an income technique that converts an estimate of a single year's income expectancy into an indication of value in one direct step, either by dividing the normalized income estimate by a capitalization rate or by multiplying the normalized income estimate by an income factor.

(c) Market or Sales Comparison Approach. The market value of property is directly related to the prices of comparable, competitive properties. The market approach is estimated by comparing the subject property to similar properties that have recently sold.

(I) Sales of comparable property must, to the extent possible, be adjusted for elements of comparison, including market conditions, financing, location, physical characteristics, and economic characteristics. When considering the sales of stock, business enterprises, or other properties that include intangible assets, adjustments must be made for those intangibles.

(II) Because sales of unitary properties are infrequent, a stock and debt indicator may be viewed as a surrogate for the market approach. The stock and debt method is based on the accounting principle which holds that the market value of assets equal the market value of liabilities plus shareholder's equity.

(d) Reconciliation. When reconciling value indicators into a final estimate of value, the appraiser shall take into consideration the availability, quantity, and quality of data, as well as the strength and weaknesses of each value indicator. Weighting percentages used to correlate the value approaches will generally vary by industry, and may vary by company if evidence exists to support a different weighting. The Division must disclose in writing the weighting percentages used in the reconciliation for the final assessment. Any departure from the prior year's weighting must be explained in writing.

(6) Property Specific Considerations. Because of unique characteristics of properties and industries, modifications or alternatives to the general value indicators may be required for specific industries.

(a) Cost Regulated Utilities.

(i) HCLD is the preferred cost indicator of value for cost regulated utilities because it represents an approximation of the basis upon which the investor can earn a return. HCLD is calculated by taking the historic cost less depreciation as reflected in the utility's net plant accounts, and then:

(A) subtracting intangible property;

(B) subtracting any items not included in the utility's rate base (e.g., deferred income taxes and, if appropriate, acquisition adjustments); and

(C) adding any taxable items not included in the utility's net plant account or rate base.

(ii) Deferred Income Taxes, also referred to as DFIT, is an accounting entry that reflects the difference between the use of accelerated depreciation for income tax purposes and the use of straight-line depreciation for financial statements. For traditional rate base regulated companies, regulators generally exclude deferred income taxes from rate base, recognizing it as ratepayer contributed capital. Where rate base is reduced by deferred income taxes for rate base regulated companies, they shall be removed from HCLD.

(iii) Items excluded from rate base under Subsections (6)(a)(i)(A) or (B) should not be subtracted from HCLD to the extent it can be shown that regulators would likely permit the rate base of a potential purchaser to include a premium over existing rate base.

(b)(i) Railroads.

(ii) The cost indicator should generally be given little or no weight because there is no observable relationship between cost and fair market value.

(c) Airlines, air charter services, and air contract services.

(i) For purposes of this Subsection (6)(c):

(A) "aircraft pricing guide" means a nationally recognized publication that assigns value estimates for individual commercial aircraft that are in average condition typical for their type and vintage, and identified by year, make and model;

(B) "airline" means an:

(I) airline under Section 59-2-102;

(II) air charter service under Section 59-2-102; and

(III) air contract service under Section 59-2-102;

(C) "airline market indicator" means an estimate of value based on an aircraft pricing guide; and

(D) "non-mobile flight equipment" means all operating property of an airline, air charter service, or air contract service that is not within the definition of mobile flight equipment under Section 59-2-102.

(ii) In situations where the use of preferred methods for determining fair market value under Subsection (5) does not produce a reasonable estimate of the fair market value of the property of an airline operating as a unit, an airline market indicator published in an aircraft pricing guide, and adjusted as provided in Subsections (6)(c)(ii)(A) and (6)(c)(ii)(B), may be used to estimate the fair market value of the airline property.

(A)(I) In order to reflect the value of a fleet of aircraft as part of an operating unit, an aircraft market indicator shall include a fleet adjustment or equivalent valuation for a fleet.

(II) If a fleet adjustment is provided in an aircraft pricing guide, the adjustment under Subsection (6)(c)(ii)(A)(I) shall follow the directions in that guide. If no fleet adjustment is provided in an aircraft pricing guide, the standard adjustment under Subsection (6)(c)(ii)(A)(I) shall be 20 percent from a wholesale value or equivalent level of value as published in the guide.

(B) Non-mobile flight equipment shall be valued using the cost approach under Subsection (5)(a) or the market or sales comparison approach under Subsection (5)(c), and added to the value of the fleet.

(iii) An income capitalization approach under Subsection (5)(b) shall incorporate the information available to make an estimate of future cash flows.

(iv)(A) When an aircraft market indicator under Subsection (6)(c)(ii) is used to estimate the fair market value of an airline, the Division shall:

(I) calculate the fair market value of the airline using the preferred methods under Subsection (5);

(II) retain the calculations under Subsection (6)(c)(iv)(A)(I) in the work files maintained by the Division; and

(III) include the amounts calculated under Subsection (6)(c)(iv)(A)(I) in any appraisal report that is produced in association with an assessment issued by the Division.

(B) When an aircraft market indicator under Subsection (6)(c)(ii) is used, the Division shall justify in any appraisal report issued with an assessment why the preferred methods under Subsection (5) were not used.

(v)(A) When the preferred methods under Subsection (5) are used to estimate the fair market value of an airline, the Division shall:

(I) calculate an aircraft market indicator under Subsection

(6)(c)(ii);

(II) retain the calculations under Subsection (6)(c)(v)(A)(I) in the work files maintained by the Division; and

(III) include the amounts calculated under Subsection (6)(c)(v)(A)(I) in any appraisal report that is produced in association with an assessment issued by the Division.

(B) Value estimates from an aircraft pricing guide under Subsection (6)(c)(i)(A) along with the valuation of non-mobile flight equipment under Subsection (6)(c)(ii)(B) shall, when possible, also be included in an assessment or appraisal report for purposes of comparison.

(C) Reasons for not including a value estimate required under Subsection (6)(c)(v)(B) include:

(I) failure to file a return; or

(II) failure to identify specific aircraft.

R884-24P-63. Performance Standards and Training Requirements Pursuant to Utah Code Ann. Section 59-2-406.

A. The party contracting to perform services shall develop a written customer service performance plan within 60 days after the contract for performance of services is signed.

1. The customer service performance plan shall address:

a) procedures the contracting party will follow to minimize the time a customer waits in line; and

b) the manner in which the contracting party will promote alternative methods of registration.

2. The party contracting to perform services shall provide a copy of its customer service performance plan to the party for whom it provides services.

3. The party for whom the services are provided may, no more often than semiannually, audit the contracting party's performance based on its customer service performance plan, and may report the results of the audit to the county commission or the state tax commissioners, as applicable.

B. Each county office contracting to perform services shall conduct initial training of its new employees.

C. The Tax Commission shall provide regularly scheduled training for all county offices contracting to perform motor vehicle functions.

R884-24P-64. Determination and Application of Taxable Value for Purposes of the Property Tax Exemptions for Veterans With a Disability and the Blind Pursuant to Utah Code Ann. Sections 59-2-1104 and 59-2-1106.

For purposes of Sections 59-2-1104 and 59-2-1106, the taxable value of tangible personal property subject to a uniform fee under Sections 59-2-405.1 or 59-2-405.2 shall be calculated by dividing the uniform fee the tangible personal property is subject to by .015.

R884-24P-65. Assessment of Transitory Personal Property Pursuant to Utah Code Ann. Section 59-2-402.

A. "Transitory personal property"means tangible personal property that is used or operated primarily at a location other than a fixed place of business of the property owner or lessee.

B. Transitory personal property in the state on January 1 shall be assessed at 100 percent of fair market value.

C. Transitory personal property that is not in the state on January 1 is subject to a proportional assessment when it has been in the state for 90 consecutive days in a calendar year.

1. The determination of whether transitory personal property has been in the state for 90 consecutive days shall include the days the property is outside the state if, within 10 days of its removal from the state, the property is:

a) brought back into the state; or

b) substituted with transitory personal property that performs the same function.

D. Once transitory personal property satisfies the conditions under C., tax shall be proportionally assessed for the period:

1. beginning on the first day of the month in which the property was brought into Utah; and

2. for the number of months remaining in the calendar year.

E. An owner of taxable transitory personal property who removes the property from the state prior to December and who qualifies for a refund of taxes assessed and paid, shall receive a refund based on the number of months remaining in the calendar year at the time the property is removed from the state and for which the tax has been paid.

1. The refund provisions of this subsection apply to transitory personal property taxes assessed under B. and C.

2. For purposes of determining the refund under this subsection, any portion of a month remaining shall be counted as a full month.

F. If tax has been paid for transitory personal property and that property is subsequently moved to another county in Utah:

1. No additional assessment may be imposed by any county to which the property is subsequently moved; and

2. No portion of the assessed tax may be transferred to the subsequent county.

R884-24P-66. County Board of Equalization Procedures and Appeals Pursuant to Utah Code Ann. Sections 59-2-1001 and 59-2-1004.

(1)(a) "Factual error" means an error that is:

(i) objectively verifiable without the exercise of discretion, opinion, or judgment;

(ii) demonstrated by clear and convincing evidence; and

(iii) agreed upon by the taxpayer and the assessor.

(b) Factual error includes:

(i) a mistake in the description of the size, use, or ownership of a property;

(ii) a clerical or typographical error in reporting or entering the data used to establish valuation or equalization;

(iii) an error in the classification of a property that is eligible for a property tax exemption under:

(A) Section 59-2-103; or

(B) Title 59, Chapter 2, Part 11;

(iv) an error in the classification of a property that is eligible for assessment under Title 59, Chapter 2, Part 5;

(v) valuation of a property that is not in existence on the lien date; and

(vi) a valuation of a property assessed more than once, or by the wrong assessing authority.

(c) Factual error does not include:

(i) an alternative approach to value;

(ii) a change in a factor or variable used in an approach to value; or

(iii) any other adjustment to a valuation methodology.

(2) To achieve standing with the county board of equalization and have a decision rendered on the merits of the case, the taxpayer shall provide the following minimum information to the county board of equalization:

(a) the name and address of the property owner;

(b) the identification number, location, and description of the property;

(c) the value placed on the property by the assessor;

(d) the taxpayer's estimate of the fair market value of the property;

(e) evidence or documentation that supports the taxpayer's claim for relief; and

(f) the taxpayer's signature.

(3) If the evidence or documentation required under Subsection (2)(e) is not attached, the county will notify the taxpayer in writing of the defect in the claim and permit at least ten calendar days to cure the defect before dismissing the matter for lack of sufficient evidence to support the claim for relief.

(4) If the taxpayer appears before the county board of equalization and fails to produce the evidence or documentation described under Subsection (2)(e) and the county has notified the taxpayer under Subsection (3), the county may dismiss the matter for lack of evidence to support a claim for relief.

(5) If the information required under Subsection (2) is supplied, the county board of equalization shall render a decision on the merits of the case.

(6) The county board of equalization may dismiss an appeal for lack of jurisdiction when the claimant limits arguments to issues not under the jurisdiction of the county board of equalization.

(7) The county board of equalization shall prepare and maintain a record of the appeal.

(a) For appeals concerning property value, the record shall include:

(i) the name and address of the property owner;

(ii) the identification number, location, and description of the property;

(iii) the value placed on the property by the assessor;

(iv) the basis for appeal stated in the taxpayer's appeal;

(v) facts and issues raised in the hearing before the county board that are not clearly evident from the assessor's records; and

(vi) the decision of the county board of equalization and the reasons for the decision.

(b) The record may be included in the minutes of the hearing before the county board of equalization.

(8)(a) The county board of equalization shall notify the taxpayer in writing of its decision.

(b) The notice required under Subsection (8)(a) shall include:

(i) the name and address of the property owner;

(ii) the identification number of the property;

(iii) the date the notice was sent;

(iv) a notice of appeal rights to the commission; and

(v) a statement of the decision of the county board of equalization; or

(vi) a copy of the decision of the county board of equalization.

(9) A county shall maintain a copy of a notice sent to a taxpayer under Subsection (8).

(10) If a decision affects the exempt status of a property, the county board of equalization shall prepare its decision in writing, stating the reasons and statutory basis for the decision.

(11) Decisions by the county board of equalization are final orders on the merits.

(12) Except as provided in Subsection (14), a county board of equalization shall accept an application to appeal the valuation or equalization of a property owner's real property that is filed after the time period prescribed by Section 59-2-1004(2)(a) if any of the following conditions apply:

(a) During the period prescribed by Section 59-2-1004(2)(a), the property owner was incapable of filing an appeal as a result of a medical emergency to the property owner or an immediate family member of the property owner, and no co-owner of the property was capable of filing an appeal.

(b) During the period prescribed by Section 59-2-1004(2)(a), the property owner or an immediate family member of the property owner died, and no co-owner of the property was capable of filing an appeal.

(c) The county did not comply with the notification requirements of Section 59-2-919.1.

(d) A factual error is discovered in the county records pertaining to the subject property.

(e) The property owner was unable to file an appeal within the time period prescribed by Section 59-2-1004(2)(a) because of extraordinary and unanticipated circumstances that occurred during the period prescribed by Section 59-2-1004(2)(a), and no co-owner of the property was capable of filing an appeal.

(13) Appeals accepted under Subsection (12)(d) shall be limited to correction of the factual error and any resulting changes to the property's valuation.

(14) The provisions of Subsection (12) apply only to appeals filed for a tax year for which the treasurer has not made a final annual settlement under Section 59-2-1365.

(15) The provisions of this rule apply only to appeals to the county board of equalization. For information regarding appeals of county board of equalization decisions to the Commission, please see Section 59-2-1006 and R861-1A-9.

R884-24P-67. Information Required for Valuation of Low-Income Housing Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-301.3.

(1) The purpose of this rule is to provide an annual reporting mechanism to assist county assessors in gathering data necessary for accurate valuation of low-income housing projects.

(2) The Utah Housing Corporation shall provide the following information that it has obtained from the owner of a low-income housing project to the commission:

(a) for each low-income housing project in the state that is eligible for a low-income housing tax credit:

(i) the Utah Housing Corporation project identification number;

(ii) the project name;

(iii) the project address;

(iv) the city in which the project is located;

(v) the county in which the project is located;

(vi) the building identification number assigned by the Internal Revenue Service for each building included in the project;

(vii) the building address for each building included in the project;

(viii) the total apartment units included in the project;

(ix) the total apartment units in the project that are eligible for low-income housing tax credits;

(x) the period of time for which the project is subject to rent restrictions under an agreement described in Subsection (2)(b);

(xi) whether the project is:

(A) the rehabilitation of an existing building; or

(B) new construction;

(xii) the date on which the project was placed in service;

(xiii) the total square feet of the buildings included in the project;

(xiv) the maximum annual federal low-income housing tax credits for which the project is eligible;

(xv) the maximum annual state low-income housing tax credits for which the project is eligible; and

(xvi) for each apartment unit included in the project:

(A) the number of bedrooms in the apartment unit;

(B) the size of the apartment unit in square feet; and

(C) any rent limitation to which the apartment unit is subject; and

(b) a recorded copy of the agreement entered into by the Utah Housing Corporation and the property owner for the low-income housing project; and

(c) construction cost certifications for the project received from the low-income housing project owner.

(3) The Utah Housing Corporation shall provide the commission the information under Subsection (2) by January 31 of the year following the year in which a project is placed into service.

R884-24P-68. Property Tax Exemption for Taxable Tangible Personal Property With a Total Aggregate Fair Market Value That is At or Below the Statutorily Prescribed

Amount Pursuant to Utah Code Ann. Section 59-2-1115.

(1) The purpose of this rule is to provide for the administration of the property tax exemption for a taxpayer whose taxable tangible personal property has a total aggregate fair market value that is at or below the statutorily prescribed amount.

(a) Total aggregate fair market value is determined by aggregating the fair market value of all taxable tangible personal property owned by a taxpayer within a county.

(b) If taxable tangible personal property is required to be apportioned among counties, the determination of whether taxable tangible personal property has a total aggregate fair market value that is at or below the statutorily prescribed amount shall be made after apportionment.

(2) A taxpayer shall apply for the exemption provided under Section 59-2-1115:

(a) if the county assessor has requested a signed statement from the taxpayer under Section 59-2-306, within the time frame set forth under Section 59-2-306 for filing the signed statement; or

(b) if the county assessor has not requested a signed statement from the taxpayer under Section 59-2-306, within 30 days from the day the taxpayer is requested to indicate whether the taxpayer has taxable tangible personal property in the county that is at or below the statutorily prescribed amount.

R884-24P-70. Real Property Appraisal Requirements for County Assessors Pursuant to Utah Code Ann. Sections 59-2-303.1 and 59-2-919.1.

(1) Definitions.

(a) "Accepted valuation methodologies" means those methodologies approved or endorsed in the Standard on Mass Appraisal of Real Property and the Standard on Automated Valuation Models published by the International Association of Assessing Officers (IAAO).

(b) "Database," as referenced in Section 59-2-303.1(6), means an electronic storage of data using computer hardware and software that is relational, secure and archival, and adheres to generally accepted information technology standards of practice.

(2) County mass appraisal systems, as defined in Section 59-2-303.1, shall use accepted valuation methodologies to perform the annual update of all residential parcels.

(3)(a) A detailed review of property characteristics shall include a sufficient inspection to determine any changes to real property due to:

(i) new construction, additions, remodels, demolitions, land segregations, changes in use, or other changes of a similar nature; and

(ii) a change in condition or effective age.

(b)(i) A detailed review of property characteristics shall be made in accordance with the IAAO Standard on Mass Appraisal of Real Property.

(ii) When using aerial photography, including oblique aerial photography, the date of the photographic flight is the property review date for purposes of Section 59-2-303.1.

(4) The last property review date to be included in the county's computer system shall include the actual day, month, and year that the last detailed review of a property's characteristics was conducted.

(5) The last property review date to be included on the notice shall include at least the actual year or tax year that the last detailed review of a property's characteristics was conducted. The month and day of the review may also be included on the notice at the discretion of the county assessor and auditor.

(6)(a) The five-year plan shall detail the current year plus four subsequent years into the future. The plan shall define the properties being reviewed for each of the five years by one or more of the following:

(i) class;

(ii) property type;

(iii) geographic location; and

(iv) age.

(b) The five-year plan shall also include parcel counts for each defined property group.

R884-24P-71. Agreements with Commercial or Industrial Taxpayers for Equal Property Tax Payments Pursuant to Utah Code Ann. Section 59-2-1308.5.

(1) An agreement with a commercial or industrial taxpayer for equal property tax payments under Section 59-2-1308.5 is effective:

(a) the current calendar year, if the agreement is agreed to by all parties on or before May 31; or

(b) the subsequent calendar year, if the agreement is agreed to by all parties after May 31.

(2) An agreement under Subsection (1) affects only those taxing entities that are a party to the agreement.

(3) The commission shall ensure that an agreement under Subsection (1) does not affect the calculation of the certified tax rate by adjusting the formula under Section 59-2-924 so that the collection ratio for each taxpayer that is a party to the agreement is based on the amount that would have been collected according to the same valuation and assessment methodologies that would have been applied in the absence of the agreement.

R884-24P-72. State Farmland Evaluation Advisory Committee Procedures Pursuant to Utah Code Ann. Section 59-2-514.

(1) "Committee" means the State Farmland Evaluation Advisory Committee established in Section 59-2-514.

(2) The committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(3) A committee member may participate electronically in a meeting open to the public under Section 52-4-207 if:

(a) the agenda posted for the meeting establishes one or more anchor locations for the meeting where the public may attend;

(b) at least one committee member is at an anchor location; and

(c) all of the committee members may be heard by any person attending an anchor location.

KEY: taxation, personal property, property tax, appraisals
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R895. Technology Services, Administration.
R895-7. Acceptable Use of Information Technology Resources.
R895-7-1. Purpose.

Information technology resources are provided to state employees to assist in the efficient day to day operations of state agencies. Employees shall use information technology resources in compliance with this rule.

R895-7-2. Application.

All agencies of the executive branch of state government including its administrative sub-units, except the State Board of Education and the Board of Regents and institutions of higher education, shall comply with this rule.

R895-7-3. Authority.

This rule is issued by the Chief Information Officer under the authority of Section 63F-1-206 of the Utah Technology Governance Act, Utah Code, and in accordance with Section 63G-3-201 of the Utah Rulemaking Act, Utah Code.

R895-7-4. Employee and Management Conduct.

(1) Providing IT resources to an employee does not imply an expectation of privacy. Agency management may:

(a) View, authorize access to, and disclose the contents of electronic files or communications, as required for legal, audit, or legitimate state operational or management purposes;

(b) Monitor the network or email system including the content of electronic messages, including stored files, documents, or communications as are displayed in real-time by employees, when required for state business and within the officially authorized scope of the person's employment.

(2) An employee may engage in incidental and occasional personal use of IT resources provided that such use does not:

(a) Disrupt or distract the conduct of state business due to volume, timing, or frequency;

(b) Involve solicitation;

(c) Involve for-profit personal business activity;

(d) Involve actions, which are intended to harm or otherwise disadvantage the state; or

(e) Involve illegal and/or activities prohibited by this rule.

(3) An employee shall:

(a) comply with the Government Records Access and Management Act, as found in Section 63G-2-101 et seq., Utah Code, when transmitting information with state provided IT resources.

(b) Report to agency management any computer security breaches, or the receipt of unauthorized or unintended information.

(4) While using state provided IT resources, an employee may not:

(a) Access private, protected or controlled records regardless of the electronic form without data owner authorization;

(b) Divulge or make known his/her own password(s) to another person;

(c) Distribute offensive, disparaging or harassing statements including those that might incite violence or that are based on race, national origin, sex, sexual orientation, age, disability or political or religious beliefs;

(d) Distribute information that describes or promotes the illegal use of weapons or devices including those associated with terrorist activities;

(e) View, transmit, retrieve, save, print or solicit sexually-oriented messages or images;

(f) Use state-provided IT resources to violate any local, state, or federal law;

(g) Use state-provided IT resources for commercial purposes, product advertisements or "for-profit" personal activity;

(h) Use state-provided IT resources for religious or political functions, including lobbying as defined according to Section 36-11-102, Utah Code, and rule R623-1;

(i) Represent oneself as someone else including either a fictional or real person;

(j) Knowingly or recklessly spread computer viruses, including acting in a way that effectively opens file types known to spread computer viruses particularly from unknown sources or from sources from which the file would not be reasonably expected to be connected with;

(k) Create and distribute or redistribute "junk" electronic communications, such as chain letters, advertisements, or unauthorized solicitations;

(l) Knowingly compromise the confidentiality, integrity or availability of the State's information resources.

(5) Once agency management determines that an employee has violated this rule, they may impose disciplinary actions in accordance with the provisions of DHRM rule R477-11-1.

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