

# UTAH STATE BULLETIN

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

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Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at <http://www.rules.utah.gov/>.

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

Office of Administrative Rules, Salt Lake City 84114

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# **SPECIAL NOTICES**

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## **Health Health Care Financing, Coverage and Reimbursement Policy**

### **Notice for March 2017 Medicaid Rate Changes**

Effective March 1, 2017, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php>

**End of the Special Notices Section**





## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between January 18, 2017, 12:00 a.m., and February 01, 2017, 11:59 p.m. are included in this, the February 15, 2017, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least March 17, 2017. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through June 15, 2017, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the **RULE ANALYSIS** for each rule.*

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

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

**Commerce, Occupational and  
Professional Licensing  
R156-11a  
Barber, Cosmetologist/Barber,  
Esthetician, Electrologist, and Nail  
Technician Licensing Act Rule**

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 41260  
FILED: 01/31/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** In accordance with changes made by S.B. 136 (2016 General Session), Division of Occupational and Professional Licensing Amendments, to Section 58-1-308 of the Division of Occupational and Professional Licensing Act, the purpose of this rule filing is to provide an extended timeframe of up to five years for license reinstatement under the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act (Title 58, Chapter 11a) and remove for individuals applying for such reinstatement the requirement that they pass the applicable exams within one year prior to the date of application.

**SUMMARY OF THE RULE OR CHANGE:** In accordance with Subsection 58-1-308(5)(a)(ii)(B) and the new Section R156-11-308, Subsection R156-11a-302(1) is modified to exclude from the exam requirement those individuals who are applying for reinstatement of their license between two and five years after the expiration of their license. In accordance with Subsection 58-1-308(5)(a)(ii)(B), this proposed new Section R156-11-308 will allow individuals whose license has been expired between two and five years to reinstate their license without being required to retake exams.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-11a-101 and Subsection 58-1-106(1) (a) and Subsection 58-1-202(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The proposed rule change is made in accordance with S.B. 136 (2016) and any costs or savings associated with this implementation were addressed by the fiscal note attached to S.B. 136. The proposed rule change applies only to formerly licensed individuals who apply to reinstate their license between two and five years from the date their license expired. The aggregate impact on the state budget cannot be estimated as it is unknown how many individuals will reinstate their license beyond two years and less than five years of expiration. The Division will incur minimal costs of approximately \$75 to print and distribute the rule once the proposed amendments are made effective. Any

costs incurred will be absorbed in the Division's current budget.

◆ **LOCAL GOVERNMENTS:** The proposed amendments apply only to formerly licensed individuals who apply to reinstate their license between two and five years from the date their license expired. As a result, the proposed amendments do not apply to local governments.

◆ **SMALL BUSINESSES:** The proposed rule change may result in a cost savings to small-business salons and spas that employ licensed individuals or who lease space to licensed individuals, by reducing the time required for those individuals to reinstate an expired license, therefore reducing or eliminating income loss by the small business due to license expiration. The aggregate savings cannot be estimated as it will vary depending on circumstances.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The savings impact described above for small business is not expected to affect large businesses because the Division is unaware of any salons or spas that employ 50 or more employees. The proposed rule change will reduce costs for formerly licensed individuals who apply to reinstate their license within two and five years from the date their license expired, as they will no longer need to pay the exam fees for the written and practical exams that may otherwise be required. Further, these individuals may receive increased income and reduce or eliminate loss of income because of the reduction in the time required for those individuals to reinstate their license and start working again. Exam vendors who will no longer receive exam fees from individuals reinstating their license between two and five years from date of expiration will experience a loss of revenue from the exams not taken. The aggregate savings and costs cannot be estimated as it will vary depending on circumstances.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** An exam vendor who will no longer receive exam fees from individuals reinstating their license between two and five years from date of expiration will experience a loss of revenue from the exams not taken. This individual impact cannot be estimated as it will vary depending on circumstances.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** In accordance with changes made by S.B. 136 (2016), the Division of Occupational and Professional Licensing is able to provide an extended timeframe of up to five years for license reinstatement without requiring licensees to retake qualification exams. The fiscal impact on small businesses will be reduced by this amendment. The aggregate savings cannot be estimated.

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

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL  
LICENSING

HEBER M WELLS BLDG  
 160 E 300 S  
 SALT LAKE CITY, UT 84111-2316  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Allyson Pettley by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at apettley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:  
 ♦ 02/27/2017 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2017

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.**  
**R156-11a. Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule.**  
**R156-11a-302a. Qualifications for Licensure - Examination Requirements.**

In accordance with Section 58-11a-302, the examination requirements for licensure are established as follows:

(1) Except as otherwise provided in Section 58-1-308 and R156-11a-308 for individuals reinstating a license, applicants[Applicants] for each classification listed below shall pass within one year prior to the date of application, or within other reasonable timeframe as approved by the Division upon review of applicable extenuating circumstances, the respective examination with a passing score of at least 75% as determined by the examination provider.

(a) Applicants for licensure as a barber shall pass the National Interstate Council of State Boards of Cosmetology (NIC) Barber Theory and Practical Examinations.

(b) Applicants for licensure as a cosmetologist/barber shall pass the NIC Cosmetology/Barber Theory and Practical Examinations.

(c) Applicants for licensure as an electrologist shall pass the NIC Electrology Theory and Practical Examinations.

(d) Applicants for licensure as a basic esthetician shall pass the NIC Esthetics Theory and Practical Examinations.

(e) Applicants for licensure as a master esthetician shall pass the NIC Master Esthetics Theory and Practical Examinations.

(f) Applicants for licensure as a barber instructor, cosmetologist/barber instructor, electrology instructor, esthetician instructor, or nail technology instructor shall pass the NIC Instructor Examination.

(g) Applicants for licensure as a nail technician shall pass the NIC Nail Technology Theory and Practical Examinations.

(2) Any substantially equivalent theory, practical or instructor examination approved by the licensing authority of any

other state is acceptable for any of the examinations specified in Subsection(1).

**R156-11a-308. Reinstatement of License.**

In accordance with Subsection 58-1-308(5)(a), an individual may apply for reinstatement of license between two years and five years from the date of license expiration without being required to pass the exams provided in Section R156-11a-302a.

**KEY: cosmetologists/barbers, estheticians, electrologists, nail technicians**

**Date of Enactment or Last Substantive Amendment: [September 8, 2016]2017**

**Notice of Continuation: February 6, 2012**

**Authorizing, and Implemented or Interpreted Law: 58-11a-101; 58-1-106(1)(a); 58-1-202(1)(a)**

Commerce, Occupational and  
 Professional Licensing  
**R156-55b-102**  
 Definitions

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 41261

FILED: 01/31/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing is recommended by the Electricians Licensing Board and the Construction Services Commission to redefine the immediate supervision requirement for residential electrical work. Current rules impose an immediate supervision requirement for both residential electrical work and industrial and commercial electrical work, requiring the apprentice electrician and the supervising electrician to be physically present on the same project or jobsite. This filing modifies the supervision requirement for residential electrical work so that the supervising electrician need not be physically present on the same residential project or jobsite as the apprentice requiring supervision. No other changes are made to residential electrical supervision requirements; the supervising electrician on residential work will still need to maintain the ratio of one master or journeyman electrician to three apprentices. No changes are made to the supervision requirements for industrial and commercial electrical work. This filing also makes minor technical changes replacing references to the National Electrical Code with Title 15A, State Construction and Fire Codes Act, and more clearly defining the scope of residential electrical work as it pertains to supervision.

SUMMARY OF THE RULE OR CHANGE: The amendments to Subsection R156-55b-102(1) replace the code reference

with a reference to Title 15A, State Construction and Fire Codes Act. The amendments to Subsection R156-55b-102(2) modify the definition of "Immediate supervision" for residential electrical work. The amendments to Subsection R156-55b-102(4) clarify the definition of "Residential project".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1)(a) and Subsection 58-5-202(1)(a) and Subsection 58-55-308(1)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: The Division will incur minimal costs of approximately \$75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

◆ LOCAL GOVERNMENTS: The proposed amendments do not apply to local governments. The amendments only apply to electrical contractors, to supervising master or journeyman electricians, and to apprentice electricians requiring supervision while engaged in residential electrical projects.

◆ SMALL BUSINESSES: The proposed amendments may apply to small business. It is anticipated that electrical contractors who own or operate small businesses and handle residential electrical work will be able to operate more efficiently and increase revenue as their apprentices who need supervision will not need to have the supervising electrician physically present on the same project or jobsite. It is also anticipated that allowing apprentice electricians to continue working on projects or jobsites while the supervising electrician is not physically present will not conflict with the supervising electrician's responsibility to ensure that the end result complies with applicable standards. The aggregate savings cannot be estimated as it will vary depending on circumstances, including the volume of residential work to be completed and the experience and aptitude of the apprentice electricians.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments will only affect electricians engaged in electrical work specific to residential projects. The aggregate impact on these persons cannot be estimated, as it will vary depending on circumstances, including the volume of residential work to be completed, and the experience and aptitude of the apprentice electricians.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The individuals affected by these amendments will be electrical contractors engaging in residential electrical work, supervising master electricians or supervising journeyman electricians, and apprentice electricians who require supervision while engaged in electrical work on residential projects. The Division does not anticipated any compliance costs for these affected individuals.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments to Section R156-55b-102 replace the code references to the National Electrical Code with references to Title 15, State Construction and Fire Codes Act;

modify the definition of "immediate supervision" for residential electrical work; and clarify the definition of "residential project". The practical consequence of these changes is that it will no longer be necessary for the supervising electrician to be physically present on the same residential project or jobsite as the apprentice requiring supervision. This change will provide a cost savings to electrician businesses, permitting such businesses to work more efficiently. An exact computation of the cost savings will depend in various factors, depending on the circumstances of the business and the projects involved.

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

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL  
LICENSING  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY, UT 84111-2316  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Duncombe by phone at 801-530-6235, by FAX at 801-530-6511, or by Internet E-mail at sduncombe@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 02/22/2017 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2017

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.**

**R156-55b. Electricians Licensing Act Rule.**

**R156-55b-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 55, as used in Title 58, Chapter 55 or this rule:

(1) "Electrical work" as used in Subsection 58-55-102(13)(a) and in this rule means installation, fabrication or assembly of equipment or systems included in "Premises Wiring" as defined ~~[in the edition of the National Electrical Code, as adopted in the State Construction Code Adoption Act and State Construction Code]~~ by Title 15A, State Construction and Fire Codes Act. Electrical work includes installation of raceway systems used for any electrical purpose, and installation of field-assembled systems such as ice and snow melting, pipe-tracing, manufactured wiring systems, and the like. Electrical work does not include installation of factory-assembled appliances or machinery that are not part of the premises wiring unless wiring interconnections external to the equipment are required in the field, and does not include cable-type wiring that does not pose a hazard from a shock or fire initiation

standpoint as defined ~~[in the National Electrical Code]~~ by Title 15A, State Construction and Fire Codes Act. Wiring covered by the National Electrical Code that does not pose a hazard as described above includes Class 2 wiring as defined in Article 725, Power-Limited circuits as defined in Article 760 and wiring methods covered by Chapter 8. All other wiring is subject to licensing requirements.

(2) "Immediate supervision", as used in Subsection 58-55-102(23) and this rule means the following:

(a) for industrial and commercial electrical work, [that] the apprentice and the supervising electrician are physically present on the same project or jobsite but are not required to be within sight of one another; and

(b) for residential electrical work, the supervising electrician, when not physically present on the same project or jobsite as the apprentice, is available to provide reasonable direction, oversight, inspection, and evaluation of the work of an apprentice so as to ensure that the end result complies with applicable standards.

(3) "Minor electrical work incidental to a mechanical or service installation" as used in Subsection 58-55-305(1)(n) means the electrical work involved in installation, replacement or repair of appliances or machinery that utilize electrical power. Minor electrical work does not include modification or repair of "Premises Wiring" as defined in the National Electrical Code, and does not include installation of a disconnecting means or outlet. Electrical work is minor and incidental only when wiring is extended no more than ten feet in length from an outlet or disconnect provided specifically for the piece of equipment.

(4) "Residential project" as used in Subsection 58-55-302(3)(j)(ii) pertains to supervision and means electrical work performed in [residential dwellings of up to three stories and will include single and multi family dwellings]one or two-family dwellings, including townhouses, as determined by Title 15A, State Construction and Fire Codes Act.

(5) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 55, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-55b-501.

(6) "Work commonly done by unskilled labor" as used in Subsection 58-55-102(13)(b)(iii) means work such as digging, sweeping, hammering, carrying, drilling holes, or other tasks that do not directly involve the installation of raceways, conductors, cables, wiring devices, overcurrent devices, or distribution equipment. Unlicensed persons may handle wire on large wire pulls involving conduit of two inches or larger or assist in moving heavy electrical equipment when the task is performed in the immediate presence of and supervised by properly licensed master, journeyman, residential master or residential journeyman electricians acting within the scope of their licenses.

**KEY: occupational licensing, licensing, contractors, electricians**  
**Date of Enactment or Last Substantive Amendment:**  
~~[November 7, 2016]~~2017

**Notice of Continuation: August 8, 2016**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-308(1)**

## Health, Child Care Center Licensing Committee R381-60-2 Definitions

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 41233  
FILED: 01/30/2017

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed change references the definition of "guest" and "volunteer" as stated in Rule R430-6.

**SUMMARY OF THE RULE OR CHANGE:** This rule change is supported by both the Child Care Center Licensing Committee and the Residential Advisory Committee. This rule change references the definitions of "guest" and "volunteer" as stated in Rule R430-6. These definitions are more accurate and help clarify the different roles of various types of volunteers. Renumbering is also done as needed.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 3

#### ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** No state agencies operate hourly child care centers. Therefore, the committee does not anticipate any cost or savings as a result of this change.

♦ **LOCAL GOVERNMENTS:** Some local governments operate child care centers. Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the committee can anticipate some savings to child care programs operated by state agencies. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.

♦ **SMALL BUSINESSES:** Almost all child care centers are small businesses. Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the committee can anticipate some savings to small child care businesses. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the committee can anticipate some savings to entities or persons that are not small businesses. The exact

savings cannot be determined since any potential savings are speculative and will vary depending on the program.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:**  
Because this rule will not change any of the requirements for child care programs, the committee does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:**  
This amendment may fiscally impact business with a cost savings to child care facilities due to the reduction of required background checks.

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

HEALTH  
CHILD CARE CENTER LICENSING COMMITTEE  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov or mail at PO Box 142003, Salt Lake City, UT 84114-2003

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017

THIS RULE MAY BECOME EFFECTIVE ON: 03/30/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R381. Health, Child Care Center Licensing Committee.**

**R381-60. Hourly Child Care Centers.**

**R381-60-2. Definitions.**

(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Body fluids" means blood, urine, feces, vomit, mucous, and saliva.

(4) "Caregiver" means an employee or volunteer who provides direct care to children.

(5) "CPSC" means the Consumer Product Safety Commission.

(6) "Department" means the Utah Department of Health.

(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and is at least 2" by 2" in size.

(8) "Director" means a person who meets the director qualifications of this rule, and who assumes the day-to-day responsibilities for the facility to be in compliance with Child Care Licensing rules.

(9) "Direct Supervision" for infants, toddlers, and preschoolers means the caregiver can see and hear all of the children in his or her assigned group, and is near enough to intervene when necessary. "Direct Supervision" for school age children means the caregiver must be able to hear school age children and must be near enough to intervene when necessary.

(10) "Emotional Abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(11) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

(12) "Guest" as defined in R430-006.

~~[(12)]~~(13) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

~~[(13)]~~(14) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child cannot get to.

~~[(14)]~~(15) "Infant" means a child aged birth through 11 months of age.

~~[(15)]~~(16) "Infectious Disease" means an illness that is capable of being spread from one person to another.

~~[(16)]~~(17) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

~~[(17)]~~(18) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies and vitamin or mineral supplements.

~~[(18)]~~(19) "Parent" means the parent or legal guardian of a child in care.

~~[(19)]~~(20) "Person" means an individual or a business entity.

~~[(20)]~~(21) "Physical Abuse" means causing non-accidental physical harm to a child.

~~[(21)]~~(22) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

~~[(22)]~~(23) "Protective cushioning" means cushioning material that has been tested to and meets American Society for Testing and Materials (ASTM) Specification F 1292, such as unitary surfaces, wood chips, engineered wood fiber, and shredded rubber mulch. Protective cushioning may also include pea gravel or sand as allowed by the Consumer Product Safety Commission (CPSC).

~~[(23)]~~(24) "Provider" means the licensee or the entity providing child care services.

~~[(24)]~~(25) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

~~[(25)]~~(26) "School Age" means children ages five through twelve.

~~[(26)]~~(27) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1.(2).

~~[(27)]~~(28) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5b-103(10).

~~[(28)]~~(29) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, or play pen.

~~[(29)]~~(30) "Stationary Play Equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when children use it. Stationary play equipment does not include:

- (a) a sandbox;
- (b) a stationary circular tricycle;
- (c) a sensory table; or
- (d) a playhouse, if the playhouse has no play equipment,

such as a slide, swing, ladder, or climber attached to it.

~~[(30)]~~(31) "Toddler" means a child aged 12 months but less than 24 months.

~~[(31)]~~(32) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

~~[(32)]~~(33) "Volunteer" ~~as defined in R430-006. [means a person who provides care to a child but does not receive direct or indirect compensation for doing so.]~~

**KEY: child care facilities, hourly child care centers**

**Date of Enactment or Last Substantive Amendment: ~~[March 30, 2016]~~2017**

**Authorizing, and Implemented or Interpreted Law: 26-39-203(1)(a)**

## Health, Child Care Center Licensing Committee **R381-70-2** Definitions

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 41232  
FILED: 01/30/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed change references the definition of "guest" and "volunteer" as stated in Rule R430-6.

**SUMMARY OF THE RULE OR CHANGE:** This rule change is supported by both the Child Care Center Licensing Committee and the Residential Advisory Committee. This rule change references the definitions of "guest" and "volunteer" as stated in Rule R430-6. These definitions are more accurate and help clarify the different roles of various types of volunteers. Renumbering is also done as needed.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 3

### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Some state agencies operate child care centers. However, the committee does not anticipate any cost or savings as a result of this change because the proposed rule simply clarifies definitions.

◆ **LOCAL GOVERNMENTS:** Some local governments operate child care centers. Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the committee can anticipate some savings to child care programs operated by state agencies. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.

◆ **SMALL BUSINESSES:** Almost all child care centers are small businesses. Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the committee can anticipate some savings to small child care businesses. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the committee can anticipate some savings to entities or persons that are not small businesses. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because this rule will not change any of the requirements for child care programs, the committee does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This amendment may fiscally impact business with a cost savings to child care programs due to the reduction of required background checks.

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

HEALTH  
CHILD CARE CENTER LICENSING COMMITTEE  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Office of Administrative Rules.

### DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at [sbolivar@utah.gov](mailto:sbolivar@utah.gov) or mail at PO Box 142003, Salt Lake City, UT 84114-2003

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017

THIS RULE MAY BECOME EFFECTIVE ON: 03/30/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R381. Health, Child Care Center Licensing Committee.**

**R381-70. Out of School Time Child Care Programs.**

**R381-70-2. Definitions.**

(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Body Fluids" means blood, urine, feces, vomit, mucous, and saliva.

(4) "Caregiver" means an employee or volunteer who provides direct care to children.

(5) "CPSC" means the Consumer Product Safety Commission.

(6) "Department" means the Utah Department of Health.

(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and that is at least 2" by 2" in size.

(8) "Director" means a person who meets the director qualifications of this rule, and who assumes the day-to-day responsibilities for the facility to be in compliance with Child Care Licensing rules.

(9) "Direct Supervision" means the caregiver must be able to hear all of the children and must be near enough to intervene when necessary.

(10) "Emotional Abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(11) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

(12) "Guest" as defined in R430-006.

(13) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(14) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child cannot get to.

(15) "Infectious Disease" means an illness that is capable of being spread from one person to another.

(16) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

(17) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies.

(18) "Parent" means the parent or legal guardian of a child in care.

(19) "Person" means an individual or a business entity.

(20) "Physical Abuse" means causing non-accidental physical harm to a child.

(21) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one user to stand on, and upon which the users can move freely.

(22) "Protective Barrier" means an enclosing structure such as bars, lattice, or a solid panel, around an elevated play equipment platform that is intended to prevent a child from either accidentally or deliberately passing through the barrier.

(23) "Protective cushioning" means cushioning material that is approved by the American Society for Testing and Materials. For example, sand, pea gravel, engineered wood fibers, shredded tires, or unitary cushioning material, such as rubber mats or poured rubber-like material.

(24) "Provider" means the licensee or the entity providing child care services.

(25) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

(26) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1(2).

(27) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

(28) "Stationary Play Equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when children use it. Stationary play equipment does not include:

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

(29) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

(30) "Volunteer" as defined in R430-006. ~~means a person who provides care to a child but does not receive direct or indirect compensation for doing so. A volunteer is not included in the provider to child ratio, unless the volunteer meets all of the caregiver requirements of this rule.~~

**KEY: child care facilities, child care, child care centers, out of school time child care programs**

**Date of Enactment or Last Substantive Amendment: ~~March 30, 2016~~ 2017**

**Authorizing, and Implemented or Interpreted Law: 26-39-203(1)(a)**



**Health, Child Care Center Licensing  
Committee  
R381-100-2  
Definitions**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 41234

FILED: 01/30/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed change references the definition of "guest" and "volunteer" as stated in Rule R430-6.

**SUMMARY OF THE RULE OR CHANGE:** This rule change is supported by both the Child Care Center Licensing Committee and the Residential Advisory Committee. This rule change references the definitions of "guest" and "volunteer" as stated in Rule R430-6. These definitions are more accurate and help clarify the different roles of various types of volunteers. Renumbering is also done as needed.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 3

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** Some state agencies operate child care centers. However, the committee does not anticipate any cost or savings as a result of this change because the proposed rule simply clarifies definitions.

◆ **LOCAL GOVERNMENTS:** Some local governments operate child care centers. Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the committee can anticipate some savings to child care programs operated by state agencies. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.

◆ **SMALL BUSINESSES:** Almost all child care centers are small businesses. Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the committee can anticipate some savings to small child care businesses. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the committee can anticipate some savings to entities or persons that are not small businesses. The exact

savings cannot be determined since any potential savings are speculative and will vary depending on the program.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because this rule will not change any of the requirements for child care programs, the committee does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This amendment may fiscally impact business with a cost savings to child care facilities due to the reduction of required background checks.

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

HEALTH

CHILD CARE CENTER LICENSING COMMITTEE

3760 S HIGHLAND DR

SALT LAKE CITY, UT 84106

or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov or mail at PO Box 142003, Salt Lake City, UT 84114-2003

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017**

**THIS RULE MAY BECOME EFFECTIVE ON: 03/30/2017**

**AUTHORIZED BY: Joseph Miner, MD, Executive Director**

**R381. Health, Child Care Center Licensing Committee.**

**R381-100. Child Care Centers.**

**R381-100-2. Definitions.**

(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Body fluids" means blood, urine, feces, vomit, mucous, and saliva.

(4) "Caregiver" means an employee or volunteer who provides direct care to children.

(5) "CPSC" means the Consumer Product Safety Commission.

(6) "Department" means the Utah Department of Health.

(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and is at least 2" by 2" in size.

(8) "Director" means a person who meets the director qualifications of this rule, and who assumes the day-to-day responsibilities for the facility to be in compliance with Child Care Licensing rules.

(9) "Direct Supervision" for infants, toddlers, and preschoolers means the caregiver can see and hear all of the children in his or her assigned group, and is near enough to intervene when necessary. "Direct Supervision" for school age children means the caregiver must be able to hear school age children and must be near enough to intervene when necessary.

(10) "Emotional Abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(11) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

(12) "Guest" as defined in R430-006.

(13) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(14) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child cannot get to.

(15) "Infant" means a child aged birth through 11 months of age.

(16) "Infectious Disease" means an illness that is capable of being spread from one person to another.

(17) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

(18) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies and vitamin and mineral supplements.

(19) "Parent" means the parent or legal guardian of a child in care.

(20) "Person" means an individual or a business entity.

(21) "Physical Abuse" means causing non-accidental physical harm to a child.

(22) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one user to stand on, and upon which the users can move freely.

(23) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

(24) "Protective Barrier" means an enclosing structure such as bars, lattice, or a solid panel, around an elevated play equipment platform that is intended to prevent a child from either accidentally or deliberately passing through the barrier.

(25) "Protective cushioning" means cushioning material that has been tested to and meets American Society for Testing and Materials Specification F 1292, such as unitary surfaces, wood chips, engineered wood fiber, and shredded rubber mulch. Protective cushioning may also include pea gravel or sand as allowed by the Consumer Product Safety Commission (CPSC).

(26) "Provider" means the licensee or the entity providing child care services.

(27) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

(28) "School Age" means children ages five through twelve.

(29) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1.(1)(2).

(30) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

(31) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, or play pen.

(32) "Stationary Play Equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when children use it. Stationary play equipment does not include:

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

(33) "Toddler" means a child aged 12 months but less than 24 months.

(34) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

(35) "Volunteer" as defined in R430-006. [~~means a person who provides care to a child but does not receive direct or indirect compensation for doing so.~~]

**KEY: child care facilities, child care, child care centers**

**Date of Enactment or Last Substantive Amendment: [March 30, 2016] 2017**

**Authorizing, and Implemented or Interpreted Law: 26-39-203(1)(a)**

## Health, Disease Control and Prevention, Environmental Services **R392-600** Illegal Drug Operations Decontamination Standards

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 41224

FILED: 01/27/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The rule has been amended to provide clarification in defining what non-confirmation and composite sampling is and how the results shall be calculated. The amended rule further explains how non-confirmation and confirmation sampling should be performed for a preliminary

assessment, adds equipment that can be used for wipe sampling, and provides additional analytical methods for detecting methamphetamine.

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendment adds the definitions for non-confirmation and confirmation sampling and how the results shall be calculated; describes what needs to occur during a

preliminary assessment in regards to non-confirmatory and confirmation sampling; and it provides information on equipment that can be used for wipe sampling and other analytical methods for methamphetamine detection, which are based on updated procedures.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 19-6-906

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There are no anticipated costs or savings at the state level. Any costs will come out of existing budgets.

◆ **LOCAL GOVERNMENTS:** There may be some revenue lost because fewer homes may be unnecessarily determined to be contaminated because of how composite sampling was calculated prior to this amendment. The loss is estimated to be \$400 (with a wide range among the local health departments) per home in clean up review and permit fees. Approximately 5% of homes previously requiring mitigation are thought to be erroneously determined to be contaminated.

◆ **SMALL BUSINESSES:** There may be a cost savings to small businesses that would have been required to mitigate homes that were unnecessarily determined to be contaminated by local health departments because of how composite sampling was calculated prior to this amendment. The savings are estimated by industry to be about \$10,000 (with a wide range) per home. Approximately 5% of homes previously requiring mitigation are thought to be erroneously determined to be contaminated.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There may be a cost savings to those in this category who would have been required to mitigate homes that were unnecessarily determined to be contaminated by local health departments because of how composite sampling was calculated prior to this amendment. The savings are estimated by industry to be about \$10,000 (with a wide range) per home. Approximately 5% of homes previously requiring mitigation are thought to be erroneously determined to be contaminated.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There may be a cost to local health departments due to fewer homes being unnecessarily labeled as contaminated. The loss is estimated to be \$400 per home in clean up review and permit fees.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed amendment defines "composite sample" and "non-confirmation sampling." It also sets out the process for non-confirmation and confirmation sampling, which includes a preliminary assessment and provides additional analytical methods for detecting methamphetamine. The amendment reduces the risk of erroneous determinations of contamination, resulting in a cost savings to business responsible for mitigation.

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

HEALTH  
DISEASE CONTROL AND PREVENTION,  
ENVIRONMENTAL SERVICES  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Sam LeFevre by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at slefevre@utah.gov or mail at PO Box 142104, Salt Lake City, UT 84114-2104

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017

THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

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**R392. Health, Disease Control and Prevention, Environmental Services.**

**R392-600. Illegal Drug Operations Decontamination Standards.**

**R392-600-1. Authority and Purpose.**

(1) This rule is authorized under Section 19-6-906.

(2) This rule sets decontamination and sampling standards and best management practices for the inspection and decontamination of property contaminated by illegal drug operations.

**R392-600-2. Definitions.**

The following definitions apply in this rule:

(1) "Background concentration" means the level of a contaminant in soil, groundwater or other media up gradient from a facility, practice or activity that has not been affected by the facility, practice or activity; or other facility, practice or activity.

(2) "Decontamination specialist" means an individual who has met the standards for certification as a decontamination specialist and has a currently valid certificate issued by the Solid and Hazardous Waste Control Board, as defined under Utah Code Subsection 19-6-906(2).

(3) "Chain-of-custody protocol" means a procedure used to document each person that has had custody or control of an environmental sample from its source to the analytical laboratory, and the time of possession of each person.

(4) "Characterize" means to determine the quality or properties of a material by sampling and testing to determine the concentration of contaminants, or specific properties of the material such as flammability or corrosiveness.

(5) "Combustible" means vapor concentration from a liquid that has a flash point greater than 100 degrees F.

(6) "Composite sample" means the combination of up to 3 individual wipe (grab) samples into one submission for analysis by a laboratory. The composite sample result will be the average or standardized result in units of micrograms of methamphetamine per 100 square centimeters.

~~(6) "Confirmation sampling" means collecting samples by a certified decontamination specialist during a preliminary assessment or upon completion of decontamination activities. Only confirmation sampling can be used to confirm that contamination is below the decontamination standards outlined in this rule.~~

~~(7) "Contaminant" means a hazardous material.~~

(8) "Contamination" or "contaminated" means polluted by hazardous materials that cause property to be unfit for human habitation or use due to immediate or long-term health hazards.

(9) "Corrosive" means a material such as acetic acid, acetic anhydride, acetyl chloride, ammonia (anhydrous), ammonium hydroxide, benzyl chloride, dimethylsulfate, formaldehyde, formic acid, hydrogen chloride/hydrochloric acid, hydrobromic acid, hydroiodic acid, hydroxylamine, methylamine, methylene chloride (dichloromethane, methylene dichloride), methyl methacrylate, nitroethane, oxalylchloride, perchloric acid, phenylmagnesium bromide, phosphine, phosphorus oxychloride, phosphorus pentoxide, sodium amide (sodamide), sodium metal, sodium hydroxide, sulfur trioxide, sulfuric acid, tetrahydrofuran, thionyl chloride or any other substance that increases or decreases the pH of a material and may cause degradation of the material.

(10) "Decontamination" means treatment or removal of contamination by a decontamination specialist or owner of record to reduce concentrations of contaminants below the decontamination standards.

(11) "Decontamination standards" means the levels or concentrations of contaminants that must be met to demonstrate that contamination is not present or that decontamination has successfully removed the contamination.

(12) "Delineate" means to determine the nature and extent of contamination by sampling, testing, or investigating.

(13) "Easily cleanable" means an object and its surface that can be cleaned by detergent solution applied to its surface in a way that would reasonably be expected to remove dirt from the object when rinsed and to be able to do so without damaging the object or its surface finish.

(14) "Ecstasy" means 3,4-methylenedioxy-methamphetamine (MDMA).

(15) "EPA" means the United States Environmental Protection Agency.

(16) "EPA Method 8015B" means the EPA approved method for determining the concentration of various non-

halogenated volatile organic compounds and semi-volatile organic compounds by gas chromatography/flame ionization detector.

~~(17) "EPA Method 6010B" means the EPA approved method for determining the concentration of various heavy metals by inductively coupled plasma.~~

~~(18) "EPA Method 8260B" means the EPA approved method for determining the concentration of various volatile organic compounds by gas chromatograph/mass spectrometer.~~

~~(19) "FID" means flame ionization detector.~~

~~(20) "Flammable" means vapor concentration from a liquid that has a flash point less than 100 degree F.~~

~~(21) "Grab Sample" means one sample collected from a single, defined area or media at a given time and location.~~

~~(22) "Hazardous materials" has the same meaning as "hazardous or dangerous materials" as defined in Section 58-37d-3; and includes any illegally manufactured controlled substances.~~

~~(23) "Hazardous waste" means toxic materials to be discarded as directed in 40 CFR 261.3.~~

~~(24) "HEPA" means high-efficiency particulate air and indicates the efficiency of an air filter or air filtration system.~~

~~(25) "Highly suggestive of contamination" means the presence of visible or olfactory signs indicative of contamination, locations in and around where illegal drug production occurred, where hazardous materials were stored or suspected of being used to manufacture illegal drugs, or areas that tested positive for contamination or other portions of the property that may be linked to processing and storage areas by way of the ventilation system or other activity that may cause contamination to be distributed across the property.~~

~~(26) "Impacted groundwater" means water present beneath ground surface that contains concentrations of a contaminant above the UGWQS.~~

~~(27) "Impacted soil" means soil that contains concentrations of a contaminant above background or EPA residential Risk Based Screening Concentrations as contained in the document listed in R392-600-8.~~

~~(28) "LEL/O2" means lower explosive limit/oxygen.~~

~~(29) "Negative pressure enclosure" means an air-tight enclosure using a local exhaust and HEPA filtration system to maintain a lower air pressure in the work area than in any adjacent area and to generate a constant flow of air from the adjacent areas into the work area.~~

~~(30) "Non-porous" means resistant to penetration of liquids, gases, powders and includes non-permeable substance or materials, that are sealed such as, concrete floors, wood floors, ceramic tile floors, vinyl tile floors, sheet vinyl floors, painted drywall or sheet rock walls or ceilings, doors, appliances, bathtubs, toilets, mirrors, windows, counter-tops, sinks, sealed wood, metal, glass, plastic, and pipes.~~

~~(31) "Not Highly Suggestive of Contamination" means areas outside of the main locations(s) where illegal drugs were produced and hazardous materials were stored or suspected of being used that do not reveal obvious visual or olfactory signs of contamination, but may, however, be contaminated by residue from the manufacture or storage of illegal drugs or hazardous materials.~~

~~(32) "Non-confirmation sampling" means collecting samples by any party other than a certified decontamination specialist.~~

([32]34) "Owner of record" means (a) The owner of property as shown on the records of the county recorder in the county where the property is located; and (b) may include an individual, financial institution, company, corporation, or other entity.

([33]35) "Personal protective equipment" means various types of clothing such as suits, gloves, hats, and boots, or apparatus such as facemasks or respirators designed to prevent inhalation, skin contact, or ingestion of hazardous chemicals.

([34]36) "PID" means photo ionization detector.

([35]37) "Porous" means material easily penetrated or permeated by gases, liquids, or powders such as carpets, draperies, bedding, mattresses, fabric covered furniture, pillows, drop ceiling

or other fiber-board ceiling panels, cork paneling, blankets, towels, clothing, and cardboard or any other material that is worn or not properly sealed.

([36]38) "Preliminary assessment" means an evaluation of a property to define all areas that are highly suggestive of contamination and delineate the extent of contamination. The preliminary assessment consists of an on-site evaluation conducted by the decontamination specialist or owner of record to gather information to demonstrate that contamination is not present above the decontamination standards or to enable development of a workplan outlining the most appropriate method to decontaminate the property.

([37]39) "Properly disposed" means to discard at a licensed facility in accordance with all applicable laws and not reused or sold.

([38]40) "Property" means: (a) any property, site, structure, part of a structure, or the grounds, surrounding a structure; and (b) includes single-family residences, outbuildings, garages, units of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers, manufactured housing, shops, or booths.

([39]41) "Return air housing" means the main portion of an air ventilation system where air from the livable space returns to the air handling unit for heating or cooling.

([40]42) "Sample location" means the actual place where an environmental sample was obtained, including designation of the room, the surface (wall, ceiling, appliance, etc), and the direction and distance from a specified fixed point (corner, door, light switch, etc).

([41]43) "Services" means the activities performed by decontamination specialist in the course of decontaminating residual contamination from the manufacturing of illegal drugs or from the storage of chemicals used in manufacturing illegal drugs and includes not only the removal of any contaminants but inspections and sampling.

([42]44) "Toxic" means hazardous materials in sufficient concentrations that they can cause local or systemic detrimental effects to people.

([43]45) "UGWQS" means the Utah Ground Water Quality Standards established in R317-6-2.

([44]46) "VOA" means volatile organic analyte.

([45]47) "VOCs" means volatile organic compounds or organic chemicals that can evaporate at ambient temperatures used in the manufacture illegal drugs such as acetone, acetonitrile, aniline, benzene, benzaldehyde, benzyl chloride, carbon

tetrachloride, chloroform, cyclohexanone, dioxane, ethanol, ethyl acetate, ethyl ether, Freon 11, hexane, isopropanol, methanol, methyl alcohol, methylene chloride, naphtha, nitroethane, petroleum ether, petroleum distillates, pyridine, toluene, o-toluidine, and any other volatile organic chemical that may be used to manufacture illegal drugs.

([46]48) "Waste" means refuse, garbage, or other discarded material, either solid or liquid.

### **R392-600-3. Preliminary Assessment Procedures.**

(1) The local health department shall notify owner of record of tests results reported to the local health department indicating that a property is potentially contaminated.

(a) If the test results were from non-confirmation sampling, the owner of record may obtain confirmation sampling, performed by a certified decontamination specialist, within 10 days of receipt of the notice and provide the local health department with the confirmation sampling test results.

(b) If the test results were from confirmation sampling, the local health department shall direct the owner of record to decontaminate the property as outlined in the following sections.

([1]2) The decontamination specialist or owner of record shall determine the nature and extent of damage and contamination of the property from illegal drug operations by performing a preliminary assessment prior to decontamination activities. Contamination may be removed prior to approval of the work plan as necessary to abate an imminent threat to human health or the environment. If there was a fire or an explosion in the contaminated portion of the property that appears to have compromised its structural integrity, the decontamination specialist or owner of record shall obtain a structural assessment of the contaminated portion of the property prior to initiating the preliminary assessment.

([2]3) To conduct the preliminary assessment, the decontamination specialist or owner of record shall:

(a) request and review copies of any law enforcement, state agency or other report regarding illegal drug activity or suspected illegal drug activity at the property;

(b) evaluate all information obtained regarding the nature and extent of damage and contamination;

(c) determine the method of illegal drug manufacturing used;

(d) determine the chemicals involved in the illegal drug operation;

(e) determine specific locations where processing and illegal drug activity took place or was suspected and where hazardous materials were stored and disposed;

(f) use all available information to delineate areas highly suggestive of contamination;

(g) develop procedures to safely enter the property in order to conduct a preliminary assessment;

(h) wear appropriate personal protective equipment for the conditions assessed;

(i) visually inspect all portions of the property, including areas outside of any impacted structure to document where stained materials or surfaces are visible, drug production took place, hazardous materials were stored, and burn pits or illegal drug operation trash piles may have been or are currently present;

(j) determine whether the property contains a septic system on-site and if there has been a release to the system as a result of the illegal drug operations;

(k) determine the locations of the ventilation system components in the areas highly suggestive of contamination;

(l) conduct and document appropriate testing for corrosive, flammable, combustible, and toxic atmospheres during the initial entry in the contaminated portion of the property using instruments such as a LEL/O<sub>2</sub> meter, pH paper, PID, FID, or equivalent equipment; and

(m) if decontamination is not anticipated due to the lack of supporting evidence of decontamination, ~~collect~~obtain confirmation samples to demonstrate compliance with the decontamination standards using the methodology specified in this rule.

([3]4) If the preliminary assessment does not reveal the presence of contamination above the decontamination standards specified in this rule, the decontamination specialist or owner of record may request that the property be removed from the list of contaminated properties as specified in 19-6-903 provided that:

(a) a final report documenting the preliminary assessment is submitted to the local health department by the owner of record and decontamination specialist if one was involved in conducting the preliminary assessment; and

(b) the local health department concurs with the recommendations contained in the report specified in (a).

([4]5) If the preliminary assessment reveals the presence of contamination, the decontamination specialist or owner of record shall proceed according to R392-600-4 through R392-600-7. The contaminated portions of the property shall be kept secure against un-authorized access until the work plan has been submitted, any required permit is issued, and the property has been decontaminated to the standards established in this rule.

#### **R392-600-4. Work Plan.**

(1) Prior to performing decontamination of the property, the decontamination specialist or owner of record shall prepare a written work plan that contains:

(a) complete identifying information of the property, such as street address, mailing address, owner of record, legal description, county tax or parcel identification number, or vehicle identification number if a mobile home, trailer or boat;

(b) if applicable, the certification number of the decontamination specialist who will be performing decontamination services on the contaminated portion of the property;

(c) copies of the decontamination specialist's current certification;

(d) photographs of the property;

(e) a description of the areas highly suggestive of contamination, and areas that are considered not highly suggestive of contamination, including any information that may be available regarding locations where illegal drug processing was performed, hazardous materials were stored and stained materials and surfaces were observed;

(f) a description of contaminants that may be present on the property;

(g) results of any testing conducted for corrosive, flammable, combustible, and toxic atmospheres during the initial

entry in the contaminated portion of the property, such as by a LEL/O<sub>2</sub> meter, pH paper, PID, FID, or equivalent equipment;

(h) a description of the personal protective equipment to be used while in or on the contaminated portion of the property;

(i) the health and safety procedures that will be followed in performing the decontamination of the contaminated portion of the property;

(j) a detailed summary of the decontamination to be performed based on the findings and conclusions of the Preliminary Assessment, which summary shall include:

(i) all surfaces, materials or articles to be removed;

(ii) all surfaces, materials and articles to be cleaned on-site;

(iii) all procedures to be employed to remove or clean the contamination, including both areas highly suggestive of contamination as well as those areas that are not highly suggestive of contamination;

(iv) all locations where decontamination will commence;

(v) all containment and negative pressure enclosure plans; and

(vi) personnel decontamination procedures to be employed to prevent the spread of contamination;

(k) the shoring plan, if an assessment of the structural integrity was conducted and it was determined that shoring was necessary, including a written description or drawing that shows the structural supports required to safely occupy the building during decontamination;

(l) a complete description of the proposed post-decontamination confirmation sampling locations, parameters, techniques and quality assurance requirements;

(m) the names of all individuals who gathered samples, the analytical laboratory performing the testing, and a copy of the standard operating procedures for the analytical method used by the analytical laboratory;

(n) a description of disposal procedures and the anticipated disposal facility;

(o) a schedule outlining time frames to complete the decontamination process; and

(p) all available information relating to the contamination and the property based on the findings and conclusions of the preliminary assessment.

(2) Prior to implementing the work plan, it must first be:

(a) approved in writing by the owner of record and, if one is involved, the decontamination specialist who will execute the work plan; and

(b) submitted to the local health department with jurisdiction over the county in which the property is located.

(3) The owner of record, and any decontamination specialist involved in executing the work plan shall retain the work plan for a minimum of three years after completion of the work plan and the removal of the property from the contaminated-properties list.

(4) All information required to be included in the work plan shall be keyed to or contain a reference to the appropriate subsection of this rule.

#### **R392-600-5. Decontamination Procedures.**

(1) The decontamination specialists, and owner of record shall comply with all applicable federal, state, municipal, and local

laws, rules, ordinances, and regulations in decontaminating the property.

(2) The decontamination specialist or owner of record shall be present on the property during all decontamination activities.

(3) The decontamination specialist or owner of record shall conduct the removal of the contamination from the property, except for porous materials from areas not highly suggestive of contamination that may be cleaned as outlined in sub-section R392-600-5(12).

(4) The decontamination specialist or owner of record shall see that doors or other openings from areas requiring

decontamination shall be partitioned from all other areas with at least 4-mil plastic sheeting or equivalent before beginning decontamination to prevent contamination of portions of the property that have not been impacted by illegal drug operations.

(5) Ventilation Cleaning Procedures.

(a) Air registers shall be removed and cleaned as outlined in subsection R392-600-5(12).

(b) All air register openings shall be covered by temporary filter media.

(c) A fan-powered HEPA filter collection machine shall be connected to the ductwork to develop negative air pressure in the ductwork.

(d) Air lances, mechanical agitators, or rotary brushes shall be inserted into the ducts through the air register openings to loosen all dirt, dust and other materials.

(e) The air handler units, including the return air housing, coils, fans, systems, and drip pan shall be cleaned as required in subsection R392-600-5(12).

(f) All porous linings or filters in the ventilation system shall be removed and properly disposed.

(g) The ventilation system shall be sealed off at all openings with at least 4-mil plastic sheeting, or other barrier of equivalent strength and effectiveness, to prevent recontamination until the contaminated portion of the property meets the decontamination standards in R392-600-6(2) and (3).

(6) Procedures for Areas Highly Suggestive of Contamination.

(a) All porous materials shall be removed and properly disposed. On site cleaning of this material is not allowed.

(b) All stained materials from the illegal drug operations shall be removed and properly disposed, unless the decontamination specialist or owner of record determines that cleaning and testing can be performed and can demonstrate based on results of confirmation sampling and testing that the materials meet the decontamination standards contained in subsections R392-600-6(2) and (3). Only smooth and easily cleanable drug operation material surfaces may be decontaminated on site and only in accordance with R392-600-5(12).

(c) All non-porous surfaces may be cleaned to the point of stain removal and left in place or removed and properly disposed. Only smooth and easily cleanable surfaces may be decontaminated on site and only in accordance subsection R392-600-5(12). After on-site cleaning, the decontamination specialist or owner of record shall test all surfaces to verify compliance with the decontamination standards contained in R392-600-6(2) and (3).

(d) All exposed concrete surfaces shall be thoroughly cleaned as outlined in R392-600-5(12) and tested to meet the decontamination standards contained in R392-600-6(2) and (3) or may be removed and properly disposed.

(e) All appliances shall be removed and properly disposed, unless the decontamination specialist or owner of record determines that cleaning and testing can be performed and can demonstrate based on results of confirmation sampling and testing that the materials meet the decontamination standards contained in subsections R392-600-6(2) and (3). Only smooth and easily cleanable surfaces may be decontaminated on site and only in accordance subsection R392-600-5(12). After on-site cleaning, the decontamination specialist or owner of record shall test all surfaces to verify compliance with the decontamination standards contained in R392-600-6(2) and (3). For appliances such as ovens that have insulation, a 100 square centimeter portion of the insulation shall also be tested. If the insulation does not meet the decontamination standards contained in R392-600-6(2) and R392-600-6(3), the insulated appliances shall be removed and properly disposed.

(7) Structural Integrity and Security Procedures.

If, as a result of the decontamination, the structural integrity or security of the property is compromised, the decontamination specialist or owner of record shall take measures to remedy the structural integrity and security of the property.

(8) Procedures for Plumbing, Septic, Sewer, and Soil.

(a) All plumbing inlets to the septic or sewer system, including sinks, floor drains, bathtubs, showers, and toilets, shall be visually assessed for any staining or other observable residual contamination. All plumbing traps shall be assessed for VOC concentrations with a PID or FID in accordance with Section R392-600-6(7). All plumbing traps shall be assessed for mercury vapors in accordance with Section R392-600-6(10) by using a mercury vapor analyzer unless the results of the preliminary assessment indicate that contamination was unlikely to have occurred. If VOC concentrations or mercury vapor concentrations exceed the decontamination standards contained in R392-600-6(2) and (3), the accessible plumbing and traps where the excess levels are found shall be removed and properly disposed, or shall be cleaned and tested to meet the decontamination standards contained in R392-600-6(2) and (3).

(b) The decontamination specialist or owner of record shall obtain documentation from the local health department or the local waste water company describing the sewer disposal system for the dwelling and include it in the final report. If the dwelling is connected to an on-site septic system, a sample of the septic tank liquids shall be obtained and tested for VOC concentrations unless the results of the preliminary assessment indicate that contamination was unlikely to have occurred.

(c) If VOCs are not found in the septic tank sample or are found at concentrations less than UGWQS and less than 700 micrograms per liter for acetone, no additional work is required in the septic system area, unless requested by the owner of the property.

(d) If VOCs are found in the septic tank at concentrations exceeding the UGWQS or exceeding 700 micrograms per liter for acetone the following applies:

(i) The decontamination specialist or owner of record shall investigate the septic system discharge area for VOCs, lead,

and mercury unless there is clear evidence that mercury or lead was not used in the manufacturing of illegal drugs at the illegal drug operation;

(ii) The horizontal and vertical extent of any VOCs, mercury, and lead detected in the soil samples shall be delineated relative to background or EPA residential risk based screening concentrations contained in the document listed in R392-600-8.

(iii) If any of the VOCs, mercury, and lead used in the illegal drug operations migrated down to groundwater level, the decontamination specialist or owner of record shall delineate the vertical and horizontal extent of the groundwater contamination.

(iv) After complete characterization of the release, the decontamination specialist or owner of record shall remediate the impacted soils to concentrations below background or EPA residential risk based screening concentrations as contained in the document listed in R392-600-8 and any impacted groundwater to concentrations below the UGWQS and below 700 micrograms per liter for acetone.

(v) The contents of the septic tank shall be removed and properly disposed.

(e) The decontamination specialist or owner of record shall also notify the Utah Department of Environmental Quality, Division of Water Quality, if a release has occurred as a result of illegal drug operations to a single family septic system or a multiple family system serving less than 20 people.

(f) All sampling and testing pursuant to this section shall be performed in accordance with EPA sampling and testing protocol.

(9) Procedures for burn areas, trash piles and bulk wastes.

(a) The decontamination specialist or owner of record shall characterize, remove, and properly dispose of all bulk wastes remaining from the activities of the illegal drug operations or other wastes impacted by compounds used by the illegal drug operations.

(b) The decontamination specialist or owner of record shall examine the property for evidence of burn areas, burn or trash pits, debris piles, and stained areas suggestive of contamination. The decontamination specialist or owner of record shall test any burn areas, burn or trash pits, debris piles or stained areas with appropriate soil sampling and testing equipment, such as a LEL/O<sub>2</sub> meter, pH paper, PID, FID, mercury vapor analyzer, or equivalent equipment to determine if the area is contaminated.

(c) If the burn areas, burn or trash pits, debris piles, or stained areas are not in a part of the property that has otherwise been determined to be highly suggestive of contamination, the decontamination specialist shall recommend to the owner of the property that these areas be investigated.

(d) If the burn areas, burn or trash pits, debris piles or stained areas are part of the contaminated portion of the property, the decontamination specialist or owner of record shall investigate and remediate these areas.

(e) The decontamination specialist or owner of record shall investigate burn areas, burn or trash pits, debris piles, or stained areas for the VOCs used by the illegal drug operations and lead and mercury, unless there is clear evidence that mercury or lead was not used in the manufacturing of illegal drugs at the illegal drug operations.

(f) The decontamination specialist or owner of record shall delineate the horizontal and vertical extent of any VOCs, lead, or mercury detected in the soil samples relative to background

concentrations or EPA residential risk based screening concentrations as contained in the document listed in R392-600-8.

(g) If any of the compounds used by the illegal drug operation migrated into groundwater, the decontamination specialist or owner of record shall delineate the vertical and horizontal extent of the groundwater contamination relative to the UGWQS and relative to the maximum contaminant level of 700 micrograms per liter for acetone.

(h) After complete characterization of the release, the decontamination specialist or owner of record shall remediate contaminated soils to background or EPA residential risk based screening concentrations as contained in the document listed in R392-600-8, and contaminated groundwater to concentrations at or below the UGWQS and at or below 700 micrograms per liter for acetone.

(i) All sampling and testing conducted under this section shall be performed in accordance with current EPA sampling and testing protocol.

(10) Procedures for areas not highly suggestive of contamination.

(a) Porous materials with no evidence of staining or contamination may be cleaned by HEPA vacuuming and one of the following methods:

(i) Steam cleaning: Hot water and detergent shall be injected into the porous materials under pressure to agitate and loosen any contamination. The water and detergent solution shall then be extracted from the porous material by a wet vacuum.

(ii) Detergent and water solution: porous materials shall be washed in a washing machine with detergent and water for at least 15 minutes. The porous materials shall be rinsed with water. This procedure shall be repeated at least two additional times using new detergent solution and rinse water.

(b) All non-porous surfaces such as floors, walls, ceilings, mirrors, windows, doors, appliances, and non-fabric furniture shall be cleaned as outlined in subsection R392-600-5(12).

(c) Doors or other openings to areas with no visible contamination shall be partitioned from all other areas with at least 4-mil plastic sheeting or equivalent after being cleaned to avoid recontamination.

(d) Spray-on acoustical ceilings shall be left undisturbed, and shall be sampled and tested for asbestos and for contamination to determine whether ceilings meet the decontamination standards contained in R392-600-6(2) and (3), and if in need of removal, whether asbestos remediation protocols are applicable. If the materials exceed the standards, the decontamination specialist or owner of record shall properly remove and dispose of them.

(e) All exposed concrete surfaces shall be thoroughly cleaned as outlined in subsection R392-600-5(12).

(11) Decontamination procedures for motor vehicles.

If an illegal drug operation is encountered in a motor vehicle, the decontamination specialist or owner of record shall conduct a Preliminary Assessment in the manner described in this rule to determine if the vehicle is contaminated. If it is determined that the motor vehicle is contaminated and the vehicle cannot be cleaned in a manner consistent with this rule, the motor vehicle may no longer be occupied. The vehicle shall also be properly disposed.

(12) Cleaning Procedure.

For all items, surfaces or materials that are identified as easily cleanable and for which the work plan indicates they will be



decontaminated on site, the decontamination specialist or owner of record shall wash them with a detergent and water solution and then thoroughly rinse them. This procedure shall be repeated at least two additional times using new detergent solution and rinse water. The decontamination specialist or owner of record shall test all surfaces where decontamination on site has been attempted to verify compliance with the decontamination standards in R392-600-6(2) and R392-600-6(3).

(13) Waste Characterization and Disposal Procedures.

The Hazardous Waste Rules of R315-1 through R315-101, the Solid Waste Rules of R315-301 through R315-320 and the Illegal Drug Operations Decontamination Standards regulate the management and disposal of hazardous waste and contaminated debris generated during decontamination of an illegal drug operations. The decontamination specialist and owner of record shall comply with these rules and meet the following criteria.

(a) No waste, impacted materials or contaminated debris from the decontamination of illegal drug operations may be removed from the site or waste stream for recycling or reuse without the written approval of the local Health Department.

(b) All items removed from the illegal drug operations and waste generated during decontamination work shall be properly disposed.

(c) All liquid waste, powders, pressurized cylinders and equipment used during the production of illegal drugs shall be properly characterized by sampling or testing prior to making a determination regarding disposal or the waste shall simply be considered hazardous waste and properly disposed, except the waste shall not be deemed to be household hazardous waste.

(d) All impacted materials and contaminated debris that are not determined by the decontamination specialist or owner of record to be a hazardous waste may be considered a solid waste and properly disposed.

(e) All Infectious Waste shall be managed in accordance with Federal, State and local requirements.

(f) The disturbance, removal and disposal of asbestos must be done in compliance with all Federal, State, and local requirements including the requirements for Asbestos Certification, Asbestos Work Practices and Implementation of Toxic Substances Control Act, Utah Administrative Code R307-801.

(g) The removal and disposal of lead based paint must be done in compliance with all Federal, State, and local requirements including the requirements for Lead-Based Paint Accreditation, Certification and Work Practice Standards, Utah Administrative Code R307-840.

(h) The decontamination specialist and owner of record shall comply with all Federal, State, Municipal, County or City codes, ordinances and regulations pertaining to waste storage, manifesting, record keeping, waste transportation and disposal.

**R392-600-6. Confirmation Sampling and Decontamination Standards.**

(1) The decontamination specialist or owner of record shall take and test confirmation samples after decontamination to verify that concentrations are below the decontamination standards prior to the submittal of a final report. Samples are not required if a contaminated surface has been removed and replaced, unless there is evidence that the area has been re-contaminated. All

decontaminated areas and materials, areas not highly suggestive of contamination, and surfaces that have not been removed shall be sampled for compliance with the standards in Table 1.

(2) If the decontamination standards are not achieved, the decontamination specialist or owner of record shall perform additional decontamination and re-sample to confirm the surface or area meets the decontamination standards specified in Table 1.

TABLE 1

COMPOUND	DECONTAMINATION STANDARD
Red Phosphorus	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue.
Iodine Crystals	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue.
Methamphetamine	Less than or equal to 1.0 microgram Methamphetamine per 100 square centimeters
<del>Ephedrine</del>	<del>Less than or equal to 0.1 microgram Ephedrine per 100 square centimeters</del>
<del>Pseudoephedrine</del>	<del>Less than or equal to 0.1 microgram Pseudoephedrine per 100 square centimeters]</del>
VOCs in Air	Less than or equal to 1 ppm
Corrosives	Surface pH between 6 and 8
Ecstasy	Less than or equal to 0.1 microgram Ecstasy per 100 square centimeters

(3) The decontamination specialist or owner of record shall also conduct sampling and testing for all of the metals listed in Table 2 unless there is clear evidence that these metals were not used in the illegal drug operations. If Table 2 contaminants are present, the decontamination specialist or owner of record shall decontaminate the affected areas and sample until they meet the decontamination standards in Table 2.

TABLE 2

COMPOUND	DECONTAMINATION STANDARD
Lead	Less than or equal to 4.3 micrograms Lead per 100 square centimeters
Mercury	Less than or equal to 3.0 micrograms Mercury per cubic meter of air

(4) Confirmation sampling procedures.

(a) All sample locations shall be photographed.

(b) All samples shall be obtained from areas representative of the materials or surfaces being tested. Samples shall be collected from materials or surfaces using wipe samples and shall be biased toward areas where contamination is suspected or confirmed or was known to be present prior to decontamination.

(c) All samples shall be obtained, preserved, and handled and maintained under chain-of-custody protocol in accordance with industry standards for the types of samples and analytical testing to be conducted.

(d) The individual conducting the sampling shall wear a new pair of gloves to obtain each sample.

(e) All reusable sampling equipment shall be decontaminated prior to sampling.

(f) All testing equipment shall be properly equipped and calibrated for the types of compounds to be analyzed.

(g) Cotton gauze, 3" x 3" 12-ply or 4" x 4" 8-ply, in sterile packages, shall be used for all wipe sampling. The cotton gauze shall be wetted with analytical grade methanol for the wipe sampling. The cotton gauze shall be blotted or wiped at least five times in two perpendicular directions within each sampling area.

(h) After sampling, each wipe sample shall be placed in a new clean sample container and capped tightly. Recommended

containers are 50-mL polypropylene disposable centrifuge tubes or 40-mL VOA glass vials. Plastic bags shall not be used. The sample container shall be properly labeled with at least the site or project identification number, date, time, and actual sample location. The sample container shall be refrigerated until delivered to an analytical laboratory.

(i) Each sample shall be analyzed for methamphetamine, ephedrine, pseudoephedrine, and ecstasy depending upon the type of illegal drug operations using NIOSH Manual of Analytical Method (NMAM) 9106, 9109 or 9111 [~~or the proposed 9106 method if it is not yet approved~~] or equivalent method approved by the Utah Department of Health.

(5) Confirmation sampling from areas highly suggestive of contamination.

(a) [~~Samples collected from areas highly suggestive of contamination shall be by grab samples that are not combined with other samples.~~] Grab samples or composite samples are allowed for confirmation testing of highly suggestive contaminated areas.

(b) Three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from each room of the property where illegal drug operations occurred, hazardous materials were stored and where staining or contamination are or were present. The three samples shall be obtained from a nonporous section of the floor, one wall, and the ceiling in each room or any other location where contamination is suspected.

(c) Three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from different areas of the ventilation system, unless the system serves more than one unit or structure. If the system serves more than one unit or structure, samples shall be collected from a representative distribution of the system as well as the corresponding areas that it serves until the contamination is delineated, decontaminated, and determined to be below the decontamination standards established in this rule.

(d) If there is a kitchen, three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from the surfaces most likely to be contaminated including the counter top, sink, or stove top, and from the floor in front of the stove top or any other location where contamination is suspected.

(e) If there is a bathroom, three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from the surfaces most likely to be contaminated including the counter top, sink,

toilet, or the shower/bath tub and any other location where contamination is suspected.

(f) If there are any appliances, one 10 cm. x 10 cm. area (100 square centimeters) shall be wipe sampled from the exposed portion of each appliance. If multiple appliances are present, each wipe sample may be a composite of up to three 100 square centimeter areas on three separate appliances, provided that the surfaces most likely to be contaminated are tested.

(g) If there is any other enclosed space where illegal drug operations occurred, hazardous materials were stored, or where staining or contamination is present, three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from the surfaces most likely to be contaminated.

(h) Each wipe sample shall be placed in a new clean sample container and capped tightly. Recommended containers are 50-mL polypropylene disposable centrifuge tubes or 40-mL VOA glass vials. Plastic bags shall not be used.

(6) Confirmation sampling from areas not highly suggestive of contamination[~~:-~~

~~-----Samples]~~ shall be collected in a manner consistent with the confirmation sampling described in Section R392-600-6(5). The samples may be combined together to form one composite sample per room or sampling area. The composite sample result shall be the averaged or standardized result provided by the laboratory or calculated from the total recovery value.

(7) VOC sampling and testing procedures.

(a) A properly calibrated PID or FID capable of detecting VOCs shall be used for testing. The background concentration of VOCs shall be obtained by testing three exterior areas outside the areas highly suggestive of contamination and in areas with no known or suspected sources of VOCs. All VOC readings shall be recorded for each sample location.

(b) At least three locations in areas highly suggestive of contamination shall be tested for VOC readings. The testing equipment probe shall be held in the sample location for at least 30 seconds to obtain a reading.

(c) All accessible plumbing traps shall be tested for VOCs by holding the testing equipment probe in the plumbing pipe above the trap for at least 60 seconds.

(8) Testing procedures for corrosives.

(a) Surface pH measurements shall be made using deionized water and pH test strips with a visual indication for a pH between 6 and 8. The pH reading shall be recorded for each sample location.

(b) For horizontal surfaces, deionized water shall be applied to the surface and allowed to stand for at least three minutes. The pH test strip shall then be placed in the water for a minimum of 30 seconds and read.

(c) For vertical surfaces, a cotton gauze, 3" x 3" 12-ply or 4" x 4" 8-ply, in sterile packages, shall be wetted with deionized water and wiped over a 10 cm. x 10 cm. area at least five times in two perpendicular directions. The cotton gauze shall then be placed into a clean sample container and covered with clean deionized water. The cotton gauze and water shall stand in the container for at least three minutes prior to testing. The pH test strip shall then be placed in the water for a minimum of 30 seconds and read.

(d) pH testing shall be conducted on at least three locations in each room within the areas highly suggestive of contamination.

## (9) Lead Sampling and Testing Procedures.

(a) Unless there is clear evidence that lead was not used in the manufacturing of methamphetamine, or ecstasy at the illegal drug operations, lead sampling shall be conducted as follows:

(i) Cotton gauze, 3" x 3" 12-ply or 4" x 4" 8-ply, in sterile packages shall be used for wipe sampling. The cotton gauze shall be wetted with analytical grade 3 per cent nanograde nitric acid for the wipe sampling. The cotton gauze shall be blotted or wiped at least five times in two perpendicular directions within each sampling area.

(ii) Three 10 cm. x 10 cm. areas (100 square centimeters) shall be sampled in each room within the areas highly suggestive of contamination; and

(b) After sampling, each wipe sample shall be placed in a new clean sample container and capped tightly. The sample container shall be properly labeled with at least the site or project

identification number, date, time, and actual sample location. The sample container shall be delivered to an analytical laboratory that uses EPA Method 6010B or an equivalent method approved by the Utah Department of Health.

(c) The sample shall be analyzed for lead using EPA Method 6010B or equivalent.

## (10) Mercury Sampling and Testing Procedures.

(a) A properly calibrated mercury vapor analyzer shall be used for evaluating the decontaminated areas for the presence of mercury. All mercury readings shall be recorded for each sample location.

(b) At least three locations in each room within the areas highly suggestive of contamination shall be tested for mercury vapor readings. The testing equipment probe shall be held in the sample location for at least 30 seconds to obtain a reading.

(c) All accessible plumbing traps shall be tested for mercury by holding the testing equipment probe in the plumbing pipe above the trap for at least 60 seconds.

## (11) Septic tank sampling and testing procedures.

(a) All sampling and testing shall be performed in accordance with current EPA sampling and testing protocol.

(b) The liquid in the septic tank shall be sampled with a new clean bailer or similar equipment.

(c) The liquid shall be decanted or poured with minimal turbulence into three new VOA vials properly prepared by the analytical laboratory.

(d) The VOA vials shall be filled so that there are no air bubbles in the sealed container. If air bubbles are present, the vial must be emptied and refilled.

(i) The sample vials shall be properly labeled with at least the date, time, and sample location.

(ii) The sample vials shall be refrigerated until delivered to the analytical laboratory.

(iii) The sample shall be analyzed using EPA Method 8260 or equivalent.

## (12) Confirmation sampling by Local Health Departments.

The local health department may also conduct confirmation sampling after decontamination is completed and after the final report is submitted to verify that the property has been decontaminated to the standards outlined in this rule.

**R392-600-7. Final Report.**

(1) A final report shall be:

(a) prepared by the decontamination specialist or owner of record upon completion of the decontamination activities;

(b) submitted to the owner of the decontaminated property and the local health department of the county in which the property is located; and

(c) retained by the decontamination specialist and owner of record for a minimum of three years.

(2) The final report shall include the following information and documentation:

(a) complete identifying information of the property, such as street address, mailing address, owner of record, legal description, county tax or parcel identification number, or vehicle identification number if a mobile home or motorized vehicle;

(b) the name and certification number of the decontamination specialist who performed the decontamination services on the property;

(c) a detailed description of the decontamination activities conducted at the property, including any cleaning performed in areas not highly suggestive of contamination;

(d) a description of all deviations from the approved work plan;

(e) photographs documenting the decontamination services and showing each of the sample locations,

(f) a drawing or sketch of the areas highly suggestive of contamination that depicts the sample locations and areas that were decontaminated;

(g) a description of the sampling procedure used for each sample;

(h) a copy of the testing results from testing all samples, including testing for VOCs, corrosives, and if applicable, lead and mercury, and testing performed by an analytical laboratory;

(i) a written discussion interpreting the test results for all analytical testing on all samples;

(j) a copy of any asbestos sampling and testing results;

(k) a copy of the analytical laboratory test quality assurance data on all samples and a copy of the chain-of-custody protocol documents;

(l) a summary of the waste characterization work, any waste sampling and testing results, and transportation and disposal documents, including bills of lading, weight tickets, and manifests for all materials removed from the property;

(m) a summary of the decontamination specialist or owner of record's observation and testing of the property for evidence of burn areas, burn or trash pits, debris piles, or stained areas;

(n) a written discussion and tables summarizing the confirmation sample results with a comparison to the decontamination standards outlined in this rule; and

(o) an affidavit from the decontamination specialist and owner of record that the property has been decontaminated to the standards outlined in this rule.

(3) All information required to be included in the final report shall be keyed to or contain a reference to the appropriate subsection of this rule.

**R392-600-8. Reference.**

The document: U.S. Environmental Protection Agency. Region 9: Superfund Preliminary Remediation Goals (PRG) Table, October 2004, is incorporated by reference.

**KEY:** illegal drug operations, methamphetamine decontamination

**Date of Enactment or Last Substantive Amendment:** ~~May 1, 2015~~ 2017

**Authorizing, and Implemented or Interpreted Law:** 19-6-906

## Health, Health Care Financing, Coverage and Reimbursement Policy

### R414-304

#### Income and Budgeting

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 41211

FILED: 01/26/2017

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to align the budgeting of expenses with the budgeting of income for family medically needy programs.

**SUMMARY OF THE RULE OR CHANGE:** Insurance premiums used as an expense for the medically needy family, pregnant woman or child medicaid programs will now be factored if the expense is paid weekly or bi-weekly. This amendment also removes duplicate language and makes other technical changes.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Pub. L. No. 111-148 and Section 26-1-5 and Section 26-18-3

#### ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Department does not anticipate any impact to the state budget because individuals will pay the same amount of insurance premiums over the course of their eligibility span.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund Medicaid services nor make eligibility determinations for the Medicaid program.

♦ **SMALL BUSINESSES:** The Department does not anticipate any impact to small businesses because individuals will pay the same amount of insurance premiums over the course of their eligibility span.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Department does not anticipate any impact to Medicaid providers and to Medicaid recipients because individuals will

pay the same amount of insurance premiums over the course of their eligibility span.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Department does not anticipate any impact to a single Medicaid provider or to a Medicaid recipient because individuals will pay the same amount of insurance premiums over the course of their eligibility span.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact to business as this change affects only individual eligibility for Medicaid.

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office of Administrative Rules.

#### DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov or mail at PO Box 143102, Salt Lake City, UT 84114-3102

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017**

**THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2017**

**AUTHORIZED BY:** Joseph Miner, MD, Executive Director

#### **R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

##### **R414-304. Income and Budgeting.**

##### **R414-304-2. Definitions.**

(1) The definitions in Rule R414-1, Rule R414-301, and Rule R414-303 apply to this rule. In addition:

(a) "Aid to Families with Dependent Children" (AFDC) means a State Plan for aid that was in effect on June 16, 1996.

(b) "Allocation for a spouse" means an amount of income that is the difference between the Social Security Income (SSI) federal benefit rate for a couple minus the federal benefit rate for an individual.

(c) "Basic maintenance standard" or "BMS" means the income level for eligibility for Medicaid coverage of the medically needy based on the number of family members who are counted in the household size.

(d) "Benefit month" means a month or any portion of a month for which an individual is eligible for medical assistance.

(e) "Best estimate" means that income is calculated for the upcoming certification period based on current information

about income being received, expected income deductions, and household size.

(f) "Deeming" or "deemed" means a process of counting income from a spouse or a parent, or the sponsor of a qualified alien, to decide what amount of income after certain allowable deductions, if any, must be considered income to the applicant or recipient.

(g) "Eligible spouse" means the member of a married couple who is either aged, blind or disabled.

(h) "Factoring" means ~~that~~ the eligibility agency calculates the monthly income or income deductions by prorating income to account for months when an individual receives a fifth payment when paid weekly, or a third paycheck with paid every other week. Weekly income is factored by multiplying the weekly income amount by 4.3 to obtain a monthly amount. Income paid every other week is factored by multiplying the bi-weekly income by 2.15 to obtain a monthly amount.

(i) "Family Medicaid" means medical assistance for families caring for dependent children and is a general term used to refer to Medicaid coverage for medically needy parents, caretaker relatives, pregnant women, and children.

(j) "Family member" means a son, daughter, parent, or sibling of the client or the client's spouse, the spouse of the client, and the parents of a dependent child.

(k) "Full-time employment" means an average of 100 or more hours of work a month or an average of 23 hours a week.

(l) "Full-time student" means a person enrolled for the number of hours defined by the particular institution as fulfilling full-time requirements.

(m) "Income annualizing" means using total income earned during one or more past years, or a shorter applicable time period, and anticipating any future changes, to estimate the average annual income. That estimated annual income is then divided by 12 to determine the household's average monthly income.

(n) "Income averaging" means using a history of past income and expected changes, and averaging it over a determined period of time that is representative of future monthly income.

(o) "Income anticipating" means using current facts regarding rate of pay and number of working hours, and reasonably expected future income changes, to anticipate future monthly income.

(p) "In-kind support donor" means an individual who provides food or shelter without receiving full market value compensation in return.

(q) "Prospective budgeting" is the process of calculating income and determining eligibility and spenddown for future months based on the best estimate of income, deductions, and household size.

(r) "School attendance" means enrollment in a public or private elementary or secondary school, a university or college, vocational or technical school or the Job Corps, for the express purpose of gaining skills that lead to gainful employment.

(s) "Presumed maximum value" means the allowed maximum amount an individual is charged for the receipt of food and shelter. This amount will not exceed one-third of the SSI federal benefit rate plus \$20.

(t) "Temporarily absent" means a member of a household is living away from the home for a period of time but intends to return to the home when the reason for the temporary absence is

accomplished. Reasons for a temporary absence may include an absence for the purpose of education, medical care, visits, military service, temporary religious service or other volunteer service such as the Peace Corps.

**R414-304-9. Aged, Blind and Disabled Non-Institutional Medicaid and Medically Needy Family, Pregnant Woman and Child Non-Institutional Medicaid Income Deductions.**

(1) The Department shall determine income deductions based on~~adopts and incorporates by reference~~ the financial methodologies in~~required by~~ 42 CFR 435.601, and the deductions defined in 42 CFR 435.831~~[-October 1, 2012 ed]~~.

(2) For aged, blind and disabled individuals eligible under 42 CFR 435.301(b)(2)(iii), (iv), and (v), described more fully in 42 CFR 435.320, .322 and .324, the eligibility agency shall deduct from income an amount equal to the difference between 100% of the federal poverty guideline and the current BMS income standard for the applicable household size to determine the spenddown amount.

(3) Health insurance premiums:

~~(a) The~~To determine eligibility for and the amount of a spenddown under medically needy programs, the eligibility agency shall deduct from income health insurance premiums the client or a financially responsible family member pays, providing~~The~~ coverage must be for the client or any family members living with the client~~[-in the month of payment]~~. The eligibility agency shall also deduct from income the amount of a health insurance premium the month it is due when~~premiums~~ the Department pays the premium~~]-on behalf of the client as authorized by Section 1905(a) of Title XIX of the Compilation of the Social Security Laws, except no deduction is allowed for Medicare premiums~~ ~~that~~~~]-the~~ Department pays for recipients.

~~(b)(a)~~ For Aged, Blind and Disabled programs, the eligibility agency shall deduct the entire payment in the month it is due and may not prorate the amount.

~~(c)~~ For Medically Needy Family, Pregnant Woman and Child programs, factor premiums due weekly or bi-weekly before deducting. For payments due on any other basis, deduct the actual amount in the month due.

~~(d)(b)~~ The eligibility agency may not deduct health insurance premiums to determine eligibility for the poverty-related medical assistance programs or coverage groups subject to the use of MAGI-based methodologies.

~~(e)(4) [To determine the spenddown under medically needy programs, the eligibility agency shall deduct from income health insurance premiums that the client or a financially responsible family member pays in the application month or during the three-month retroactive period. The eligibility agency shall allow the deduction either in the month paid or in any month after the month paid to the extent the full amount was not deducted in the month paid, but only through the month of application.]~~For medically needy programs, the actual amount of insurance premiums paid in a retroactive month will be deducted as follows:

(i) Deducted in the month paid; or

(ii) Deducted in a month after it was paid, but only through the month of application and only to the extent it was not already used as a deduction.

(5) To determine eligibility for medically needy coverage groups, the eligibility agency shall deduct from income medically

necessary expenses that the client verifies only if the expenses meet all of the following conditions:

(a) The medical service was received by the client, a client's spouse, a parent of a dependent client, a dependent sibling of a dependent client, a deceased spouse, or a deceased dependent child;

(b) Medicaid does not cover the medical bill and it is not payable by a third party;

(c) The medical bill remains unpaid or the client receives and pays for the medical service during the month of application or during the three months immediately preceding the date of application. The date that the medical service is provided on an unpaid expense is irrelevant if the client still owes the provider for the service. Bills for services that the client receives and pays for during the application month or the three months preceding the date of application can be used as deductions only through the month of application.

(6) The eligibility agency may not allow a medical expense as a deduction more than once.

(7) The eligibility agency may only allow as an income deduction a medical expense for a medically necessary service. The eligibility agency shall determine whether the service is medically necessary.

(8) The eligibility agency shall deduct medical expenses in the order required by 42 CFR 435.831(h)(1). When expenses have the same priority, the eligibility agency shall deduct paid expenses before unpaid expenses.

(9) A client who pays a cash spenddown may present proof of medical expenses paid during the coverage month and request a refund of spenddown paid up to the amount of bills paid by the client. The following criteria apply:

(a) Expenses for which a refund can be made include medically necessary expenses not covered by Medicaid or any third party, co-payments required for prescription drugs covered under a Medicare Part D plan, and co-payments or co-insurance amounts for Medicaid-covered services as required under the Utah Medicaid State Plan;

(b) The expense must be for a service that the client receives during the benefit month;

(c) The Department may not refund any portion of any medical expense that the client uses to meet a Medicaid spenddown when the client assumes responsibility to pay that expense;

(d) A refund cannot exceed the actual cash spenddown amount paid by the client;

(e) The Department may not refund spenddown amounts that a client pays based on unpaid medical expenses for services that the client receives during the benefit month. The client may present to the eligibility agency any unpaid bills for non-Medicaid-covered services that the client receives during the coverage month. The client may use the unpaid bills to meet or reduce the spenddown that the client owes for a future month of Medicaid coverage to the extent that the bills remain unpaid at the beginning of the future month;

(f) The Department shall reduce the refund amount by the amount of any unpaid obligation that the client owes the Department.

(10) For poverty-related coverage groups and coverage groups subject to the MAGI-based methodologies, an individual or household is ineligible if countable income exceeds the applicable

income limit. The eligibility agency may not deduct medical costs from income to determine eligibility for poverty-related or MAGI-based medical assistance programs. An individual may not pay the difference between countable income and the applicable income limit to become eligible for poverty-related or MAGI-based medical assistance programs.

(11) When a client must meet a spenddown to become eligible for a medically needy program, the client must sign a statement that says:

(a) the eligibility agency told the client how spenddown can be met;

(b) the client expects his or her medical expenses to exceed the spenddown amount;

(c) whether the client intends to pay cash or use medical expenses to meet the spenddown; and

(d) that the eligibility agency told the client that the Medicaid provider may not use the provider's funds to pay the client's spenddown and that the provider may not loan the client money for the client to pay the spenddown.

(12) A client may meet the spenddown by paying the eligibility agency [~~the amount with cash or check~~], or by providing proof to the eligibility agency of medical expenses [~~that~~]the client owes equal to the spenddown amount.

(a) The client may elect to deduct from countable income unpaid medical expenses for services [~~that~~]the client receives in non-Medicaid covered months to meet or reduce the spenddown.

(b) Expenses must meet the criteria for allowable medical expenses.

(c) Expenses may not be payable by Medicaid or a third party.

(d) For each benefit month, the client may choose to change the method of meeting the spenddown [~~by either presenting proof of allowable medical expenses to the eligibility agency or by presenting a cash or check payment to the eligibility agency equal to the spenddown amount~~].

(13) The eligibility agency may not accept spenddown payments from a Medicaid provider if the source of the funds is the Medicaid provider's own funds. In addition, the eligibility agency may not accept spenddown payments from a client if a Medicaid provider loans funds to the client to make a spenddown payment.

(14) The eligibility agency may only deduct the amount of prepaid medical expenses [~~that~~]equal[s] to the cost of services received [~~in a given month~~]during the month in which the client pays the expenses. The eligibility agency may not deduct from income any payments [~~that~~]a client makes for medical services in a month before the client receives the service[s].

(15) [~~For non-institutional Medicaid programs, the eligibility agency may only deduct medically necessary expenses. The Department determines whether services for institutional care are medically necessary.~~

~~(16)]~~The eligibility agency may not require a client to pay a spenddown of less than \$1.

(16[7]) Medical costs that a client incurs in a benefit month may not be used to meet a spenddown when the client is enrolled in a Medicaid health plan.

(17) Bills for mental health services that a client incurs in a benefit month may not be used to meet spenddown if Medicaid contracts with a single mental health provider to provide mental health services to all recipients in the client's county of residence.

~~(18) Bills for mental health services a client pays [that a client receives] in a retroactive or application month [that a client pays] may be used to meet a spenddown [only] if the services were not provided by a Medicaid-contracted mental health provider [does not provide the services].~~

**R414-304-11. Aged, Blind and Disabled Institutional Medicaid and Family Institutional Medicaid Income Deductions.**

(1) ~~The Department shall determine income deductions based on [adopts and incorporates by reference] the financial methodologies in [required by] 42 CFR 435.601 and the deductions defined in 42 CFR 435.725, 435.726, 435.832, and 42 USC 1396a(r)(1), and 1396r-5(d). [435.832, October 1, 2012 ed. The Department also adopts and incorporates by reference Subsections 1902(r)(1) and 1924(d) of the Compilation of the Social Security Laws, in effect January 1, 2013.]~~

(2) Health insurance premiums:

(a) For institutionalized and waiver eligible clients, the eligibility agency shall deduct from income health insurance premiums only for the institutionalized or waiver eligible client and only if paid with the institutionalized or waiver eligible client's funds. ~~[The eligibility agency shall deduct health insurance premiums in the month the payment is due.]~~ The eligibility agency shall deduct ~~[the amount of a health insurance premium for the month it is due if]~~ premiums the Department is paying ~~[the premium]~~ on behalf of the client as authorized by Section 1905(a) of Title XIX of the Social Security Act, except no deduction is allowed for Medicare premiums that the Department pays for recipients.

(b) For Aged, Blind and Disabled programs, the eligibility agency shall deduct health insurance premiums in the month the payment is due.

(c) For Medically Needy Family, Pregnant Woman and Child programs, factor premiums due weekly or bi-weekly before deducting. For payments due on any other basis, deduct the actual amount in the month due.

~~(d)~~ (b) The eligibility agency shall deduct from income the portion of a combined premium attributable to the institutionalized or waiver-eligible client if the combined premium includes a spouse or dependent family member. The client's portion must be paid from the funds of the institutionalized or waiver-eligible client.

(3) The eligibility agency may only deduct medical expenses from income under the following conditions:

- (a) the client receives the medical service;
- (b) Medicaid or a third party will not pay the medical bill;
- (c) a paid medical bill can only be deducted through the month of payment. No portion of any paid bill can be deducted after the month of payment.

(4) ~~[To determine the cost of care contribution for long-term care services, the eligibility agency may not deduct medical or remedial care expenses that the Department is prohibited from paying when the client incurs the expenses for the transfer of assets for less than fair market value. The eligibility agency may not deduct medical or remedial care expenses that the Department is prohibited from paying under Section 1917(f) of the Social Security Act in effect January 1, 2013, when the equity value of the individual's home exceeds the limit set by law. The eligibility agency may not deduct the expenses during or after the month that~~

~~the client receives the services even when the expenses remain unpaid.]~~ The eligibility agency may not deduct from income to determine cost-of-care contribution for long-term care services, or when a client incurs expenses for medical or remedial care services, even if the expense remains unpaid when:

(a) a client is in a penalty period resulting from a transfer of assets; or

(b) a client's residential home exceeds the equity value as defined in 42 U.S.C. 1396p(f).

(5) The eligibility agency may not allow a medical expense as an income deduction more than once.

(6) The eligibility agency may only allow as an income deduction a medical expense for a medically necessary service. The eligibility agency shall determine whether the service is medically necessary.

(7) The eligibility agency may only deduct the amount of prepaid medical expenses ~~[that] equal[s] to the cost of services received [in a given month]~~ during the month in which the client pays the expenses. The eligibility agency may not deduct from income any payments ~~[that] a client makes for medical services in a month before the client receives the service[s].~~

(8) When a client must meet a spenddown to become eligible for a medically needy program or receive Medicaid under a home and community based care waiver, the client must sign a statement that says:

(a) the eligibility agency told the client how spenddown can be met;

(b) the client expects his or her medical expenses to exceed the spenddown amount;

(c) whether the client intends to pay cash or use medical expenses to meet the spenddown; and

(d) ~~[that] the eligibility agency told the client that [the] Medicaid providers may not use the provider's funds to pay the client's spenddown or [and that the provider may not] loan the client money for the client to pay the spenddown.~~

(9) A client may meet the spenddown by paying the eligibility agency ~~[the amount with cash or check]~~, or by providing proof to the eligibility agency of medical expenses ~~[that] the client owes equal to the spenddown amount.~~

(a) The client may elect to deduct from countable income unpaid medical expenses for services ~~[that] the client receives in non-Medicaid[-]covered months to meet or reduce the spenddown.~~

(b) Expenses must meet the criteria for allowable medical expenses.

(c) Expenses may not be payable by Medicaid or a third party.

(d) For each benefit month, the client may choose to change the method of meeting spenddown by either presenting proof of allowable medical expenses to the eligibility agency or by ~~[presenting a cash or check]~~ making a payment to the eligibility agency equal to the spenddown amount.

(10) The eligibility agency may not accept spenddown payments from a Medicaid provider if the source of the funds is the Medicaid provider's own funds. In addition, the eligibility agency may not accept spenddown payments from a client if a Medicaid provider loans funds to the client to make a spenddown payment.

(11) The eligibility agency shall require institutionalized clients to pay all countable income remaining after allowable

income deductions to the institution in which ~~they~~an individual resides, as ~~their~~the individual's cost-of-care contribution.

(12) A client who pays a cash spenddown or a cost-of-care amount to the medical facility in which he resides, may present proof of medical expenses paid during the coverage month and request a refund of spenddown or cost-of-care paid up to the amount of bills. The following criteria apply:

(a) Expenses for which a refund can be made include medically necessary medical expenses not covered by Medicaid or any third party, co-payments required for prescription drugs covered under a Medicare Part D plan, and co-payments or co-insurance amounts for Medicaid-covered services as required under the Utah Medicaid State Plan;

(b) The expense must be for a service ~~that~~the client receives during the benefit month;

(c) The eligibility agency may not refund any portion of a~~ny~~ medical expense ~~that~~the client uses to meet a Medicaid spenddown or to reduce his cost-of-care to the institution when the client assumes that payment responsibility;

(d) A refund cannot exceed the actual cash spenddown or cost-of-care amount paid by the client;

(e) The eligibility agency may not refund a spenddown or cost-of-care amounts paid by a client based on unpaid medical expenses for services ~~that~~the client receives during the benefit month. The client may present to the eligibility agency any unpaid bills for non-Medicaid-covered services ~~that~~the client receives during the coverage month. The client may use these unpaid bills to meet or reduce the spenddown ~~that~~the client owes for a future month of Medicaid coverage to the extent ~~that~~the bills remain unpaid at the beginning of the future month, and the bills are not payable by a third party;

(f) The Department shall reduce a refund by the amount of any unpaid obligation ~~that~~the client owes the Department.

(13) The eligibility agency shall deduct a personal needs allowance for residents of medical institutions equal to \$45.

(14) When a doctor verifies ~~that~~a single person or a person whose spouse resides in a medical institution is expected to return home within six months of entering a medical institution or nursing home, the eligibility agency shall deduct a personal needs allowance equal to the BMS for one person defined in Subsection R414-304-13(6), for up to six months to maintain the individual's community residence.

(15) A client is not eligible for Medicaid coverage if medical costs are not at least equal to the contribution required towards the cost of care.

(16) Medical costs ~~that~~a client incurs in a benefit month may not be used to meet a spenddown when the client is enrolled in a Medicaid health plan.

~~(17) Bills for mental health services that a client incurs in a benefit month may not be used to meet a spenddown if Medicaid contracts with a single mental health provider to provide mental health services to all recipients in the client's county of residence. [Bills for mental health services that a client receives in a retroactive or application month that a client pays may be used to meet spenddown only if the Medicaid-contracted mental health provider does not provide the services.]~~

(18) Bills for mental health services a client pays in a retroactive or application month may be used to meet a spenddown

if the services are not provided by a Medicaid-contracted mental health provider.

**KEY: financial disclosures, income, budgeting**

**Date of Enactment or Last Substantive Amendment: ~~July 1, 2016~~2017**

**Notice of Continuation: January 23, 2013**

**Authorizing, and Implemented or Interpreted Law: 26-18-3**

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-308-7** Change Reporting and Benefit Changes

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 41212

FILED: 01/26/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to clarify the effective date of a change for Medicaid recipients.

**SUMMARY OF THE RULE OR CHANGE:** This amendment clarifies that the effective date of a change that is both positive and reported timely is the month of report.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Pub. L. No. 111-148 and Section 26-1-5 and Section 26-18-3

#### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to the state budget because this amendment only clarifies effective dates of eligibility based on recipient changes. It neither affects Medicaid services nor provider reimbursement.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund Medicaid services nor make eligibility determinations for the Medicaid program.

◆ **SMALL BUSINESSES:** There is no impact to small businesses because this amendment only clarifies effective dates of eligibility based on recipient changes. It neither affects Medicaid services nor provider reimbursement.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid recipients because this amendment only clarifies effective dates of eligibility based on recipient changes. It neither affects Medicaid services nor provider reimbursement.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no impact to a single Medicaid provider or to a Medicaid



recipient because this amendment only clarifies effective dates of eligibility based on recipient changes. It neither affects Medicaid services nor provider reimbursement.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on business because it does not affect the covered services or provider reimbursement.

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017

THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-308. Application, Eligibility Determinations and Improper Medical Assistance.**

**R414-308-7. Change Reporting and Benefit Changes.**

(1) A recipient must report to the eligibility agency reportable changes ~~[in the recipient's circumstances. Reportable changes are]~~as defined in Section R414-301-2 within 10 calendar days of the change.

~~\_\_\_\_\_ (a) The due date for reporting changes is the close of business ten calendar days after the recipient learns of the change.~~

~~\_\_\_\_\_ (b) When the change is receipt of income from a new source, or an increase in income for the recipient, the due date for reporting the income change is the close of business ten calendar days after the change.~~

~~\_\_\_\_\_ (c) The date of report is the date that the recipient reports the change to the eligibility agency during normal business hours, or the date that the eligibility agency receives the information from another source.~~

~~\_\_\_\_\_ (d) The agency shall accept change reports transferred from other insurance affordability programs.]~~

(2) The eligibility agency shall:

(a) Act on the reported change; and

(b) Request verification from the recipient if the change cannot be verified through an electronic interface or other credible

~~source [may receive information from credible sources other than the recipient such as computer income matches and from anonymous citizen reports. The eligibility agency shall verify information from other sources that may affect the recipient's eligibility for medical assistance. The eligibility agency shall verify information from citizen reports through other reliable proofs.]~~

~~(3) If [the eligibility agency needs] verification is needed [from the recipient], the agency shall send [the recipient] a written request [The eligibility agency shall] and give the recipient at least [ten] 10 calendar days from the notice date to respond. [The due date for providing verification of changes is the close of business on the date that the eligibility agency sets as the due date in a written notice to the recipient.~~

~~\_\_\_\_\_ (4) A recipient must provide change reports, forms or verifications to the eligibility agency by the close of business on the due date.]~~

\_\_\_\_\_ (a) If the recipient does not provide verification by the due date, the agency shall end eligibility after the month in which proper notice is sent.

\_\_\_\_\_ (b) If the recipient provides verification by the due date, the agency shall re-determine eligibility.

\_\_\_\_\_ (c) If the recipient provides verification during the month that follows the effective closure date, the eligibility agency shall treat the date as a new application date without requiring a new application.

\_\_\_\_\_ (d) If the recipient does not provide verification by the end of the month that follows the effective closure date, the recipient must submit a new application.

\_\_\_\_\_ (4) If the recipient does not provide verification, or a reported change does not affect all household members, the agency may only take action on those individuals who are affected by the change.

\_\_\_\_\_ (5) If a due date falls on a non-business day, then the due date shall be the close of the next business day.

\_\_\_\_\_ (6) If a change has an adverse effect on the recipient, the agency shall change eligibility after the month in which proper notice is sent.

\_\_\_\_\_ (7) If the agency can verify that a change is timely, the change becomes effective on the first day of the month of report.

\_\_\_\_\_ (8) If the agency cannot verify that a change is timely, the change becomes effective on the first day of the month in which the agency receives verification.

~~\_\_\_\_\_ (5) If the information about a change causes an increase in a recipient's benefits and the eligibility agency asks the recipient for verification, the eligibility agency shall increase benefits as follows:~~

~~\_\_\_\_\_ (a) An increase in benefits is effective on the first day of the month after the change report month if the recipient returns all verification within ten calendar days of the request date or by the end of the change report month, if longer;~~

~~\_\_\_\_\_ (b) An increase in benefits is effective on the first day of the month after the date that the eligibility agency receives all verification if the recipient does not return verification by the due date, but returns verification in the calendar month that follows the report month.~~

~~\_\_\_\_\_ (6) If the reported information causes an increase in a recipient's benefits and the eligibility agency does not request~~

verification, the increase in benefits is effective on the first day of the month that follows the change report month.

(7) If a change adversely affects the recipient's eligibility for benefits, the eligibility agency shall change the effective date of eligibility to the first day of the month after the month in which it sends proper notice of the change.

(a) The eligibility agency shall change the effective date if it has enough information to adjust benefits, regardless of whether the recipient returns verification.

(b) The eligibility agency shall send a written request to the recipient for verification if it does not have enough information to adjust benefits. The recipient has at least ten days after the date of the request to return verification.

(i) Upon receiving verification, the eligibility agency shall adjust benefits to become effective on the first day of the month after the agency sends proper notice.

(ii) If the recipient does not return verification timely, the eligibility agency shall discontinue benefits after the month in which the agency sends proper notice.

(8) If the recipient returns all requested verification related to a change report in the month that follows the effective closure date, the eligibility agency shall treat the date of receipt as an application date and may not require the recipient to complete a new application form. The eligibility agency shall review the verification to determine whether the recipient is still eligible and notify the recipient of its decision. The eligibility agency may not change the review date unless it updates all factors of eligibility.

(9) If the eligibility agency cannot determine the effect of a change without verification from the recipient, the agency shall discontinue benefits if it does not receive the requested verification by the due date. If a change does not affect all household members and the recipient does not return verification, the eligibility agency shall discontinue benefits only for those individuals affected by the change.]

(9) If a recipient requests to add a new household member, the effective date of the change is the date of request, and the following provisions apply:

(a) The agency does not require a new application; and

(b) The applicant must meet all other eligibility requirements.

(10) An overpayment may occur if the recipient does not report changes timely, or if the recipient does not return verification by the verification due date.

(a) The eligibility agency shall determine whether an overpayment has occurred based on when the agency could have made the change if the recipient had reported the change on time or returned verification by the due date.

(b) If a recipient fails to report a change timely or return verification or forms by the due date, the recipient must repay all services and benefits paid by the Department for which the recipient is ineligible.

[ (11) If a due date falls on a non-business day, the due date is the close of business on the next business day.]

**KEY:** public assistance programs, applications, eligibility, Medicaid

**Date of Enactment or Last Substantive Amendment:** [December 1, 2014] 2017

**Notice of Continuation: January 23, 2013**

**Authorizing, and Implemented or Interpreted Law: 26-18**

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-310-13** Change Reporting and Benefit Changes

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 41213

FILED: 01/26/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to clarify the process for when a client reports a change in circumstances that affects Primary Care Network (PCN) eligibility.

**SUMMARY OF THE RULE OR CHANGE:** This amendment clarifies how to handle a reported change when the income has already been anticipated in a best estimate.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Pub. L. No. 111-148 and Section 26-1-5 and Section 26-18-3

#### ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no impact to the state budget because this amendment only clarifies procedures for when a client reports changes in circumstances that affect PCN eligibility. It neither affects PCN services nor provider reimbursement.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund PCN services nor make eligibility determinations for the PCN program.

♦ **SMALL BUSINESSES:** There is no impact to small businesses because this amendment only clarifies procedures for when a client reports changes in circumstances that affect PCN eligibility. It neither affects PCN services nor provider reimbursement.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to PCN providers and to PCN recipients because this amendment only clarifies procedures for when a client reports changes in circumstances that affect PCN eligibility. It neither affects PCN services nor provider reimbursement.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no impact to a single PCN provider or to a PCN recipient because this amendment only clarifies procedures for when a

client reports changes in circumstances that affect PCN eligibility. It neither affects PCN services nor provider reimbursement.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on business because it does not affect the covered services or provider reimbursement.

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

HEALTH  
HEALTH CARE FINANCING, COVERAGE AND  
REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017

THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-310. Medicaid Primary Care Network Demonstration Waiver.**

**R414-310-13. Change Reporting and Benefit Changes.**

(1) ~~Unless otherwise stated, the provisions in Section R414-308-7 apply to the PCN program. [Enrollees are required to report changes defined in Subsection R414-310-3(2) to the eligibility agency.~~

~~(a) The eligibility agency shall determine the effect of the change and make the appropriate change in the enrollee's eligibility.~~

~~(b) The eligibility agency shall send proper notice of changes in eligibility.~~

~~(2) An enrollee who fails to report changes or return verification timely must repay any overpayment of benefits for which the enrollee is not eligible to receive.]~~

~~(2) Reportable changes are defined in Subsection R414-310-3(2).~~

~~(3) For a decrease in income, the following provisions apply:~~

~~(a) If a change is already anticipated in a best estimate of income, the eligibility agency may only re-determine eligibility if the enrollee requests a redetermination of benefits.~~

~~(b) If a change is not anticipated, the agency shall re-determine eligibility.~~

~~(c) If a change makes the enrollee eligible for Medicaid, the effective date of the change is the first day of the month of report, if the change is verified timely.~~

~~(d) If a change is not verified timely, the change is effective on the first day of the month the change is verified.~~

~~(4[3]) If an enrollee requests enrollment for a spouse, the application date for the spouse is the date of the request[-], and the following provisions apply:~~

~~(a) [A new application form is not required]The eligibility agency does not require a new application[-];~~

~~(b) [The eligibility of the spouse is determined according to]Eligibility is determined in accordance with Section R414-310-11[-];~~

~~(c) [The eligibility agency shall determine t]The effective date of enrollment [for the individual]is determined in accordance with Section R414-310-12[-]; and~~

~~(d) The applicant must meet [A]all other eligibility requirements[- must be met].~~

~~(4) If the eligibility agency requests verification of a reported change and the enrollee fails to return the verification by the due date, the eligibility agency shall end eligibility effective the end of the month in which the agency sends proper notice.]~~

**KEY: Medicaid, primary care, demonstration**

**Date of Enactment or Last Substantive Amendment: [June 28, 2016]2017**

**Notice of Continuation: June 4, 2012**

**Authorizing, and Implemented or Interpreted Law: 26-18-1; 26-1-5; 26-18-3**

**Health, Family Health and Preparedness, Child Care Licensing  
R430-6-2  
Definitions**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 41237

FILED: 01/30/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed change provides a more accurate definition of "guest" and "volunteer".

SUMMARY OF THE RULE OR CHANGE: This rule change is supported by both the Child Care Center Licensing Committee and the Residential Advisory Committee. This rule change provides a better definition of "guest" and "volunteer". These definitions are more accurate and help clarify the different roles of various types of volunteers. Renumbering is also done as needed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63G, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: The agency does not anticipate any cost or savings to the state budget as a result of this change.
- ◆ LOCAL GOVERNMENTS: Some local governments operate child care centers. Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the agency can anticipate some savings to child care programs operated by state agencies. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.
- ◆ SMALL BUSINESSES: Almost all child care centers and homes are small businesses. Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the agency can anticipate some savings to small child care businesses. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the agency can anticipate some savings to entities or persons that are not small businesses. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this rule will not change any of the requirements for child care programs, the agency does not anticipate any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment may fiscally impact business with a cost savings to child care facilities due to the reduction of required background checks.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
CHILD CARE LICENSING  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov or mail at PO Box 1432003, Salt Lake City, UT 84114-2003

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017

THIS RULE MAY BECOME EFFECTIVE ON: 03/30/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R430. Health, Family Health and Preparedness, Child Care Licensing.**

**R430-6. Background Screening.**

**R430-6-2. Definitions.**

Terms used in this rule are defined in Title 26, Chapter 39.

In addition:

- (1) "Applicant" means a person who has applied for a new child care license, residential, certificate, or license exemption from the Department, or a currently licensed, certified, or license exempt child care provider who is applying for a renewal of their child care license, certificate, or exemption.
  - (2) "Background finding" means a determination by the Department that an individual:
    - (a) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;
    - (b) has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor; or
    - (c) is listed on the Utah or national sex offender registry.
  - (3) "Covered individual" means:
    - (a) owners;
    - (b) directors;
    - (c) members of the governing body;
    - (d) employees;
    - (e) providers of care, including children residing in a home where child care is provided;
    - (f) volunteers, excluding parents of children enrolled in the program;
    - (g) all individuals age 12 and older residing in a residence where child care is provided; and
    - (h) anyone who has unsupervised contact with a child in care.
  - (4) "Department" means the Utah Department of Health.
  - (5) "Exempt Child Care Provider" means a person who provides care as described in the Utah Code 26-39-403(2).
  - (6) "Guest" means an individual who does not reside in the facility but is on the premises with the provider's permission. A guest must never be left unsupervised with children. A guest cannot count in the caregiver-to-child ratio, except for child care student interns. A guest is required to wear a guest nametag. A guest is not required to have a Child Care Licensing background screening.
- [(6)](7) "Involved with child care" means to do any of the following at or for a facility with a child care license, certificate, or exemption issued by the Department:
- (a) provide child care;
  - (b) volunteer at a child care facility;
  - (c) own, operate, direct, or be employed at a child care facility;

(d) reside at a facility where care is provided;  
 (e) function as a member of the governing body of a child care facility; or

(e) be present at a facility while care is being provided, except for parents dropping off or picking up their child, or attending a scheduled event at the child care facility.

~~(7)~~(8) "Supported finding" means an individual is listed on the Licensing Information System child abuse and neglect database maintained by the Utah Department of Human Services, or listed on the Utah or national sex offender registry.

~~(8)~~(9) "Unsupervised Contact" means contact with children that provides the person opportunity for personal communication or touch when not under the direct supervision of a child care provider or employee who has passed a background screening.

~~(9)~~(10) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service. A volunteer who passes a Child Care Licensing background screening can be left unsupervised with children and can count in the caregiver-to-child ratio. Volunteer parents of children enrolled in the program are not required to have a Child Care Licensing background screening as long as they do not have unsupervised access to any children other than their own. ~~[-an individual who receives no form of direct or indirect compensation for providing care.]~~

**KEY: child care facilities, background screening**  
**Date of Enactment or Last Substantive Amendment: [August 31, 2015]2017**  
**Notice of Continuation: August 3, 2012**  
**Authorizing, and Implemented or Interpreted Law: 26-39**

**Health, Family Health and  
 Preparedness, Child Care Licensing  
 R430-50-2  
 Definitions**

**NOTICE OF PROPOSED RULE  
 (Amendment)**

DAR FILE NO.: 41236  
 FILED: 01/30/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed change references the definition of "guest" and "volunteer" as stated in Rule R430-6.

**SUMMARY OF THE RULE OR CHANGE:** This rule change is supported by the Residential Advisory Committee. This rule change references the definitions of "guest" and "volunteer" as stated in Rule R430-6. These definitions are more accurate and help clarify the different roles of various types of volunteers. Renumbering is also done as needed.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63G, Chapter 3**

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** No state agencies operate child care homes. Therefore, the agency does not anticipate any cost or savings as a result of this change.
- ◆ **LOCAL GOVERNMENTS:** No local governments operate child care homes. Therefore, the agency does not anticipate any cost or savings as a result of this change.
- ◆ **SMALL BUSINESSES:** Almost all child care homes are small businesses. Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the agency can anticipate some savings to small child care businesses. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the agency can anticipate some savings to entities or persons that are not small businesses. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because this rule will not change any of the requirements for child care programs, the agency does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This amendment may fiscally impact business with a cost savings to child care facilities due to the reduction of required background checks.

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

HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 CHILD CARE LICENSING  
 3760 S HIGHLAND DR  
 SALT LAKE CITY, UT 84106  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov or mail at PO Box 1432003, Salt Lake City, UT 84114-2003

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017**

THIS RULE MAY BECOME EFFECTIVE ON: 03/30/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R430. Health, Family Health and Preparedness, Child Care Licensing.**

**R430-50. Residential Certificate Child Care.**

**R430-50-2. Definitions.**

(1) "Body fluid" means blood, urine, feces, vomit, mucus, and saliva.

(2) "Caregiver" means an individual who provides direct care to children.

(3) "Certificate holder" means the person holding a Department of Health child care certificate.

(4) "Department" means the Utah Department of Health.

(5) "Emotional abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(6) "Guest" as defined in R430-006.

(7) "Health care provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(8) "Inaccessible to children" means:

- (a) locked, such as in a locked room, cupboard or drawer;
- (b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;
- (c) behind a properly secured child safety gate;
- (d) located in a cupboard or on a shelf more than 36 inches above the floor; or
- (e) not in any location in a bathroom where a child could reach, including by climbing on a toilet, bathtub, or counter.

(9) "Infant" means a child aged birth through 11 months of age.

(10) "Infectious disease" means an illness that is capable of being spread from one person to another.

(11) "Over-the-counter medication" means medication that can be purchased without a written prescription. This includes herbal remedies and vitamin and mineral supplements.

(12) "Parent" means the parent or legal guardian of a child in care.

(13) "Physical abuse" means causing non-accidental physical harm to a child.

(14) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

(15) "Provider" means the certificate holder.

(16) "Related children" means children for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(17) "Sanitize" means to reduce the number of germs on a surface to such a level that disease transmission by that surface is unlikely.

(18) "School age" means children ages five through twelve.

(19) "Sexual abuse" means abuse as provided in Utah Code, Section 76-5-404.1.

(20) "Sexually explicit material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

(21) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, play pen, or bed.

(22) "Stationary play equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

- (a) a sandbox;
- (b) a stationary circular tricycle;
- (c) a sensory table; or
- (d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

(23) "Strangulation hazard" means something on a component of playground equipment on which a child's clothes or something around a child's neck could become caught. For example, bolt ends that extend more than two threads beyond the face of the nut, hardware configurations that form a hook or leave a gap or space between components, and open "S" type hooks.

(24) "Supervision" means the function of observing, overseeing, and guiding a child or group of children.

(25) "Substitute" means a person who assumes the certificate holder's duties under this rule when the certificate holder is not present. This includes emergency substitutes.

(26) "Toddler" means a child aged 12 months but less than 24 months.

(27) "Unrelated children" means children who are not related children.

(28) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

(29) "Volunteer" as defined in R430-006, means a person who provides direct care to a child but does not receive direct or indirect compensation for doing so. A volunteer is not included in the provider to child ratio.

**KEY: child care facilities, residential certification**

**Date of Enactment or Last Substantive Amendment: ~~March 30, 2016~~ 2017**

**Notice of Continuation: May 29, 2013**

**Authorizing, and Implemented or Interpreted Law: 26-39**

**Health, Family Health and  
Preparedness, Child Care Licensing  
R430-90-2  
Definitions**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 41235

FILED: 01/30/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed change references the definition of "guest" and "volunteer" as stated in Rule R430-6.

**SUMMARY OF THE RULE OR CHANGE:** This rule change is supported by the Residential Advisory Committee. This rule change references the definitions of "guest" and "volunteer" as stated in Rule R430-6. These definitions are more accurate and help clarify the different roles of various types of volunteers. Renumbering is also done as needed.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 3

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** No state agencies operate child care homes. Therefore, the agency does not anticipate any cost or savings as a result of this change.

♦ **LOCAL GOVERNMENTS:** No local governments operate child care homes. Therefore, the agency does not anticipate any cost or savings as a result of this change.

♦ **SMALL BUSINESSES:** Almost all child care homes are small businesses. Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the agency can anticipate some savings to small child care businesses. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since the proposed change provides a better definition of who will be required to have a background screening, guests as defined in the rule will not have to be background checked. Therefore, the agency can anticipate some savings to entities or persons that are not small businesses. The exact savings cannot be determined since any potential savings are speculative and will vary depending on the program.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because this rule will not change any of the requirements for child care programs, the agency does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This amendment may fiscally impact business with a cost savings to child care facilities due to the reduction of required background checks.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
CHILD CARE LICENSING  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov or mail at PO Box 1432003, Salt Lake City, UT 84114-2003

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017**

**THIS RULE MAY BECOME EFFECTIVE ON: 03/30/2017**

**AUTHORIZED BY: Joseph Miner, MD, Executive Director**

**R430. Health, Family Health and Preparedness, Child Care Licensing.****R430-90. Licensed Family Child Care.****R430-90-2. Definitions.**

(1) "Body fluid" means blood, urine, feces, vomit, mucus, or saliva.

(2) "Caregiver" means an individual who provides direct care to children.

(3) "Department" means the Utah Department of Health.

(4) "Emotional abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(5) "Guest" as defined in R430-006.

~~(5)~~(6) "Health care provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

~~(6)~~(7) "Inaccessible to children" means:

(a) locked, such as in a locked room, cupboard or drawer;

(b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

(c) behind a properly secured child safety gate;

(d) located in a cupboard or on a shelf more than 36 inches above the floor; or

(e) not in any location in a bathroom where a child could reach, including by climbing on a toilet, bathtub, or counter.

~~(7)~~(8) "Infant" means a child aged birth through 11 months of age.

~~(8)~~(9) "Infectious disease" means an illness that is capable of being spread from one person to another.

~~(9)~~(10) "Licensee" means the person holding a Department of Health child care license.

~~(10)~~(11) "Over-the-counter medication" means medication that can be purchased without a written prescription. This includes herbal remedies and vitamin and mineral supplements.

~~(11)~~(12) "Parent" means the parent or legal guardian of a child in care.

~~(12)~~(13) "Physical abuse" means causing non-accidental physical harm to a child.

~~(13)~~(14) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

~~(14)~~(15) "Provider" means the licensee.

~~(15)~~(16) "Related children" means children for whom a provider is the parent, legal guardian, step-parent, grandparent, step-

grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

~~[(16)](17)~~ "Sanitize" means to reduce the number of germs on a surface to such a level that disease transmission by that surface is unlikely.

~~[(17)](18)~~ "School age" means children ages five through twelve.

~~[(18)](19)~~ "Sexual abuse" means abuse as provided in Utah Code, Section 76-5-404.1.

~~[(19)](20)~~ "Sexually explicit material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

~~[(20)](21)~~ "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, play pen, or bed.

~~[(21)](22)~~ "Stationary play equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

- (a) a sandbox;
- (b) a stationary circular tricycle;
- (c) a sensory table; or

(d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

~~[(22)](23)~~ "Strangulation hazard" means something on a component of playground equipment on which a child's clothes or something around a child's neck could become caught. For example, bolt ends that extend more than two threads beyond the face of the nut, hardware configurations that form a hook or leave a gap or space between components, and open "S" type hooks.

~~[(23)](24)~~ "Substitute" means a person who assumes either the licensee's or a caregiver's duties under this rule when the licensee or caregiver is not present. This includes emergency substitutes.

~~[(24)](25)~~ "Supervision" means the function of observing, overseeing, and guiding a child or group of children.

~~[(25)](26)~~ "Toddler" means a child aged 12 months but less than 24 months.

~~[(26)](27)~~ "Unrelated children" means children who are not related children.

~~[(27)](28)~~ "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

~~[(28)](29)~~ "Volunteer" as defined in R430-006, ~~means a person who provides direct care to a child but does not receive direct or indirect compensation for doing so. A volunteer is not included in the provider to child ratio.~~

**KEY: child care facilities, licensed family child care**

**Date of Enactment or Last Substantive Amendment: ~~[March 30, 2016]~~ 2017**

**Notice of Continuation: May 29, 2013**

**Authorizing, and Implemented or Interpreted Law: 26-39**

## Insurance, Administration R590-102 Insurance Department Fee Payment Rule

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 41259

FILED: 01/30/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The rule change incorporates a number of new fees that were disclosed and discussed during a public fee hearing that was held on 01/27/2017.

**SUMMARY OF THE RULE OR CHANGE:** The changes codify a number of changes that have been approved by the legislature. New fees were added to cover the costs of setting up and licensing captive cells, individual navigators, navigator agencies, continuing care providers, and guaranteed asset protection providers in Utah, as well as other miscellaneous fees. The changes also include a number of clerical fixes and updates.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 31A-3-103(3)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The changes add fees that may be paid by certain individuals and businesses, which will result in a small amount of new money coming into state coffers.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The changes do not affect the functioning of local government in any way.

♦ **SMALL BUSINESSES:** Currently, there are 44 individual navigators whose initial application fee is \$35 a year for an annual budget of \$1,540. Currently, there are 7 agency navigators whose initial application fee is \$40 a year for an annual budget of \$280.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Individuals could see a small increase in their insurance premium cost. The actual amount is unknown because any such increase would be a business decision made by affected insurers.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The captive cell initial and renewal fees are \$1,000. Utah currently licenses 74 captive cells for an annual budget of



\$74,000. Currently, there are 44 individual navigators whose initial application fee is \$35 a year for an annual budget of \$1,540. Currently, there are 7 agency navigators whose initial application fee is \$40 a year for an annual budget of \$280. Currently, there is 1 continuing care provider whose initial and renewal fees are \$6,900 a year for an annual budget of \$6,900. There are currently 62 guaranteed asset protection providers whose initial and renewal fees are \$1,000 for an annual budget of \$62,000. The annual health insurance assessment funds the department health actuary, and is capped at a total assessment of \$150,000 a year.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule may have a small fiscal impact on a small population of businesses. Businesses that require licenses to operate captive cells, navigator agencies, continuing care providers, and guaranteed asset protection providers will pay new licensing fees. These fees are necessary for the department to effectively license and regulate such entities.

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

INSURANCE  
ADMINISTRATION  
ROOM 3110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [sgooch@utah.gov](mailto:sgooch@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017

THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2017

AUTHORIZED BY: Steve Gooch, Information Specialist

### **R590. Insurance, Administration.**

#### **R590-102. Insurance Department Fee Payment Rule.**

##### **R590-102-1. Authority.**

This rule is adopted pursuant to Subsections 31A-3-103(3), which require the commissioner to publish the schedule of fees approved by the legislature and to establish deadlines for payment of each of the various fees.

##### **R590-102-2. Purpose and Scope.**

(1) The purposes of this rule are to:

(a) publish the schedule of fees approved by the legislature;

(b) establish fee deadlines; and

(c) disclose this information to licensees and the public.

(2) The rule applies to:

(a) all persons engaged in the business of insurance in Utah;

(b) all licensees;

(c) applicants for licenses, registrations, certificates, or other similar filings; and

(d) all persons requesting services provided by the department for which a fee is required.

##### **R590-102-3. Definitions.**

In addition to the definitions in Title 31A, the following definitions shall apply for the purposes of this rule:

(1) "Admitted insurers" include: fraternal, health, health maintenance organization, life, limited health plan, motor club, non-profit health service, property-casualty, title insurers, and a prescription drug plan.

(2) "Agency" means:

(a) a person, other than an individual, including a sole proprietorship by which a natural person does business under an assumed name; and

(b) an insurance organization required to be licensed under Subsections 31A-23a-301, 31A-25-207, and 31A-26-209.

(3) "Captive insurer" includes association captive, branch captive, industrial insured captive, pure captive, sponsored captive, and special purpose financial captive.

(4) "Deadline" means the final date or time:

(a) imposed by:

(i) statute;

(ii) rule; or

(iii) order, and

(b) by which

(i) a payment must be received by the department without incurring penalties for late payment or non-payment; or

(ii) required information must be received by the department without incurring penalties for late receipt or non-receipt.

(5) "Fee" means an amount set by the commissioner, by statute, or by rule and approved by the legislature for licenses, registrations, certificates, and other filings and services provided by the Insurance Department.

(6) "Full-line agency" includes producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third party administrator.

(7) "Full-line individual" includes a producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third party administrator.

(8) "Limited-line agency" includes bail bond and limited-line producer.

(9) "Limited-line individual" includes bail bond agent, limited-lines producer and customer service representative.

(10) "Other organizations" include: home warranty, joint underwriter, purchasing group, rate service organization, risk retention group, service contract provider and health discount program.

(11) "Paper application" means an application that must be manually entered into the department's database because the application was submitted by paper, facsimile, or email when the department has provided an electronic application process and stated the electronic process is the preferred process for receiving an application.

(12) "Paper filing" means a filing that must be manually entered into the department's database because the filing was submitted by paper, facsimile, or email when the department has provided an electronic filing process and stated the electronic process is the preferred process for receiving a filing.

(13) "Received by the department" means:

- (a) the date delivered to and stamped received by the department, if delivered in person;
- (b) the postmark date, if delivered by mail;
- (c) the delivery service's postmark date or pick-up date, if delivered by a delivery service; or
- (d) the received date recorded on an item delivered, if delivered by:
  - (i) facsimile;
  - (ii) email; or
  - (iii) another electronic method; or
  - (e) a date specified in:
    - (i) a statute;
    - (ii) a rule; or
    - (iii) an order.

#### **R590-102-4. General Instructions.**

(1) Any fee payable to the department not included in Subsections R590-102-5 through [49]24, shall be due when service is requested, if applicable, otherwise by the due date on the invoice.

(2) Payment.

(a) A non-electronic payment processing fee will be added to a payment when the department has provided an electronic payment process and stated the electronic process is the preferred process for receiving a payment.

(b) Check.

(i) Checks shall be made payable to the Utah Insurance Department.

(ii) A check that is dishonored in the process of the collection will not constitute payment of the fee for which it was issued and any action taken based on the payment will be voided.

(iii) Late fees and other penalties, resulting from the voided action will apply until proper payment is made.

(iv) A check payment that is dishonored is a violation of this rule.

(c) Cash. The department is not responsible for un-receipted cash that is lost or misdelivered.

(d) Electronic.

(i) Credit Card.

(A) Credit cards may be used to pay any fee due to the department.

(B) Credit card payments that are dishonored will not constitute payment of the fee and any action taken based on the payment will be voided.

(C) Late fees and other penalties, resulting from the voided action, will apply until proper payment is made.

(D) A credit card payment that is dishonored is a violation of this rule.

(ii) Automated clearinghouse (ACH).

(A) Payers or purchasers desiring to use this method must contact the department for the proper routing and transit information.

(B) Payments that are made in error to another agency or that are not deposited into the department's account will not constitute payment of the fee and any action taken based on the payment will be voided.

(C) Late fees and other penalties resulting from the voided action will apply until proper payment is made.

(D) An ACH payment that is dishonored is a violation of this rule.

(3) Retaliation. The fees enumerated in this rule are not subject to retaliation in accordance with Section 31A-3-401 if other states or countries impose higher fees.

(4) Refunds.

(a) All fees in this rule are non-refundable.

(b) Overpayments of fees are refundable.

(c) Requests for return of overpayments must be in writing.

(5) A non-electronic processing fee will be assessed for a particular service if the department has established an electronic process for that service. See R590-102-[45]23.

#### **R590-102-5. Admitted Insurer and Prescription Drug Plan Fees.**

(1) Annual license fees:

(a) certificate of authority, initial license application - due with license application: \$1,000;

(b) certificate of authority - renewal - due by the due date on the invoice: \$300;

(c) certificate of authority - late renewal - due for any renewal paid after the date on the invoice: \$350;

(d) certificate of authority - reinstatement - due with application for reinstatement: \$1,000.

(2) Other license fees:

(a) certificate of authority - amendments - due with request for amendment: \$250;

(b)(i) Form A - application for merger, acquisition, or change of control, due with filing: \$2,000.

(ii) Expenses incurred for consultant[~~(s)~~] services necessary to evaluate a Form A will be charged to the applicant and due by the due date on the invoice;

(c) redomestication filing - due with filing: \$2,000; and

(d) application for organizational permit for mutual insurer to solicit applications for qualifying insurance policies or subscriptions for mutual bonds or contribution notes - due with application: \$1,000.

(3) The annual initial or annual renewal license fee includes the following licensing services for which no additional fee is required:

(a) filing annual statement and report of Utah business - due annually on March 1;

(b) filing holding company registration statement - Form B;

(c) filing application for material transactions between affiliated companies - Form D;

(d) application for: stock solicitation permit, public offering filing, but not an SEC filing; an SEC filing; private placement offering; and

(e) application for individual license to solicit in accordance with the stock solicitation permit.

(4) Annual service fee:

(a) Due annually by the due date on the invoice.

(b) A prescription drug plan is exempted from payment of a service fee.

(c) The fee is based on the Utah premium as shown in the latest annual statement on file with the National Association of Insurance Commissioners [~~(NAIC)~~] and the department. Fee calculation example: the 2004 annual service fee calculation will use the Utah premium shown in the December 31, 2003 annual statement.

(d) Fee schedule:

(i) \$0 premium volume: no service fee;

(ii) more than \$zero but less than \$1 million in premium volume: \$700;

(iii) \$1 million but less than \$3 million in premium volume: \$1,100;

(iv) \$3 million but less than \$6 million in premium volume: \$1,550;

(v) \$6 million but less than \$11 million in premium volume: \$2,100;

(vi) \$11 million but less than \$15 million in premium volume: \$2,750;

(vii) \$15 million but less than \$20 million in premium volume: \$3,500; and

(viii) \$20 million or more in premium volume: \$4,350.

(e) The annual service fee includes the following services for which no additional fee is required:

(i) filing of amendments to articles of incorporation, charter, or bylaws;

(ii) filing of power of attorney;

(iii) filing of registered agent;

(iv) affixing commissioner's seal and certifying any paper;

(v) filing of authorization to appoint and remove agents;

(vi) filing of producer/agency appointment with an insurer - initial;

(vii) filing of producer/agency appointment with an insurer - termination;

(viii) report filing, all lines of insurance;

(ix) rate filing, all lines of insurance; and

(x) form filing, all lines of insurance.

(f) The annual service fee is for services that the department will provide for an admitted insurer during the year. The fee is paid in advance of providing the services.

(5) Other fees:

(a) [E]e-commerce fee: [{}see R590-102-[+8]23[{}]]; and

(b) [H]insurer examination costs reimbursements from examined insurers - due by due date on the invoice: actual costs plus overhead expense.

**R590-102-6. Surplus Lines Insurer, Accredited Reinsurer, Trusteed Reinsurer, and Employee Welfare Fund Administrative/Service Fees.**

(1) Initial Fee - due with application, alien surplus lines insurers file Utah State Alien Surplus Lines Information Form; \$1,000.

(2) Annual Fee - due annually by the due date on the invoice: \$500;

(3) Late annual payment - due for any annual payment paid after the due date on the invoice: \$550;

(4) Reinstatement - due with application, alien surplus insurers submit request for reinstatement: \$1,000;

(5) The initial or annual surplus line fee includes the surplus lines annual statement filing for:

(a) U.S. companies - due annually on May 1; and

(b) foreign companies - due within 60 days of the annual statement's filing with the insurance regulatory authority where the company is domiciled.

(6) The initial or annual accredited reinsurer and trusteed reinsurer license fee includes the annual statement filing - due annually on March 1.

(7) The annual fee includes the following services for which no additional fee is required and is paid in advance:

(a) filing of power of attorney; and

(b) filing of registered agent.

(8) [~~Other fees:~~]E-commerce fee: see R590-102-[+8]23.

**R590-102-7. Other Organization Fees.**

(1) Annual license fee:

(a) initial - due with application: \$250;

(b) renewal - due annually by the due date on the invoice: \$200;

(c) late renewal - due for any renewal paid after the date on the invoice: \$250;

(d) reinstatement - due with application for reinstatement: \$250;

(e) The annual other organization initial or renewal fee includes the risk retention group annual statement filing - due annually on May 1.

(2) Annual service fee - due annually by the due date on the invoice: \$200.

(a) The annual service fee includes the following services for which no additional fee is required:

(i) filing of power of attorney;

(ii) filing of registered agent; and

(iii) rate, form, report or service contract filing.

(b) The annual service fee is for services that the department will provide during the year. The fee is paid in advance of providing the services.

(3) [~~Other fees:~~]E-commerce fee: see R590-102-[+8]23.

**R590-102-8. Captive Insurer Fees.**

(1) Initial license application - due with license application: \$200.

(2) Initial license application review - due by the due date on the invoice: actual costs incurred by the department to review the application.

- (3) Annual license fees:  
 (a) initial - due by the due date on the invoice: \$5,000;  
 (b) renewal - due by the due date on the invoice: \$5,000;  
 (c) late renewal - due for any renewal paid after the date on the invoice: \$5,050;  
 (d) reinstatement - due with application for reinstatement: \$5,050.
- (4) Other fees:  
 (a) e-commerce fee: see R590-102-[+8]23; and  
 (b) [E]xamination costs reimbursements from examined captive insurers - due by due date on the invoice: actual costs plus overhead expense.

**R590-102-9. Captive Cell Fees.**

- (1) Initial license application -- due with license application: \$200.  
 (2) Initial license application review -- due by the due date on the invoice: actual costs incurred by the department to review the application.  
 (3) Annual license fees:  
 (a) initial -- due by the due date on the invoice: \$1,000;  
 (b) renewal -- due by the due date on the invoice: \$1,000;  
 (c) late renewal -- due for any renewal paid after the date on the invoice: \$1,050.

**R590-102-10. Life Settlement Provider Fees.**

- (1) Annual license fees:  
 (a) initial - due with application: \$1,000;  
 (b) renewal - due by the due date on the invoice: \$300;  
 (c) late renewal - due for any renewal paid after the date on the invoice: \$350;  
 (d) reinstatement - due with reinstatement application: \$1,000.
- (2) Annual service fee - due by the due date on the invoice: \$600.  
 (a) The annual service fee includes the following service for which no additional fee is required: rate, form, report or service contract filing.  
 (b) The annual service fee is for services that the department will provide during the year. The fee is paid in advance of providing the services.  
 (3) Other fees:  
 (a) e-commerce fee: see R590-102-[+8]23; and  
 (b) examination costs reimbursements from examined viatical settlement providers - due by due date on the invoice: actual costs plus overhead expense.

**R590-102-[+0]11. Professional Employer Organization (PEO) Fees.**

- (1) Annual license fees:  
 (a) PEO - not certified by an assurance organization:  
 (i) initial - due with application: \$2,000;  
 (ii) renewal - due by the due date on the invoice: \$2,000;  
 (iii) late renewal - due for any renewal paid after the date on the invoice: \$2,050;  
 (iv) reinstatement - due with reinstatement application: \$2,050;  
 (b) PEO - certified by an assurance organization:

- (i) initial - due with application: \$2,000;  
 (ii) renewal - due by the due date on the invoice: \$1,000;  
 (iii) late renewal - due for any renewal paid after the date on the invoice: \$1,050;  
 (iv) reinstatement - due with reinstatement application: \$1,050;
- (c) PEO - small operator:  
 (i) initial - due with application: \$2,000;  
 (ii) renewal - due by the due date on the invoice: \$1,000;  
 (iii) late renewal - due for any renewal paid after the date on the invoice: \$1,050;  
 (iv) reinstatement - due with reinstatement application: \$1,050.
- (5) E-commerce fee: see R590-102-[+8]23.

**R590-102-[+H]12. Individual Resident and Non-Resident License Fees, Other Than Individual Navigators.**

- (1) Biennial resident and non-resident full-line individual initial license or renewal fee:  
 (a) initial license fee - due with application: \$70;  
 (b) renewal license fee if renewed prior to license expiration date - due with renewal application: \$70;  
 (c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: \$120.
- (2) Biennial resident and non-resident limited-line individual initial or renewal license fee:  
 (a) initial license fee - due with application: \$45;  
 (b) renewal license fee if renewed prior to license expiration date - due with renewal application: \$45;  
 (c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: \$95.
- (3) Other license fees: addition of producer classification or line of authority to individual producer license - due with request for additional classification or line of authority: \$25.
- (4) The biennial initial and renewal full-line producer and limited-line producer fee includes the following services for which no additional fee is required:  
 (a) issuance of letter of certification;  
 (b) issuance of letter of clearance;  
 (c) issuance of duplicate license;  
 (d) individual continuing education services.
- (5) The biennial initial and renewal individual license fee includes services the department will provide during the year. The fee is paid in advance of providing the services.  
 (6) Other fees:  
 (a) e-commerce fee: see R590-102-[+8]23; and  
 (b) title insurance product or service approval for dual licensed title licensee form filing fee - due with filing: \$25.

**R590-102-[+2]13. Individual Navigator.**

- (1) Individual navigator per annual license period:  
 (a) initial license fee -- due with application: \$35;  
 (b) renewal license fee if renewed prior to license expiration date -- due with renewal application: \$35;  
 (c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date -- due with application for reinstatement: \$60.

(2) The annual initial and renewal individual license fee includes the following services for which no additional fee is required:

- (a) issuance of letter of certification;
- (b) issuance of letter of clearance;
- (c) issuance of duplicate license; and
- (d) individual continuing education services.

(3) The annual initial and renewal individual license fee includes will provide during the year. The fee is paid in advance of providing the services.

- (4) E-commerce fee: see R590-102-23.

**R590-102-14. Agency License Fees, Other than Navigator or Bail Bond Agencies.**

(1) Biennial resident and non-resident agency initial or renewal license for a full-line agency and for a limited-line agency:

- (a) initial license fee - due with application: \$75;
- (b) renewal license fee if renewed prior to license expiration date - due with renewal application: \$75;
- (c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: \$125;
- (d) resident title license:
  - (i) initial license fee - due with application: \$100;
  - (ii) renewal license fee, if renewed prior to license expiration date - due with renewal application: \$100.
  - (iii) reinstatement license fee, if reinstated within one year following the license inactivation date -- due with application for reinstatement: \$150.

(2) Other license fees: addition of producer classification or line of authority to agency license - due with request for additional classification or line of authority: \$25.

(3) The biennial initial and renewal agency license fee includes the following services for which no additional fee is required:

- (a) issuance of letter of certification;
- (b) issuance of letter of clearance;
- (c) issuance of duplicate license;
- (d) filing of producer designation to agency license - initial;
- (e) filing of producer designation to agency license - termination;
- (f) filing of amendment to agency license; and
- (g) filing of power of attorney.
- (4) [~~Other fees:~~]E-commerce fee: see R590-102-[48]23.

**R590-102-15. Navigator Agency.**

(1) Navigator agency per annual license period:

- (a) initial license fee -- due with application: \$40;
- (b) renewal license fee if renewed prior to license expiration date -- due with renewal application: \$40;
- (c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date -- due with application for reinstatement: \$65.

(2) The annual initial and renewal agency license fee includes the following services for which no additional fee is required:

- (a) issuance of letter of certification;
- (b) issuance of letter of clearance;

(c) issuance of duplicate license;

(d) filing of producer designation to agency license -- initial;

(e) filing of producer designation to agency license -- termination;

(f) filing of amendment to agency license; and

(g) filing of power of attorney.

(3) E-commerce fee: see R590-102-23.

**R590-102-[13]16. Bail Bond Agency.**

(1) Annual bail bond agency per annual license period:

- (a) initial license fee - due with application: \$250;
- (b) renewal license fee if renewed prior to license expiration date - due with renewal application: \$250;
- (c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: \$300.

(2) The annual initial and renewal agency license fee includes the following services for which no additional fee is required:

- (a) issuance of letter of certification;
- (b) issuance of letter of clearance;
- (c) issuance of duplicate license;
- (d) filing of producer designation to agency license - initial;
- (e) filing of producer designation to agency license - termination;
- (f) filing of amendment to agency license; and
- (g) filing of power of attorney.
- (3) E-commerce fee: see R590-102-[48]23.

**R590-102-[14]17. Health Insurance Purchasing Alliance.**

(1) Annual license fee:

- (a) initial - due with application: \$500;
- (b) renewal - due by the due date on the invoice: \$500;
- (c) late renewal - due for any renewal paid after the date of the invoice: \$550; and
- (d) reinstatement - due with application for reinstatement: \$[500]550.
- (2) E-commerce fee: see R590-102-[48]23.

**R590-102-18. Continuing Care Provider.**

(1) Annual registration fee:

- (a) initial -- due with application: \$6,900;
- (b) renewal -- due by the due date on the invoice: \$6,900;
- (c) reinstatement -- due with application for reinstatement: \$6,950.
- (2) Disclosure statement:
  - (a) initial -- due with application: \$600;
  - (b) renewal -- due with annual renewal disclosure statement: \$600.
- (3) E-commerce fee: see R590-102-23.

**R590-102-19. Guaranteed Asset Protection Provider.**

Annual license fee:

- (1) initial -- due with application: \$1,000;
- (2) renewal -- due by the due date on the invoice: \$1,000; and

(3) late renewal -- due for any renewal paid after the date on the invoice: \$1,050.

**R590-102-[15]20. Continuing Education Fees.**

(1) Annual continuing education provider license fees per annual license period:

- (a) initial license fee - due with application: \$250;
- (b) renewal license fee if renewed prior to license expiration date - due with renewal application: \$250;
- (c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: \$300.

(2) Continuing education course post-approval fee - due with request for approval: \$5 per credit hour, minimum fee \$25.

**R590-102-[16]21. Non-electronic Processing or Payment Fees.**

(1) Non-electronic filing processing fee - assessed on a non-electronic filing when the department has provided an electronic filing process and stated the electronic process is the preferred process for receiving a filing - due with each paper non-electronic filing or by the due date on the invoice: \$5.

(2) Non-electronic application processing fee - assessed on a non-electronic application when the department has provided an electronic application process and stated the electronic process is the preferred process for receiving an application - due with each paper non-electronic application or by the due date on the invoice: \$25.

(3) Non-electronic payment processing fee - assessed on a non-electronic payment when the department has provided an electronic payment process and stated the electronic process is the preferred process for receiving a payment - due with each non-electronic payment or by the due date on the invoice: \$25.

**R590-102-[17]22. Dedicated Fees.**

The following are fees dedicated to specific uses:

(1)(a) annual fraud assessment fee as calculated under Section 31A-31-108 and stated in the invoice - due by the due date on the invoice;

(b) late fee -- due for any fraud assessment fee paid after the due date on the invoice: \$50;

(2) annual title insurance regulation assessment fee as calculated under Section 31A-23a-415 and Rule R592-10 and stated in the invoice - due by the due date on the invoice;

(3) annual title assessment for the Title Recovery, Education, and Research Fund fee:

(a) individual title licensee applicant for initial license or renewal license - due with the initial application or the renewal application: \$15;

(b) agency title licensee applicant - due with the initial application: \$1,000;

(c) annual agency title licensee assessment based on annual written title insurance premium - due by the due date on the invoice:

- (i) Band A: \$0 to \$1 million: \$125;
- (ii) Band B: more than \$1 million to \$10 million: \$250;
- (iii) Band C: more than \$10 million to \$20 million: \$375;
- (iv) Band D: more than \$20 million: \$500;

(4)(a) relative value study book fee - due when book purchased or by invoice due date: \$10;

(b) annual health insurance actuarial review assessment fee as calculated under Section 31A-30-115 and stated in the invoice -- due by the due date on the invoice;

(5)(a) code book -- due when book purchased or by invoice due date: \$57;

(b) mailing fee for books - due if book is to be mailed to purchaser: \$3;

(6) fingerprint fee - due with application for individual license:

(a) Bureau of Criminal Investigation (BCI): \$20[~~00~~]; and

(b) Federal Bureau of Investigation (FBI): \$[~~16.50~~]12;

(7) annual health insurance actuarial review assessment fee as calculated under Section 31A-30-115 and stated in the invoice - due by the due-date on the invoice;

(8) risk adjustment program insurer assessment per covered life per year: \$0.96 as stated in the invoice -- due by the due date on the invoice.

**R590-102-[18]23. Electronic Commerce Dedicated Fees.**

(1) Electronic commerce, [E]e-commerce, and internet technology services fee:

(a) admitted insurer and surplus lines insurer - due with the initial, annual, renewal, or reinstatement application: \$75;

(b) captive insurer - due with the initial, annual renewal, or reinstatement application: \$250;

(c) other organization[~~;~~] including professional employer organization, continuing care provider, and life settlement provider - due with the initial, annual renewal, or reinstatement application: \$50;

(d) continuing education provider - due with the initial, annual renewal, or reinstatement application: \$20;

(e) agency - due with the initial, biennial renewal, or reinstatement application: \$10;

(f) health insurance purchasing alliance - due with the initial, annual renewal, or reinstatement application: \$10; and

(g) individual - due with the initial, biennial renewal, or reinstatement application: \$5.

(2) Database access fees:

(a) information accessed through an electronic portal set up for that purpose - due when the department's database is accessed to input or acquire data: \$3 per transaction;

(b) rate and form filing database access to an electronic public rate and form filing:

(i) a separate fee is assessed per line of insurance accessed (accident and health, life and annuity, or property-casualty);

(ii) each line of insurance accessed is charged the following fees:

(A) a base fee, which entitles the user up to 30 minutes of access, the assistance of staff during that time, and one DVD[~~---~~]; \$45;

(B) each additional 30 minutes of access time or fraction thereof, including the assistance of staff during that time[~~---~~]; \$45;

(iii) additional DVD[~~---~~]; \$2;

(iv) payment due at time of service or by the due date on the invoice.

**R590-102-[19]24. Other Fees.**

- (1) Photocopy fee - per page: \$0.50.
- (2) Complete annual statement copy fee - per statement: \$40.
- (3) Fee for accepting service of legal process: \$10.
- (4) Fees for production of information lists regarding licensees or other information that can be produced by list:
- (a) printed list, if the information is already in list format and only needs to be printed or reprinted: \$1 per page;
- (b) electronic list compiled by accessing information stored in the Department's database:
- (i) a separate fee is assessed for each list compiled;
- (ii) each list is assessed one or more of the following fees:
- (A) a base fee, which entitles the requestor up to 30 minutes of staff time to draft the information query, compile the information, prepare a CD, and prepare a CD for mailing to the requestor ~~---~~; \$50, due with request for information;
- (B) each additional 30 minutes or fraction thereof to draft the information query, compile the information, prepare a CD, and prepare a CD for mailing to the requestor -- ~~[\$50,-]~~ due by the due date on the invoice; \$50;
- (iii) additional CD -- ~~[\$1-00,-]~~ due by the due date on the invoice; \$1.
- (5) Returned check fee: \$20.
- (6) Workers compensation loss cost multiplier schedule: \$5.
- (7) Address correction fee -- assessed when department has to research and enter new address for a licensee -- due by the due date on the invoice: \$35.
- (8) Independent Review Organization. Initial application fee -- due with application: \$250.
- (9) Withdrawal from writing a line of insurance or reducing total annual premium volume by 75% or more -- due with plan of orderly withdrawal submission: \$50,000.
- (10) Administrative disciplinary action removal from public access on Insurance Department controlled website -- due with application: \$185.

**R590-102-[20]25. Severability.**

If any provision or clause of this rule or its application to any person or ~~circumstance~~ situation is ~~for any reason~~ held to be invalid, ~~the remainder of the~~ that invalidity shall not affect any other provision or application of this rule ~~and the~~ which can be given effect without the invalid provision or application, and ~~to~~ this end the provisions ~~to other persons or circumstances shall not be affected~~ of this rule are declared to be severable.

**KEY: insurance fees**

**Date of Enactment or Last Substantive Amendment:** ~~May 14, 2013~~ 2017

**Notice of Continuation:** December 29, 2011

**Authorizing, and Implemented or Interpreted Law:** 31A-3-103

**Public Safety, Driver License  
R708-25  
Commercial Driver License Applicant  
Fitness Certification**

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 41200

FILED: 01/19/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The repeal of this rule is the result of our five-year review of the rule. The requirements outlined in this rule with regards to fitness certifications have been incorporated into the Utah State Code due to the passage of S.B. 20 during the 2015 General Session. As a result, the rule is no longer necessary. The requirements are now outlined in Section 53-3-410.1, and terms are defined in Subsection 53-3-402(12).

**SUMMARY OF THE RULE OR CHANGE:** The rule outlines the requirement for a Commercial Driver License applicant to certify compliance with federal fitness standards contained in 49 CFR 391.41, 43, and 45, which has been included in Subsection 53-3-410.1. The rule also includes language that references an exemption provided in 49 CFR 390.3 and 391.2, which has been included in Subsection 53-3-102(12) (b) and language that references a provision for an intrastate exemption, which has been included in Subsection 53-3-402(12)(c). As a result of the inclusion of the provisions of the rule in the Utah Code with the passage of S.B. 20 (2015), this rule is no longer needed. Therefore, this rule is repealed in its entirety.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53-3-410.1 and Subsection 53-3-402(12)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** This change will not affect the state budget because the information in the rule has been incorporated into the Utah Code, and is currently being applied as a result of the passage of S.B. 20 (2015).
- ◆ **LOCAL GOVERNMENTS:** This change will not affect local government because the information in the rule has been incorporated into the Utah Code, and is currently being applied as a result of the passage of S.B. 20 (2015).
- ◆ **SMALL BUSINESSES:** This change will not affect small businesses because the information in the rule has been incorporated into the Utah Code and is currently being applied as a result of the passage of S.B. 20 (2015).
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This change will not affect persons other than small

businesses, businesses, or local government entities because the information in the rule has been incorporated into the Utah Code and is currently being applied as a result of the passage of S.B. 20 (2015).

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This change will result in no compliance cost for affected persons because the information in the rule has been incorporated into the Utah Code and is currently being applied as a result of the passage of S.B. 20 (2015).

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** I have reviewed the amendment and found that this rule change will not have a fiscal impact on business.

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

PUBLIC SAFETY  
 DRIVER LICENSE  
 CALVIN L RAMPTON COMPLEX  
 4501 S 2700 W 3RD FL  
 SALT LAKE CITY, UT 84119-5595  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov  
 ♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017

THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2017

AUTHORIZED BY: Chris Caras, Director

**R708. Public Safety, Driver License.**  
~~[R708-25. Commercial Driver License Applicant Fitness Certification.~~

**R708-25-1. Authority.**  
 This rule is authorized by Subsection 53-3-407.

**R708-25-2. Fitness Certification Requirements.**  
 (1) Every Commercial Driver License (CDL) applicant must either certify compliance with federal fitness standards

contained in 49 CFR 391.41, 43, and 45 or certify that he/she is not subject to such standards. Each applicant who is subject to fitness standards contained in Part 391 (49 CFR), shall be required to show proof that he/she complies with the standards.

(2) Certain commercial drivers are, in accordance with Parts 390.3 and 391.2 of 49 CFR, required to have Commercial Driver Licenses, but are exempted from the federal fitness standards. Exempted are drivers who are employees of Federal, State or Local governments, drivers performing the private transportation of passengers, drivers transporting corpses or sick or injured people, drivers occasionally transporting personal property not for compensation nor in the furtherance of a commercial enterprise, drivers of vehicles used in farm custom harvesting operations, and drivers for apiarian industries.

(3) The Federal Motor Carrier Safety Administration (FMCSA) makes allowances for specific classes of drivers who cannot meet the federal fitness standards for interstate commerce to drive commercially in intrastate commerce, which allowances are articulated in federal rules granting express consent to states involved in approved pilot projects for the FMCSA. Under these conditions, the division may issue commercial Driver Licenses restricted to intrastate commerce with other appropriate restrictions when applicable, provided the applicant meets state medical standards which are consistent with the statutory provisions of Sections 53-3-302, 53-3-303, 53-3-304, and R708-7 and R708-8 of the Utah Administrative Code.

(4) Each Commercial Driver License applicant who is not exempted from the requirements of Part 391 (49 CFR) shall provide to the division, an official Department of Transportation fitness certificate or equivalent, in order to verify:

(a) That the applicant meets the U.S. Department of Transportation medical standards, and;

(b) That the fitness certificate or equivalent was issued pursuant to a current medical examination.

(5) If the division determines that the applicant's driving ability has been impaired physically or mentally, or if the applicant's condition does not otherwise comply with the certification requirements of the fitness certificate or equivalent, the division may refuse to process the application until the applicant meets the fitness standards.

**KEY: physical examinations, licensing**  
**Date of Enactment or Last Substantive Amendment: 1994**  
**Notice of Continuation: January 20, 2012**  
**Authorizing, and Implemented or Interpreted Law: 53-3-407(1)(e)]**

**End of the Notices of Proposed Rules Section**



## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends March 17, 2017.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through June 15, 2017, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

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

## Environmental Quality, Water Quality R317-1 Definitions and General Requirements

### NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 40995

FILED: 02/01/2017

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Changes provide clarifying language needed to address comments from Western Resource Advocates and the United States Environmental Protection Agency. The changes do not represent substantive changes to the rule. This is a notice only, with no additional comments being solicited, and is expected to become effective at the end of the notice period.

**SUMMARY OF THE RULE OR CHANGE:** The new Section R317-1-10 is amended in response to comments received from Western Resource Advocates and the United States Environmental Protection Agency to clarify that public comment opportunities will be provided as part of the Independent Scientific Review process. The changes do not represent substantive changes to the process defined in the rule. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the December 1, 2016, issue of the Utah State Bulletin, on page 49. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 19-5-105.3

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The proposed changes will have no additional costs or savings to the state budget but only clarify the review procedures.
- ◆ **LOCAL GOVERNMENTS:** The proposed changes will have no additional costs or savings to local government but only clarify the review procedures.
- ◆ **SMALL BUSINESSES:** The proposed changes will have no additional costs or savings to small businesses but only clarify the review procedures.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed changes will have no additional costs or savings to other persons but only clarify the review procedures.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Compliance costs for affected persons are not changed due to the changes proposed in this rulemaking since the proposed changes only clarify the review procedures.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The change in proposed rule does not substantively change the intent or processes outlined in the original proposed rule that was approved by the Water Quality Board and noticed for public comment on 12/01/2016.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 WATER QUALITY  
 THIRD FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at [jetherington@utah.gov](mailto:jetherington@utah.gov)

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

THIS RULE MAY BECOME EFFECTIVE ON: 03/17/2017

AUTHORIZED BY: Walter Baker, Director

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**R317. Environmental Quality, Water Quality.  
R317-1. Definitions and General Requirements.  
R317-1-1. Definitions.**

Note that some definitions are repeated from statute to provide clarity to readers.

"Assimilative Capacity" means the difference between the numeric criteria and the concentration in the waterbody of interest where the concentration is less than the criterion.

"Biological assessment" means an evaluation of the biological condition of a water body using biological surveys and other direct measurements of composition or condition of the resident living organisms.

"Biological criteria" means numeric values or narrative descriptions that are established to protect the biological condition of the aquatic life inhabiting waters that have been given a certain designated aquatic life use.

"Board" means the Utah Water Quality Board.

"BOD" means 5-day, 20 degrees C. biochemical oxygen demand.

"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 of the State.

"Building sewer" means the pipe which carries wastewater from the building drain to a public sewer, a wastewater disposal system or other point of disposal. It is synonymous with "house sewer".

"CBOD" means 5-day, 20 degrees C., carbonaceous biochemical oxygen demand.

"Challenging Party" means a Person who has or is seeking a permit in accordance with Title 19, Chapter 5, the Utah Water Quality Act and chooses to use the independent peer review process to challenge a Proposal as defined in Subsection 19-5-105.3(1)(a).

"COD" means chemical oxygen demand.

"Conflict of Interest" means a Person who has any financial or other interest which has the potential to negatively affect services to the Division or Challenging Party because it could impair the individual's objectivity or it could create an unfair competitive advantage for any Person or organization.

"Deep well" means a drinking water supply source which complies with all the applicable provisions of the State of Utah Public Drinking Water rules.

"Digested sludge" means sludge in which the volatile solids content has been reduced by at least 38% using a suitable biological treatment process.

"Director" means the Director of the Division of Water Quality.

"Division" means the Utah State Division of Water Quality.

"Domestic wastewater" means a combination of the liquid or water-carried wastes from residences, business buildings, institutions, and other establishments with installed plumbing facilities, together with those from industrial establishments, and with such ground water, surface water, and storm water as may be present. It is synonymous with the term "sewage".

"Effluent" means the liquid discharge from any unit of a wastewater treatment works, including a septic tank.

"Existing Uses" means those uses actually attained in a water body on or after November 28, 1975, whether or not they are included in the water quality standards.

"Expert" means a person with technical expertise, knowledge, or skills in a subject matter of relevance to a specific water quality investigation, HISA, or Proposal including persons from other regulatory agencies, academia, or the private sector.

"Human-induced stressor" means perturbations directly or indirectly caused by humans that alter the components, patterns, and/or processes of an ecosystem.

"Human pathogens" means specific causative agents of disease in humans such as bacteria or viruses.

"Highly Influential Scientific Assessment (HISA)" means a Scientific Assessment developed by the Division or an external Person, that has material relevance to a decision by the Division, and the Director determines could have a significant financial impact on either the public or private sector or is novel, controversial, or precedent-setting, and is not a new or renewed permit issued to a Person.

"Independent Peer Review" means scientific review conducted on request from a Challenging Party in accordance with Section 19-5-105.3 and is a subcategory of Independent Scientific Review.

"Independent Scientific Review" means any technical or scientific review conducted by Experts in an area related to the material being reviewed who were not directly or indirectly involved with the development of the material to be reviewed and who do not have a real or perceived conflict of interest. When an Independent Peer Review is conducted, the conditions in Subsection 19-5-105.3(5) shall apply.

"Industrial wastes" means the liquid wastes from industrial processes as distinct from wastes derived principally from dwellings, business buildings, institutions and the like. It is synonymous with the term "industrial wastewater".

"Influent" means the total wastewater flow entering a wastewater treatment works.

"Great Salt Lake impounded wetland" means wetland ponds which have been formed by dikes or berms to control and retain the flow of freshwater sources in the immediate proximity of Great Salt Lake.

"Large underground wastewater disposal system" means the same type of device as an onsite wastewater system except that it is designed to handle more than 5,000 gallons per day of domestic wastewater, or wastewater that originates in multiple dwellings, commercial establishments, recreational facilities, schools, or any other underground wastewater disposal system not covered under the definition of an onsite wastewater system. The Division controls the installation of such systems.

"Onsite wastewater system" means an underground wastewater disposal system for domestic wastewater which is designed for a capacity of 5,000 gallons per day or less and is not designed to serve multiple dwelling units which are owned by separate owners except condominiums and twin homes. It usually consists of a building sewer, a septic tank and an absorption system.

"Operating Permit" is a State issued permit issued to any wastewater treatment works covered under Rules R317-3 or R317-5 with the following exceptions:

A. Any wastewater treatment permitted under Ground Water Quality Protection Rule R317-6.

B. Any wastewater treatment permitted under Underground Injection Control (UIC) Program Rule R317-7.

C. Any wastewater treatment permitted under Utah Pollutant Discharge Elimination System (UPDES) Rule R317-8.

D. Any wastewater treatment permitted under Approvals and Permits for a Water Reuse Project Rule R317-13.

E. Any wastewater treatment permitted by a Local Health Department under Onsite Wastewater Systems Rule R317-4.

"Person" means any individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state.

"Point source" means any discernible, confined and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flow from irrigated agriculture.

"Pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the state, or such discharge of any liquid, gaseous or solid substance into any waters of the state as will create a nuisance or render such

waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

"Proposal" means any science-based initiative proposed by the division on or after January 1, 2016, that would financially impact a Challenging Party and that would:

- A. change water quality standards;
- B. develop or modify total maximum daily load requirements;
- C. modify wasteloads or other regulatory requirements for permits; or
- D. change rules or other regulatory guidance. A Proposal is not an individual permit issued to a Person, nor is it a technology based limit applied in accordance with Effluent limitations, 33 U.S.C. Sec. 1311, National pollutant discharge elimination system, 33 U.S.C. Sec. 1342, and Information and guidelines, 33 U.S.C. Sec. 1314.

"Regulatory requirements" for permits means the methods or policies used by the Division to derive permit limits such as wasteload analyses, reasonable potential determinations, whole effluent toxicity policy, interim permitting guidance, antidegradation reviews, or Technology Based Nutrient Effluent Limit requirements.

"Scientific Assessment" means an evaluation of a body of credible scientific or technical knowledge that synthesizes scientific literature, data analysis and interpretation, and models, and includes any assumptions used to bridge uncertainties in the available information.

"Scientific basis" means empirical data or other scientific findings, conclusions, or assumptions used as the justification for a rule, regulatory guidance, or a regulatory tool.

"Scientifically necessary to protect the designated beneficial uses of a waterbody" as referenced in Subsection 19-5-105.3(8) means a Technology Based Nutrient Effluent Limit that under current and future growth projections, will:

- A. prevent circumstances that would cause or contribute to an impairment of any designated or existing use in the receiving water or downstream water bodies based on Utah's water quality standards, Section R317-2-7; or
- B. improve water quality conditions that are causing or contributing to any existing impairment in the receiving water or downstream water bodies, as defined by Utah's water quality standards, Section R317-2-7.

"Sewage" is synonymous with the term "domestic wastewater".

"Shallow well" means a well providing a source of drinking water which does not meet the requirements of a "deep well".

"Sludge" means the accumulation of solids which have settled from wastewater. As initially accumulated, and prior to treatment, it is known as "raw sludge".

"SS" means suspended solids.

"Technology Based Nutrient Effluent Limit" means maximum nutrient limitations based on the availability of technology to achieve the limitations, rather than based on a water quality standard or a total maximum daily load.

Total Maximum Daily Load (TMDL) means the maximum amount of a particular pollutant that a waterbody can

receive and still meet state water quality standards, and an allocation of that amount to the pollutant's sources.

"Treatment works" means any plant, disposal field, lagoon, dam, pumping station, incinerator, or other works used for the purpose of treating, stabilizing or holding wastes. (Section 19-5-102).

"TSS" means total suspended solids.

"Underground Wastewater Disposal System" means a system for underground disposal of domestic wastewater. It includes onsite wastewater systems and large underground wastewater disposal systems.

"Use Attainability Analysis" means a structured Scientific Assessment of the factors affecting the attainment of the uses specified in Section R317-2-6. The factors to be considered in such an analysis include the physical, chemical, biological, and economic use removal criteria as described in 40 CFR 131.10(g) (1-6).

"Wastes" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. (Section 19-5-102).

"Wastewater" means sewage, industrial waste or other liquid substances which might cause pollution of waters of the state. Intercepted ground water which is uncontaminated by wastes is not included.

"Waters of the state" means all streams, lakes, ponds, marshes, water-courses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof, except that bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish and wildlife, shall not be considered to be "waters of the state" under this definition (Section 19-5-102).

"Water Quality Based Effluent Limit (WQBEL)" means an effluent limitation that has been determined necessary to ensure that water quality standards in a receiving body of water will not be violated.

#### **R317-1-10. Independent Scientific Review.**

##### 10.1 Applicability.

A. Independent Scientific Review may be used to solicit formal evaluations from outside Experts on the strengths and weaknesses of the scientific basis used to support any new Division Proposal or Highly Influential Scientific Assessment (HISA).

B. Independent Peer Reviews for permits shall be limited to modifications to wasteloads used in UPDES discharge permits, or the scientific basis of any other modification to a regulatory requirement used in developing permit limits. Review of individual permits shall follow existing adjudicative processes that govern their issuance or renewal in accordance with Subsection 19-5-105.3(1)(c)(iii).

C. The Director shall initiate an Independent Scientific Review when one of the following conditions is met:

- 1. A Challenging Party requests an Independent Peer Review on the scientific basis of a Division Proposal under Section

19-5-105.3 and provides the information described in Subsection R317-1-10.3.C.

2. The Director makes a determination that a new Scientific Assessment is a Highly Influential Scientific Assessment (HISA) and that sufficient resources are available to support an Independent Scientific Review.

D. Implementing an Independent Scientific Review or an Independent Peer Review does not affect any applicable public comment or public hearing requirements for any Proposal or other action considered during such a review. If a proposal or other action that is subject to a public comment or public hearing requirement is changed after a comment period has begun or hearing has been held, DEQ shall provide a new opportunity for comment or a new hearing, as appropriate. See also Subsection R317-1-10.4.D.

10.2 Independent Scientific Review process.

A. Independent Scientific Reviews shall be conducted in general accordance with the guidance contained in the United States Environmental Protection Agency's Science and Technology Policy Council Peer Review Handbook 4<sup>th</sup> Edition.

B. Independent Scientific Reviews shall entail development of a scope of work for review; selection of independent Experts; management of the Independent Scientific Reviews; submission by Experts of findings and recommendations; development of a Division response to review findings; finalization of the Proposal or HISA; and publication for public comment.

1. The Director shall prepare a scope of work that defines the objectives of an Independent Scientific Review and provide instructions for the Experts. The Director shall also prepare a schedule for the review. In the case of an Independent Peer Review the Director will seek and incorporate input from the Challenging Party into the development of the scope of work.

a. The scope of work shall include several components:

i. A summary of the Proposal or HISA under consideration and reasons for the review.

ii. The specific charge questions that articulate the issues, areas of concern, or advice sought through the Independent Scientific Review process. Charge questions shall generally focus on the degree of confidence, certainty, and major data gaps with respect to the interpretation or application of the scientific basis of a proposed rule, regulatory guidance, or regulatory tool.

iii. A compilation of data, reports or other scientific information that has a material influence on the scientific basis of the Proposal or HISA under review.

iv. A statement of qualifications and expertise required for Experts that will be considered in conducting the Independent Scientific Review.

v. Other important instructions to Experts such as reporting expectations or communication protocols.

vi. A schedule for accomplishing the review.

b. The scope of work shall be made available for public comment for a minimum of 30 days and no more than 60 days to help identify missing data or missing elements of the charge questions. In the event of a condition which poses hazard to human health or the environment that may increase significantly during a review period, a shorter period may be specified. The Director shall prepare a response to any comments that are received and shall refine the scope of work, as appropriate, before sending the scope of work to the Experts.

2. The Director shall select Experts to conduct Independent Scientific Reviews using the following criteria:

a. Experts shall be selected who have demonstrated expertise in scientific disciplines that are relevant to the scientific basis of the Proposal or HISA.

b. Experts shall not have a conflict of interest that could jeopardize their objectivity or impartiality.

c. An Independent Scientific Review shall be conducted by at least three independent Experts. Additional Experts may be asked to conduct reviews, as needed, to fairly reflect the breadth of scientific perspectives or fields of knowledge related to the scientific basis under review. If the Independent Scientific Review is an Independent Peer Review, the conditions in Section 19-5-105.3 shall apply.

3. Management of Independent Scientific Reviews.

a. Management of Independent Scientific Reviews may be conducted by any of the following:

i. the Division;

ii. the United States Environmental Protection Agency;

iii. an independent contractor; or,

iv. an independent organization such as an editorial board of a relevant scientific journal, appropriate trade organization, or other research institute.

b. From the time they accept the invitation to participate in an Independent Scientific Review, Experts should avoid interaction with the Division, a challenging party, the general public or others that might create a real or perceived Conflict of Interest regarding the Proposal under review to ensure that Expert findings are independent and objective.

4. Compilation of Expert Findings.

a. Each Expert shall submit written comments that include responses to the charge questions and an evaluation of the scientific basis of the Proposal or HISA.

b. The Director shall charge Experts to identify in their written comments any areas of scientific uncertainty or major data gaps that have a reasonable likelihood of altering material provisions of a Proposal or HISA, including descriptions of the nature of the uncertainty, estimates of the relative extent of this uncertainty, and any recommendations for resolving areas of uncertainty.

10.3 Special provisions for Independent Peer Reviews conducted in accordance with Section 19-5-105.3.

A. On request from a Challenging Party, the Director shall conduct an Independent Peer Review of the scientific basis of a Proposal made by the Division on or after January 1, 2016, provided that the following conditions are met: [-]

1. A Challenging Party requests the review, in writing, during the public comment period on a Proposal.

2. The Challenging Party agrees to fund the Independent Peer Review.

3. The Challenging Party provides the information described in Subsection R317-1-10.3.C.

4. The Challenging Party would be substantially impacted by the adoption of the Proposal.

B. Funding Independent Peer Reviews.

1. Costs associated with the peer reviews will be incurred by the Division and billed to the Challenging Party and may include management of the peer review process by an independent contractor agreed to by the Director and Challenging Party,

honorariums provided to Experts to conduct the reviews, and expenses incurred by the Experts.

2. An estimate of projected costs for conducting an Independent Peer Review, including expenses identified in Subsection R317-1-10.3.B.1, shall be estimated by the Director and provided to the Challenging Party prior to finalization of contracts or other financial agreements with Experts.

3. If there is more than one Challenging Party to the scientific basis of a Proposal, the challenges will be consolidated for the Independent Peer Review. Those requesting the review will be responsible for the costs of the review and allocation of costs between parties.

C. The written request for an Independent Peer Review from a Challenging Party shall be included in the final scope of work and shall include the following as best determined by the Challenging Party:

1. An explanation of the specific scientific elements of the Proposal that the Challenging Party questions and an explanation of why these elements may not be scientifically defensible.

2. If the challenge involves review of whether a Technology Based Nutrient Effluent Limit is scientifically necessary, the Challenging Party should include an explanation of why the limits are or are not necessary, including consideration of:

a. all designated beneficial uses of the receiving water and the uses of downstream, hydrologically connected water bodies;

b. current conditions and projected future conditions with respect to wastewater effluent and receiving water quantity and quality; and

c. any other nutrient sources under current and projected future conditions that it is reasonable to believe may affect the same receiving water and downstream hydrologically connected water bodies.

3. Access to sources of data, reports or other information that can be used to establish a scientific basis to the challenge that the Challenging Party would like to be included as supporting materials in the scope of work.

4. Recommendations for qualified independent Experts, who do not have a conflict of interest and whom the Challenging Party would support as Experts based on their documented expertise in areas of relevance to the technical basis of the Proposal being challenged.

D. The Independent Scientific Review process specified in Subsection R317-1-10.2 shall be followed for Independent Peer Reviews conducted at the behest of a Challenging Party with the exception of several limitations outlined in this subsection that are needed to maintain consistency with Section 19-5-105.3.

1. An Independent Peer Review panel shall consist of at least three Experts who do not have direct association with the Division or Challenging Party in accordance with Subsection 19-5-105.3(1)(b)(iii) and shall be selected by both the Division and Challenging Party as described in Subsection 19-5-105.3(5).

2. The Director shall designate one member of the Independent Peer Review Panel to serve as a chair to develop and oversee the preparation of a final synthesis report. In the event that Experts are selected through Subsection 19-5-105.3(5)(c), then the mutually agreed upon member shall serve as the Independent Peer Review Panel chair.

3. Management of the Independent Peer Review process shall be conducted by an independent contractor, who does not have a conflict of interest with the Division or the Challenging Party.

4. Management responsibilities of Independent Peer Reviews include the following:

a. Estimation of appropriate honorariums for the Experts to complete their individual written reviews with consideration for the breadth of the review identified in the scope of work and volume of supporting materials including additional compensation for the Independent Peer Review Panel chair for overseeing and writing a final written report as described in Subsection R317-1-10.3.D.5.

b. Development of a work timeline and interim progress tracking to ensure timely completion of the Independent Peer Review process.

c. Development and oversight of contracts or other financial agreements with Experts or others identified as integral to the review process.

d. Facilitation of necessary communication among the Division, Challenging Party and Experts throughout the review process, in a way that ensures all parties have access to any additional information, such as clarification to charge questions or charge questions that were not considered in development of the scope of work.

e. Regular progress updates to the Division and Challenging Party.

5. The Director shall charge the Independent Peer Review panel chair with development of a final written report, which:

a. is written by the chair after written independent reviews have been submitted by each Expert;

b. is reviewed by all members of the Independent Peer Review panel;

c. documents areas of consensus and dissention among Experts on elements of the scientific basis of the Proposal that Experts believe to have material influence of the Proposal under review;

d. provides a final recommendation from the Independent Peer Review panel on the scientific defensibility of the Division's Proposal, as specified in Subsection 19-5-105.3(7);

e. includes a determination of scientific necessity for any review that involves an evaluation of the application of a Technology Based Nutrient Effluent Limit; and

f. includes the Experts' written findings of the underlying rationale for making a determination that any element of the scientific basis of a Proposal is not scientifically defensible or is scientifically defensible with conditions, and any applicable and reasonable conditions to remedy their concerns.

E. To avoid inordinate delays in rulemaking or other regulatory decisions, Independent Peer Reviews must be completed within one year following appointment of the Independent Peer Review panel.

#### 10.4 Use of Independent Scientific Review results.

A. The Director shall incorporate as needed recommendations and findings from the Experts in the finalization of the Proposal or HISA under review.

B. The Director shall document how the findings of the Experts were applied to the Proposal or HISA.

C. All materials associated with any review process shall be made available during the public comment period applicable to the HISA or Proposal under review, including:

1. the scope of work used to conduct the peer review;
2. the written independent findings from individual Experts;
3. summary reports that were developed after individual Expert reviews were submitted, if appropriate; and
4. the final decision of the Director and rationale for any modifications to the original agency Proposal or HISA in response to Independent Scientific Review findings and recommendations.

D. In the event that the Proposal or HISA under review does not have an established public comment process that occurs after the Independent Scientific Review Process, the Director shall make peer review material available for public comment for a minimum of 30-days and shall consider all substantive public comments prior to finalization of the Proposal or HISA.

E. The Director shall prepare a responsiveness summary that includes:

1. all substantive public comments related to the Independent Scientific Review,
2. the Director's response to public comments, and
3. any changes to the Proposal or HISA that were made in response to public comments.

F. Incorporation of the Director's decisions into existing Division processes.

1. If the Expert findings result in a decision by the Director to modify any element of any UPDES permit, this decision will be summarized in the Statement of Basis on the next issuance of the permit and all Independent Peer Review materials shall be made available as supporting documentation when the permit is published for public comment. If the Proposal is a wasteload or other regulatory requirements for a permit the results shall be incorporated into the proposed permit on which the wasteload is based.

2. If the Proposal under review is regarding the application of a Technology Based Nutrient Effluent Limit and the Independent Peer Review panel determines that the limit is not scientifically necessary, then this finding shall be included in the Statement of Basis in the new or renewed permit as a justification for not including Technology Based Nutrient Effluent Limits that would otherwise have been required. All materials associated with the Independent Peer Review shall be made available during the public comment period for this permit as support for this determination.

3. The decision to modify any permit element, based upon the results of an Independent Scientific Review, is not final until the permit is actually issued.

4. The decision to modify a rule, based upon the results of an Independent Scientific Review, is not final until the rule is actually modified.

**KEY: water pollution, waste disposal, nutrient limits, effluent standards**

**Date of Enactment or Last Substantive Amendment: 2017**

**Notice of Continuation: October 2, 2012**

**Authorizing, and Implemented or Interpreted Law: 19-5**

## Human Services, Administration, Administrative Services, Licensing **R501-21** Outpatient Treatment Programs

### NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 40930

FILED: 01/18/2017

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose for this change in proposed rule is to make changes to the definition of Outpatient Treatment Program and other technical edits determined to be necessary since the rule was originally filed in November 2016.

**SUMMARY OF THE RULE OR CHANGE:** The filing makes changes to the definition of Outpatient Treatment Program and other technical edits determined to be necessary since the rule was originally filed in November 2016. (EDITOR'S NOTE: The original proposed repeal and reenactment upon which this change in proposed rule (CPR) was based was published in the November 15, 2016, issue of the Utah State Bulletin, on page 83. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenactment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-2-106

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The proposed changes maintain the same impact on state budget as the originally filed bill. None of the text changes impacts this.

◆ **LOCAL GOVERNMENTS:** The proposed changes maintain the same impact on local government as the originally filed bill. None of the text changes impacts this.

◆ **SMALL BUSINESSES:** The proposed changes could slightly increase the number of small businesses required to license with Office of Licensing from the originally filed rule. However, this was anticipated due to H.B. 259 from the 2016 General Session. Part of the intent of requiring Office of Licensing to create the Outpatient Treatment Program definition was to ensure the right entities were being captured under the scope of licensing to help avoid fraud and exploitation in treatment settings. So, some small business could be paying license fees and for any requirements to come into compliance with licensure. The bulk of this was already captured in the original filing, this modification increases that only slightly, maybe 5%, of what the original rule would have captured. The Division has no way to count





(3) The Program shall:

(a) provide outpatient and/or intensive outpatient treatment services not to exceed nineteen hours per week, as clinically recommended and documented;

(b) identify and provide to the Office the organizational structure of the program including:

(i) names and titles of owners, directors and individuals responsible for implementing all aspects of the program, and

(ii) a job description, duties and qualifications for each job title;

(c) identify a director or qualified designee who shall be immediately available at all times that the program is in operation;

(d) ensure at least one CPR/First Aid trained or certified staff member is present at all times with clients;

(e) disclose any potential conflicts of interest to the Office;

(f) ensure that staff are licensed or certified in good standing as required and that unlicensed individuals providing direct client services shall do so only in accordance with the Mental Health Professional Practices Act;

(g) train and monitor staff compliance regarding:

(i) program policy and procedures;

(ii) the needs of the program's consumers;

(iii) Office of Licensing rule 501-21 and annual training on the Licensing Code of Conduct and client rights as outlined in R501-1-12;

(iv) emergency procedures;

(h) create and maintain personnel files for each staff member to include:

(i) applicable qualifications, experience, certifications and licenses;

(ii) approved and current Office of Licensing background screening except as excluded in 501-14-17; and

(iii) training records with date completed, topic and employee signature(s) verifying completion.

(i) comply with Office rules and all local, state and federal laws;

(j) maintain proof of financial viability of the program;

(k) maintain general liability insurance, professional liability insurance that covers all program staff, vehicle insurance for transport of clients, fire insurance and any additional insurance required to cover all program activities; and

(l) maintain proof of completion of the National Mental Health Services Survey (NMHSS) annually if providing mental health services; and

(m) ensure that all programs and individuals involved with the prescription, administration or dispensing of controlled substances shall do so per state and federal law, including maintenance of DEA registration numbers for:

(a) all prescribing physicians; and

(b) the specific site where the controlled substances are being prescribed, as required.

(5) The program shall develop, implement and comply with policies and procedures sufficient to ensure the health and safety and meet the needs of the client population served. Policies and procedures shall address:

(a) client eligibility;

(b) intake and discharge process;

(c) client rights as outlined in R501-1-12;

(d) staff and client grievance procedures;

(e) behavior management;

(f) medication management;

(g) critical incident reporting as outlined in R501-1-2-6 and R501-1-10-2d;

(h) emergency procedures;

(i) transportation of clients to include requirement of insurance, valid driver license, driver and client safety and vehicle maintenance;

(j) firearms;

(k) client safety including any unique circumstances regarding physical facility, supervision, community safety and mixing populations; and

(l) provision of client meals, administration of required medications, maximum group sizes, and sufficient physical environment providing for the comfort of clients when clients are present for six or more consecutive hours.

(6) Programs shall maintain client files to include the following:

(a) client name, home address, email address, phone numbers, date of birth and gender;

(b) legal guardian and emergency contact names, address, email address and phone numbers;

(c) all information that could affect the health, safety or well-being of the client including all medications, allergies, chronic conditions or communicable diseases;

(d) intake assessment;

(e) treatment plan signed by the clinical professional or service plan for non-clinical services;

(f) detailed documentation of all clinical and non-clinical services provided with date and signature of staff completing each entry;

(g) signed fee disclosure statement including Medicaid number, insurance information and identification of any other entities that are billed for the client's services;

(h) client or guardian signed consent or court order of commitment to services in lieu of signed consent, for all treatment and non-clinical services; and

(i) grievance and complaint documentation.

(j) discharge documentation

(7) Programs shall document a plan detailing how all program, staff, and client files shall be maintained and remain available for the Office and other legally authorized access, for seven years, regardless of whether or not the program remains licensed.

(8) The program shall ensure that assessment, treatment and service planning practices are clinically appropriate, updated as needed, timely, individualized, and involve the participation of the client or guardian.

(9) Programs shall maintain documentation of all critical incidents; critical incident reports shall contain:

(a) time of incident;

(b) summary of incident;

(c) individuals involved; and

(d) program response to the incident.

**R501-21-5. Physical Facility.**

(1) Space shall be adequate to meet service needs and ensure client confidentiality and comfort.

(2) The program shall maintain potentially hazardous items on-site lawfully, responsibly and with consideration of the safety and risk level of the population(s) served.

(3) All furniture and equipment shall be maintained in a clean and safe condition.

(4) Programs offering supplemental services or activities in addition to outpatient treatment shall:

(a) remain publically transparent in the use of the equipment, practices and purposes;

(b) ensure the health and safety of the consumer;

(c) gain informed consent for participation in supplemental services or activities; and

(d) provide verification of all trainings or certifications as required for the operation and use of any supplemental equipment.

(5) The program shall post the following documents where they are clearly visible by clients, staff, and visitors:

(a) Civil Rights and anti-discrimination laws;

(b) program license;

(c) current or pending Notices of Agency Action;

(d) abuse and neglect reporting laws; and

(e) client rights and grievance process.

(6) The program site shall provide access to a toilet and lavatory sink in a manner that ensures basic privacy, and shall be:

(a) stocked with toilet paper, soap, and paper towels/dryer; and

(b) maintained in good operating order and kept in a clean and safe condition.

(7) The program shall ensure that the physical environment is safe for consumers and staff and that the appearance and cleanliness of the building and grounds are maintained.

**R501-21-6. Substance Use Disorder Treatment Programs.**

(1) All substance use disorder treatment programs shall develop and implement a plan on how to support opioid overdose reversal.

(2) Maintain proof of completion of the National Survey of Substance Abuse Treatment Services (NSSATS) annually.

(3) Medication-assisted treatment (MAT) in substance use disorder programs shall:

(a) maintain a program-wide counselor to MAT consumer ratio of 1:50;

(b) assure all consumers see a licensed practitioner that is authorized to prescribe controlled substances at least once yearly;

(c) show proof of completion of federally required physician training for physicians prescribing buprenorphine;

(d) admit consumers to the program and prescribe, administer or dispense medications only after the completion of a face-to-face visit with a licensed practitioner having authority to prescribe controlled substances who confirms opioid dependence. A licensed practitioner having authority to prescribe controlled substances must approve every subsequent dose increase prior to the change;

(e) require all consumers admitted to the program to participate in random drug testing. Drug testing will be performed by the program a minimum of two times per month for the first three months of treatment, and monthly thereafter; except for a

consumer whose documented lack of progress shall require more frequent drug testing for a longer period of time;

(f) require that consumers participate in at least one counseling session per week for the first 90 days. Upon documented successful completion of this phase of treatment, consumers shall be required to participate in counseling sessions at least twice monthly for the next six months. Upon documented successful completion of nine months of treatment, consumers shall be seen by a licensed counselor at least monthly thereafter until discharge; and

(g) require one hour of prescribing practitioner time at the program site each month for every ten MAT consumers enrolled.

(4) MAT Programs prescribing, administering or dispensing Methadone (Opioid Treatment Programs) shall:

(a) maintain Substance Abuse and Mental Health Services Administration (SAMHSA) certification and accreditation as an opioid treatment program.

(b) comply with DSAMH Rule R523-10 Governing Methadone and other opioid treatment service providers;

(c) employ a:

(i) licensed physician who is an American Society of Addiction Medicine certified physician; or

(ii) prescribing licensed practitioner who can document specific training in current industry standards regarding methadone treatment for opioid addictions; or

(iii) prescribing licensed practitioner who can document specific training or experience in methadone treatment for opioid addictions; and

(d) provide one nurse to dispense or administer medications for every 150 Methadone consumers dosing on an average daily basis.

(5) Certified DUI Education Programs

(a) Only programs certified with the Division of Substance Abuse and Mental Health (DSAMH) to provide Prime for Life education in accordance with [~~R523-4~~] and R523-11 shall provide court ordered DUI education.

(b) Certified DUI education programs shall:

(i) complete and maintain a substance use screening for each participant prior to providing the education course;

(A) screenings may be shared between providers with client written consent;

(ii) provide a workbook to each participant to keep upon completion of the course;

(iii) ensure at least 16 hours of course education; and

(iv) provide separate classes for adults and youth.

(c) Any violations of this rule section will be reported to DSAMH for evaluation of certification.

(6) Justice Reform Initiative (JRI) Certified Programs shall operate in compliance with DSAMH rules 523-3 and 523-4.

(a) JRI certified programs shall maintain a criminogenic screen/risk assessment for each justice involved client and separate clients into treatment groups according to level of risk assessed.

(b) Providers shall complete screenings that assess both substance abuse and mental health comorbidity.

(c) JRI programs shall treat, or refer to other DHS licensed programs that have obtained a justice certification from the DSAMH to treat the array of disorders noted in screenings.

(d) Any violations of this rule section shall be reported to DSAMH for evaluation of certification.

**R501-21-7. Domestic Violence.**

(1) Domestic Violence (DV) treatment programs shall comply with generally accepted and current practices in domestic violence treatment, and shall meet the following requirements:

(a) maintain and document cooperative working relationships with domestic violence shelters, treatment programs, referring agencies, custodial parents when the consumer is a minor, and local domestic violence coalitions;

(i) treatment sessions for children and victims shall offer a minimum of ten sessions for each consumer, not including intake or orientation;

(b) if the consumer is a perpetrator, program contact with the victims, current partner, and the criminal justice referring agencies is also required, as appropriate;

(i) treatment sessions for each perpetrator, not including orientation and assessment interviews shall be provided for at least one hour per week, for a minimum of 16 weeks.

**(2) Staff to Consumer Ratio**

(a) The staff to consumer ratio in adult treatment groups shall be one staff to eight consumers, for a one hour long group; or one staff to ten consumers for an hour and a half long group. The maximum group size shall not exceed 16.

(b) Child victim, or child witness groups shall have a ratio of one staff to eight children, when the consumers are under 12 years of age; and a ratio of one staff to ten children when the consumers are 12 years of age and older.

**(3) Client Intake and Safety**

(a) When any consumer enters a treatment program, the staff shall conduct an in-depth, face-to-face interview and assessment to determine the consumer's clinical profile and treatment needs.

(b) For perpetrator consumers, additional information shall be obtained from the police incident report, perpetrator's criminal history, prior treatment providers, and the victim.

(c) When appropriate, additional information for child consumers shall be obtained from parents, prior treatment providers, schools, and Child Protective Services.

(d) When any of the above cannot be obtained, the reason shall be documented.

(e) The assessment shall include the following:

(i) a profile of the frequency, severity, and duration of the domestic violence behavior, which includes a summary of psychological violence;

(ii) documentation of any homicidal, suicidal ideation and intentions, as well as abusive behavior towards children;

(iii) a clinical diagnosis and a referral for evaluation to determine the need for medication, if indicated;

(iv) documentation of safety planning when the consumer is an adult victim, child victim, or child witness; and that they have contact with the perpetrator;

(A) for victims who choose not to become treatment consumers, safety planning shall be addressed when they are contacted; and

(v) documentation that appropriate measures have been taken to protect children from harm.

**(4) Treatment Procedures**

(a) Consumers deemed appropriate for a domestic violence treatment program shall have an individualized treatment plan, which addresses all relevant treatment issues.

(b) Consumers who are not deemed appropriate for domestic violence programs shall be referred to the appropriate resource, with the reasons for referral documented, and notification given to the referring agency.

(c) Domestic violence counseling shall be provided concurrently with, or after other necessary treatment, when appropriate.

(d) Conjoint or group therapy sessions with victims and perpetrators together, or with both co-perpetrators, shall not be provided until a comprehensive assessment has been completed to determine that the violence has stopped, and that conjoint treatment is appropriate.

(e) The perpetrator must complete a minimum of 12 domestic violence treatment sessions prior to the provider implementing conjoint therapy.

(f) A written procedure shall be implemented to facilitate the following, in an efficient and timely manner:

(i) entry of the court ordered defendant into treatment;

(ii) notification of consumer compliance, participation, or completion;

(iii) disposition of non-compliant consumers;

(iv) notification of the recurrence of violence; and

(v) notification of factors which may exacerbate an individual's potential for violence.

(g) The program shall comply with the "Duty to Warn," Section 78B-3-502.

(h) The program shall document specialized training in domestic violence assessment and treatment practices, including 24 hours of pre-service training, within the last two years; and 16 hours annual training thereafter for all individuals providing treatment service.

(i) Clinical supervision for treatment staff that are not clinically licensed shall consist of a minimum of one hour per week to discuss clinical dynamics of cases.

**(5) Training**

(a) Training that is documented and approved by the designated Utah DHS DV Specialist Regarding assessment and treatment practices for treating:

(i) DV victims; and

(ii) DV perpetrators.

(6) Programs must disclose all current DHS contracts and actions against the contract to the Office.

(7) Programs must disclose all current Accreditations and actions against accredited status to the Office.

**R501-21-8 Compliance.**

(1) A licensee that is in operation on the effective date of this rule, shall be given ~~30~~90 days to achieve compliance with this rule.

**KEY:** human services, licensing, outpatient treatment programs~~, substance abuse~~

**Date of Enactment or Last Substantive Amendment:** ~~2016~~2017

**Notice of Continuation:** April 1, 2015

**Authorizing, and Implemented or Interpreted Law:** 62A-2-101 et seq.

**Public Service Commission,  
Administration  
R746-341  
Lifeline Rule**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR FILE NO.: 41031

FILED: 01/19/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Comments submitted during the comment period for the previous amendment demonstrate that the rules governing re-enrollment in the Lifeline program require further clarification.

**SUMMARY OF THE RULE OR CHANGE:** The rule governing re-enrollment is clarified to state that certain information is required to be provided to eligible telecommunications carriers no later than five days prior to the first business day of the anniversary enrollment month of the participant. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the December 15, 2016, issue of the Utah State Bulletin, on page 40. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 54-4-1 and Section 54-4-4 and Subsection 54-8b-15(7)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The state has been administering the Lifeline program for many years and has the budget in place to continue that function. This clarification of the participant verification and re-enrollment rules will not affect the state's administrative duties. No fiscal impact to the state is anticipated.

◆ **LOCAL GOVERNMENTS:** Local governments are not required to enforce or comply with the Lifeline rules. No fiscal impact to local government is anticipated.

◆ **SMALL BUSINESSES:** This clarification modifies the timeline on which small businesses that provide Lifeline telephone service will receive certain information necessary to re-enroll customers who participate in the Lifeline program. It does not change these business' obligations or create any new costs.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons who are required to re-enroll in the Lifeline program

annually will be required to do so on a specific schedule. However, there are no associated costs.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This clarification modifies the timeline on which telecommunications providers and Lifeline participants will undertake the annual re-enrollment process. It does not change the associated costs.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** As stated in the rule analysis, this clarification modifies the timeline Lifeline providers will use to re-enroll participants annually. There is no change to the re-enrollment requirements nor any change to the associated costs.

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY, UT 84111-2316  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Jennie Jonsson by phone at 801-530-6763, or by Internet E-mail at [jjonsson@utah.gov](mailto:jjonsson@utah.gov)
- ◆ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at [sbintz@utah.gov](mailto:sbintz@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/17/2017**

**THIS RULE MAY BECOME EFFECTIVE ON: 03/24/2017**

**AUTHORIZED BY:** Jennie Jonsson, Administrative Law Judge

**R746. Public Service Commission, Administration.**

**R746-341. Lifeline Rule.**

**R746-341-3. Eligibility Requirements.**

A. Initial Program-Based Criteria -- An ETC shall provide Lifeline telephone service to an applicant's household which, using an approved application form, is verified by either the program administrator (for State ETCs), or by a federal ETC, in compliance with the procedures set forth in 47 CFR 54.410(c), to be eligible for public assistance under one of the following or its successor programs:

1. Medicaid;
2. Supplemental Nutrition Assistance Program (SNAP or Food Stamps);
3. Supplemental Security Income (SSI);
4. Federal Public Housing Assistance (Section 8); or
5. Veterans Pension and Survivors Pension Benefit.

B. Tribal Residents -- A consumer who lives on Tribal lands is eligible for Lifeline service as a "qualifying low-income

consumer" as defined by Section 54.400(a) and as an "eligible resident of Tribal lands" as defined by Section 54.400(e) if that consumer meets the qualifications for Lifeline specified Section A. or if the consumer, one or more of the consumer's dependents, or the consumer's household participates in one of the following Tribal-specific federal assistance programs:

1. Bureau of Indian Affairs General Assistance;
2. Tribally-Administered Temporary Assistance for Needy Families (TTANF);
3. Head Start (if income eligibility criteria are met); or
4. Food Distribution Program on Indian Reservations (FDPIR).

C. Initial Income-Based Criteria -- An ETC shall provide Lifeline telephone service to an applicant who certifies via supporting documentation (to either the ETC for federal ETC customers, or the program administrator for state ETC customers), under penalty of perjury, that the applicant's household income is at or below 135 percent of the then applicable Federal Poverty Guidelines.

1. Income-based eligibility is based on family size and actual income; therefore, an applicant shall certify, under penalty of perjury, the number of individuals residing in the household.

2. An applicant shall certify, under penalty of perjury, that the documentation presented accurately represents the applicant's annual household income. The following documents, or any combination of these documents, are acceptable for Lifeline certification;

- a. Prior year's state, federal, or tribal tax return;
- b. Current year-to-date earnings statement from an employer or three consecutive months of paycheck stubs within the previous twelve months;
- c. Social Security statement of benefits;
- d. Veterans Administration statement of benefits;
- e. Retirement/pension statement of benefits;
- f. Unemployment/Workers Compensation statement of benefits;
- g. Federal or tribal notice letter of participation in Bureau of Indian Affairs General Assistance; or
- h. Divorce decree or child support wage assignment statement.

D. In order to be approved as a qualifying low-income consumer, an applicant must not already be receiving a Lifeline service, and there must not be anyone else in the applicant's household subscribed to a Lifeline service.

E. Eligibility Certification -- The application form for participation shall be supplied by the ETC or the program administrator and shall be consistent with both the federal requirements, then in effect, and any additional information requirements of the program administrator, and shall include:

1. a statement, under penalty of perjury, as to whether the person is participating in one of the programs listed in Subsection R746-341-3(A) or qualifies under other federal eligibility criteria; or a statement, under penalty of perjury, as to whether the person's household income is at or below 135 percent of the current Federal Poverty Guidelines;

2. if qualified by income-based criteria, a statement, under penalty of perjury, that identifies the number of individuals residing in the household and affirms that the documentation

presented to support eligibility accurately represents the applicant's household income;

3. a statement that if the applicant is later shown to have submitted false information in an attempt to qualify for the Lifeline program, the applicant shall be responsible to re-pay the benefits received; and

4. the signature of the applicant, either physical or electronic.

F. False Certification Penalties -- A participant who does not qualify, but who has submitted false documentation or statements to qualify for the Lifeline program, is responsible to re-pay the value of the benefits received to the state Lifeline program, and is subject to whatever penalties are then current for the federal Lifeline program.

G. Tribal Land Lifeline Discounts - This rule does not govern or otherwise affect the Tribal Land Lifeline Discount program.

#### **R746-341-4. Duties of the Program Administrator.**

##### **A. Initial Eligibility**

1. The program administrator shall process all applications submitted for participation in the state Lifeline telephone service program. The program administrator shall check the NLAD for pre-existing participation if possible. The program administrator shall inform the applicant and the state ETC of the results of the application process.

##### **B. Annual Eligibility Verification**

1. The program administrator shall verify on an annual basis the continuing eligibility status of state ETC Lifeline telephone service participants. The annual eligibility verification shall be performed on the participant list as defined by the FCC in its May 22, 2013 Public Notice in Docket No. 11-42 and any subsequent FCC guidance.

2. The annual eligibility verification shall be performed by the program administrator using the same process as outlined in the de-enrollment process in R746-341-4.C. and in accordance with 47 CFR Section 54.410(f)(3).

3. The program administrator shall provide results of the annual recertification efforts to the ETCs pursuant to 47 CFR Section 54.410(f)(4) and will provide all necessary FCC Form 555 information to ETCs no later than five days prior to the first business day of the anniversary enrollment month of the participant~~[in which the verification was last performed]~~.

##### **C. De-Enrollment Process**

1. The program administrator shall manage the de-enrollment process for state ETC Lifeline participants who are no longer eligible for the program. Upon an initial finding that a Lifeline recipient is no longer eligible to participate in the state the Lifeline program, the program administrator shall send a notice to the participant explaining the participant's Lifeline telephone service benefit will be discontinued after 60 days unless the participant verifies continuing eligibility before that date. The notice shall include the reason(s) for the recipient being ineligible and a description of the options available to the recipient to demonstrate eligibility.

2. At the end of 60 days, if the participant has not demonstrated continuing eligibility, the program administrator shall notify the relevant state ETC to discontinue the ineligible

participant's Lifeline telephone service benefit. The benefit must be discontinued in the month following notification; thus the next month's benefit cannot be provided.

3. Ineligible past participants may reapply for the Lifeline program, but must do so by submitting a completed application to the program administrator for state program participation, or to a federal ETC for federal only participation, in accordance with the application process in R746-341-3.

D. Participants Switching Between ETCs -- When a current Lifeline telephone service participant desires to change to a different ETC's Lifeline telephone service, the participant and ETCs shall follow the established NLAD procedures. A participant who is not able to complete the switch due to unresolved problems may seek the assistance of the Division of Public Utilities requesting help in resolving the issue.

E. Documentation Retention -- The program administrator shall retain income and program eligibility certification documentation, in electronic format, for as long as required by then current federal Lifeline policies. Copies of the relevant documentation shall be made available on request to auditors from either the federal Lifeline telephone service program or the state Lifeline telephone service program.

**KEY: telephones, telecommunications, rules and procedures, lifeline rates**

**Date of Enactment or Last Substantive Amendment: 2017**

**Notice of Continuation: October 19, 2015**

**Authorizing, and Implemented or Interpreted Law: 54-4-1; 54-4-4; 54-8b-15(7)**

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**End of the Notices of Changes in Proposed Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

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## Administrative Services, Facilities Construction and Management **R23-1**

### Procurement Rules with Numbering Related to the Procurement Code

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41266  
FILED: 02/01/2017

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R23-1 is enacted and authorized under Title 63G, Chapter 6a, which governs state procurement, and Subsection 63A-5-103(1)(e), which requires the State Building Board to make rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued because it is required under Subsection 63A-5-103(1)(e).

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

FACILITIES CONSTRUCTION AND MANAGEMENT  
ROOM 4110 STATE OFFICE BLDG  
450 N STATE ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

#### DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at [abachman@utah.gov](mailto:abachman@utah.gov)
- ◆ Jeff Reddoor by phone at 801-971-9830, or by Internet E-mail at [jreddoor@utah.gov](mailto:jreddoor@utah.gov)
- ◆ Simone Rudas by phone at 801-538-3240, or by Internet E-mail at [srudas@utah.gov](mailto:srudas@utah.gov)

AUTHORIZED BY: Jeff Reddoor, State Building Board  
Manager

EFFECTIVE: 02/01/2017

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## Administrative Services, Facilities Construction and Management **R23-19**

### Facility Use Rules

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41267  
FILED: 02/01/2017

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 63A-5-103 and 63A-5-204 authorize this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because the Building Board is required to make rules regarding the use and management of state facilities under Title 63G, Chapter 3.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ADMINISTRATIVE SERVICES  
FACILITIES CONSTRUCTION AND MANAGEMENT  
ROOM 4110 STATE OFFICE BLDG  
450 N STATE ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov  
♦ Jeff Reddoor by phone at 801-971-9830, or by Internet E-mail at jreddoor@utah.gov  
♦ Simone Rudas by phone at 801-538-3240, or by Internet E-mail at srudas@utah.gov

AUTHORIZED BY: Jeff Reddoor, State Building Board Manager

EFFECTIVE: 02/01/2017

**Administrative Services, Facilities  
Construction and Management  
R23-20  
Free Speech Activities**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41268  
FILED: 02/01/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Sections 63A-5-103 and 63A-5-204.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because such a rule regarding the use and management of state facilities is required under Title 63G, Chapter 3.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ADMINISTRATIVE SERVICES  
FACILITIES CONSTRUCTION AND MANAGEMENT  
ROOM 4110 STATE OFFICE BLDG  
450 N STATE ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov  
♦ Jeff Reddoor by phone at 801-971-9830, or by Internet E-mail at jreddoor@utah.gov  
♦ Simone Rudas by phone at 801-538-3240, or by Internet E-mail at srudas@utah.gov

AUTHORIZED BY: Jeff Reddoor, State Building Board Manager

EFFECTIVE: 02/01/2017

**Agriculture and Food, Animal Industry  
R58-19  
Compliance Procedures**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41194  
FILED: 01/18/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(j) requires the department to, when necessary, make investigations; subpoena witnesses and records; conduct hearings; issue orders; and make recommendations concerning all matters related to agriculture.



SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received by the department since the last five-year review of the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule sets forth the procedures that the Animal Industry Division must follow in issuing emergency orders and citations to protect the public from unlawful agricultural and food products and services. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD  
ANIMAL INDUSTRY  
350 N REDWOOD RD  
SALT LAKE CITY, UT 84116-3034  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Cody James by phone at 801-538-7166, by FAX at 801-538-7169, or by Internet E-mail at codyjames@utah.gov
- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 01/18/2017

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## Agriculture and Food, Plant Industry **R68-19** Compliance Procedures

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 41195  
FILED: 01/18/2017

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(j) requires the department to make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning all matters related to agriculture.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received by the department since the last five-year review of the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule does the following: 1) provides emergency orders to stop the sale or use of agriculture products, 2) provides an entity with a citation of penalty of fine for violation of state code or Division policy or rule, and 3) conducts a hearing when requested by an entity that has received an order or citation. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD  
PLANT INDUSTRY  
350 N REDWOOD RD  
SALT LAKE CITY, UT 84116-3034  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 01/18/2017

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## Commerce, Occupational and Professional Licensing **R156-11a** Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 41198  
FILED: 01/19/2017

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS

ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 11a, provides for the licensure and regulation of barber, barber instructor, barber school, cosmetologist/barber, cosmetologist/barber instructor, cosmetology/barber school, electrologist, electrologist instructor, electrology school, esthetician, master esthetician, esthetician instructor, esthetics school, nail technology, nail technology instructor, nail technology school and apprentices in these professions as allowed in Subsection 58-11a-306. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-11a-201(3) provides that the Barbering, Cosmetology/Barbering, Esthetics, Electrology, and Nail Technology Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division director. This rule was enacted to clarify the provisions of Title 58, Chapter 11a, with respect to license classification types listed above.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in 2012, it has been amended three times. However, the Division has not received any written comments with respect to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 11a, with respect to barber, barber instructor, barber school, cosmetologist/barber, cosmetologist/barber instructor, cosmetology/barber school, electrologist, electrologist instructor, electrology school, esthetician, master esthetician, esthetician instructor, esthetics school, nail technology, nail technology instructor, nail technology school, and apprentices in these professions as allowed in Subsection 58-11a-306. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 COMMERCE  
 OCCUPATIONAL AND PROFESSIONAL  
 LICENSING  
 HEBER M WELLS BLDG  
 160 E 300 S  
 SALT LAKE CITY, UT 84111-2316  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Allyson Pettley by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at apettley@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 01/19/2017

**Commerce, Occupational and  
 Professional Licensing  
 R156-55d  
 Burglar Alarm Licensing Rule**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 41199  
 FILED: 01/19/2017

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 55, provides for the licensure and regulation of alarm companies and alarm company agents. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-55-201(2)(b) provides that one of the Alarm System Security and Licensing Board's duties is to recommend appropriate rules to the Construction Services Commission. Subsection 58-55-103(1)(b) provides that one of the duties of the Construction Services Commission is to make appropriate rules with respect to Title 58, Chapter 5, with the concurrence of the Division director. This rule was enacted to clarify the provisions of Title 58, Chapter 55, with respect to alarm companies and alarm company agents.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in 2012, it has been amended three times. However, the Division has received no written comments with respect to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 55, with respect to alarm companies and alarm company agents. The rule should also be continued as it provides information to ensure applicants for licensure are

adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

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

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL  
LICENSING  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY, UT 84111-2316  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jana Johansen by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at janajohansen@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 01/19/2017

## Environmental Quality, Air Quality

### **R307-110**

#### General Requirements: State Implementation Plan

#### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41231  
FILED: 01/27/2017

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R307-110 is authorized by Section 19-2-104. Section 19-2-104 gives the Utah Air Quality Board the power to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-110 is the rule that incorporates Utah's State Implementation Plans, which are required by the Federal Clean Air Act, into state law. State Implementation Plans contain provisions that help abate air pollution, set emission limits, and prevent air pollution for the purpose of attaining federal air quality standards. Therefore, Rule R307-110 has been properly enacted under Section 19-2-104.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: Rule R307-110 has been amended 14 times since the last five-year review in 2012. There have been hundreds of comments on how to improve the State Implementation Plans that the rule incorporates by reference. However, there have been no comments opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-110 is required by the Federal Clean Air Act. Section 110 of the Clean Air Act requires states to develop State Implementation Plans that demonstrate how the state will meet federal air quality standards. Rule R307-110 is necessary because it incorporates Utah's State Implementation Plans into state law so that the plans can be enforced and Utah can attain federal air quality standards.

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

ENVIRONMENTAL QUALITY  
AIR QUALITY  
FOURTH FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/27/2017

## Environmental Quality, Air Quality

### **R307-120**

#### General Requirements: Tax Exemption for Air Pollution Control Equipment

#### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41230  
FILED: 01/27/2017

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R307-120 was enacted by the Utah Air Quality Board under Section 19-2-127. Section 19-12-127 is no longer in the Utah Code, but the Air Quality Board still has the authority to amend Rule R307-120 under the Pollution Control Act found in Section 19-12-305. Rule R307-120 provides the process for evaluating and applying

for certification for tax exempt status for pollution control equipment.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** The rule was amended once since the last five-year review, and there were no comments supporting or opposing the rule.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** The rule should be continued because it implements the procedures related to the statutory right to receive a tax exemption for certain pollution control equipment.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 AIR QUALITY  
 FOURTH FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

**AUTHORIZED BY:** Bryce Bird, Director

**EFFECTIVE:** 01/27/2017

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**Environmental Quality, Air Quality  
 R307-130  
 General Penalty Policy**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION  
 DAR FILE NO.: 41229  
 FILED: 01/27/2017**

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule was enacted under Section 19-2-104. Under Section 19-2-104, the Utah Air Quality Board is given the power to promulgate rules to prevent air pollution. Rule R307-130 prevents air pollution by providing penalties for people who are not in compliance with air quality rules, orders, or permits.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** This rule has had no comments or substantive amendments since the last five-year review.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** This rule is necessary to implement the penalty structure that is set out in Section 19-2-115. The rule is also necessary because it puts the public on notice to how the penalty process would work in a non-compliance situation. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 AIR QUALITY  
 FOURTH FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

**AUTHORIZED BY:** Bryce Bird, Director

**EFFECTIVE:** 01/27/2017

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**Environmental Quality, Air Quality  
 R307-135  
 Enforcement Response Policy for  
 Asbestos Hazard Emergency  
 Response Act**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION  
 DAR FILE NO.: 41228  
 FILED: 01/27/2017**

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule was enacted by the Utah Air Quality Board under the authority of Subsection 19-2-104(1)(d). Subsection 19-2-104(1)(d) allows the Utah Air Quality Board to promulgate rules implementing the federal Asbestos Hazard Emergency Response Act in Utah. Subsections 19-2-115(2)(b) and (c) authorize penalties for

violations of rules adopted under Section 19-2-104 for implementation of the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response. Rule R307-135 sets forth the conditions for issuance of a notice of violation and the penalties to be assessed for non-compliance with the rule.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** No written comments have been received on this rule since its last five-year review.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** This rule should be continued because it sets forth the conditions for issuance of a notice of violation and the penalties to be assessed for violating the Asbestos Hazard Emergency Response Act. Without Rule R307-135, a person may be able to violate the Asbestos Hazard Emergency without penalty from the state. Therefore, Rule R307-135 is important for protecting human health and ensuring compliance with the Asbestos Hazard Emergency Response Act.

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

ENVIRONMENTAL QUALITY  
AIR QUALITY  
FOURTH FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at [rstephens@utah.gov](mailto:rstephens@utah.gov)

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/27/2017

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**Environmental Quality, Air Quality**  
**R307-301**  
**Utah and Weber Counties: Oxygenated**  
**Gasoline Program As a Contingency**  
**Measure**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41227  
FILED: 01/27/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

**CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE:** Section 211(m)(1) of the Clean Air Act required Utah County to implement an oxygenated gasoline program to bring it into attainment of the carbon monoxide National Ambient Air Quality Standard. Clean Air Act Section 175A(d) requires that maintenance plans assure prompt action to correct any violation of the standard that occurs after an area is re-designated to attainment, and mandatory Clean Air Act requirements such as an oxygenated fuels program must be included as contingency measures. Rule R307-301 remains in place in case the carbon monoxide health standard is violated in Provo or Ogden, in which case an oxygenated gasoline program could be reinstated based on the trigger measures in State Implementation Plan (SIP) Subparts IX.C.6.e(5)(a) and IX.C.8.f. The Utah Air Quality Board enacted this rule to comply with the Clean Air Act under the authority of Section 19-2-104.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** No comments have been received on this rule since the last five-year review.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** This rule should be continued because it is required for compliance with the Clean Air Act. Section 211(m)(1) of the Clean Air Act required Utah County to implement an oxygenated gasoline program to bring it into attainment of the carbon monoxide National Ambient Air Quality Standards. Clean Air Act Section 175A(d) requires that maintenance plans assure prompt action to correct any violation of the standard that occurs after an area is re-designated to attainment, and mandatory Clean Air Act requirements must be included as contingency measures. The oxygenated gasoline program is a contingency measure in case the carbon monoxide National Ambient Air Quality Standard is violated in Provo or Ogden.

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

ENVIRONMENTAL QUALITY  
AIR QUALITY  
FOURTH FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at [rstephens@utah.gov](mailto:rstephens@utah.gov)

AUTHORIZED BY: Bryce Bird, Director

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/27/2017

EFFECTIVE: 01/27/2017

**Environmental Quality, Air Quality  
R307-320  
Ozone Maintenance Areas and Ogden  
City: Employer-Based Trip Reduction  
Program**

**Environmental Quality, Air Quality  
R307-325  
Ozone Nonattainment and  
Maintenance Areas: General  
Requirements**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41226  
FILED: 01/27/2017

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41225  
FILED: 01/27/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R307-320 was enacted under the authority of Subsection 19-2-104(1)(h), which allows the Air Quality Board to promulgate rules that create an employer-based trip reduction program in.

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminants source." Subsection 19-2-101(2) states, "It is the policy of this state and the purpose of this chapter to achieve and maintain levels of air quality which will protect human health and safety." The Air Quality Board promulgated Rule R307-325 under the authority found in Subsection 19-2-104 in order to fulfill the purpose found in Subsection 19-2-101 and to satisfy the requirements found in Section 110 and Part D of the Clean Air Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments on this rule since the last five-year review.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments on this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it helps Utah satisfy its obligations under Section 110 of the Clean Air Act. Section 110 requires states to develop implementation plans that demonstrate how they will comply with National Ambient Air Quality Standards. Rule R307-320 is a control strategy included in Utah's State Implementation Plan to reduce ambient ozone, and it is a contingency measure for carbon monoxide.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it is required by the Clean Air Act. Section 110 and Part D of the Clean Air Act require the state of Utah to develop a State Implementation Plan that will allow the state to attain certain federal air quality standards. Without the state plan, EPA would be required to impose a federal implementation plan, and the state could lose some of its ability to make its own policy decisions on how it will comply with federal air quality standards.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ENVIRONMENTAL QUALITY  
AIR QUALITY  
FOURTH FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at [rstephens@utah.gov](mailto:rstephens@utah.gov)

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 AIR QUALITY  
 FOURTH FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/27/2017

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**Environmental Quality, Air Quality**  
**R307-326**  
**Ozone Nonattainment and**  
**Maintenance Areas: Control of**  
**Hydrocarbon Emissions in Petroleum**  
**Refineries**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT**  
**OF CONTINUATION**  
 DAR FILE NO.: 41223  
 FILED: 01/27/2017

**NOTICE OF REVIEW AND STATEMENT OF**  
**CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Utah Air Quality Board enacted Rule R307-326 under the authority of Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminants source." Rule R307-326 does this by establishing reasonably available control technology for controlling hydrocarbon emissions from petroleum refineries that are located in ozone nonattainment and maintenance areas.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no written comments on this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because the rule is required under the state implementation plan for ozone, incorporated by reference under Section R307-110-13. The plan is also required by Section 110 of the Clean Air Act. Without the state plan, EPA would be required to impose a Federal Implementation Plan. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 AIR QUALITY  
 FOURTH FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/27/2017

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**Environmental Quality, Air Quality**  
**R307-327**  
**Ozone Nonattainment and**  
**Maintenance Areas: Petroleum Liquid**  
**Storage**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT**  
**OF CONTINUATION**  
 DAR FILE NO.: 41222  
 FILED: 01/27/2017

**NOTICE OF REVIEW AND STATEMENT OF**  
**CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminants source." Rule R307-327 does this by requiring that petroleum refineries have measures in place to reduce emissions of volatile organic compounds, a precursor to ozone, from their large storage tanks.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments on this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is required under the state implementation plan for ozone, incorporated by reference under Section R307-110-13. The plan is also required by Section 110 of the Clean Air Act. The rule is a necessary for the Utah's State Implementation Plan to meet federal ozone standards. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY  
 AIR QUALITY  
 FOURTH FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/27/2017

**Environmental Quality, Air Quality  
 R307-328  
 Gasoline Transfer and Storage**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 41221  
 FILED: 01/27/2017

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminants source." Rule R307-328 does this by establishing reasonably available control technology for controlling gasoline vapors during the filling of gasoline vehicles and storage tanks in any

ozone nonattainment or maintenance area in Utah and Weber Counties.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is required under the state implementation plan for ozone, incorporated by reference under Section R307-110-13. The plan is also required by Section 110 of the Clean Air Act. Without the state plan, EPA would be required to impose a Federal Implementation Plan. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY  
 AIR QUALITY  
 FOURTH FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/27/2017

**Environmental Quality, Air Quality  
 R307-335  
 Degreasing and Solvent Cleaning  
 Operations**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 41220  
 FILED: 01/27/2017

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air



contaminants that may be emitted by any air contaminants source." Rule R307-335 does this by establishing reasonably available control technology for degreasing and solvent cleaning operations located in ozone nonattainment or maintenance areas.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** This rule has been amended four times since the last five-year review. Although there were a few comments submitted on how to improve the rule, there were no comments opposing or supporting the rule.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** The rule is required under the state implementation plan for ozone, incorporated by reference under Section R307-110-13. The plan is required by Section 110 of the Clean Air Act, and without the rule the EPA would have to write a Federal Implementation Plan. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY  
AIR QUALITY  
FOURTH FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/27/2017

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**Environmental Quality, Air Quality  
R307-341**

**Ozone Nonattainment and  
Maintenance Areas: Cutback Asphalt**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41219  
FILED: 01/27/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR  
STATUTORY PROVISIONS UNDER WHICH THE RULE IS

ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminants source." Rule R307-341 does this by establishing reasonably available control technology for the application of cutback asphalt in any ozone nonattainment or maintenance areas.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** The Division did not receive any written comments on this rule since the last five-year review.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** The rule is required under the state implementation plan for ozone, incorporated by reference under Section R307-110-13. The plan is also required by Section 110 of the Clean Air Act. It is a necessary part of Utah's State Implementation Plan to attain the National Ambient Air Quality Standard for ozone. Therefore, this rule should be continued.

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

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AIR QUALITY  
FOURTH FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/27/2017

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**Environmental Quality, Air Quality  
R307-343**

**Emissions Standards for Wood  
Furniture Manufacturing Operations**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41218  
FILED: 01/27/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminants source." Rule R307-343 does this by requiring that certain wood furniture manufactures use coatings that are compliant with the Volatile Organic Compound content limits found in Section R307-343-4.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division has not received any comments on this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-343 limits the emissions of volatile organic compounds, a precursor to ozone, from wood furniture manufacturers in ozone nonattainment and maintenance areas. This rule is needed to ensure that emissions of air pollution do not harm public health. This rule outlines emissions standards for wood furniture manufacturing operations and should be continued. This rule is part of a proactive strategy to ensure that Salt Lake and Davis counties continue to meet the ozone standard.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 AIR QUALITY  
 FOURTH FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Ryan Stephens by phone at 801-536-4419, by FAX at 801-536-0085, or by Internet E-mail at rstephens@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/27/2017

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Environmental Quality, Environmental Response and Remediation  
**R311-401**  
 Hazardous Substances Priority List

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41206  
 FILED: 01/20/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-311 requires publication and maintenance by rule of the hazardous substances priority list.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review of the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Publication and maintenance of the hazardous substances priority list is required by Section 19-6-11, the Utah Hazardous Substances Mitigation Act. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 ENVIRONMENTAL RESPONSE AND REMEDIATION  
 FIRST FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Dale Urban by phone at 801-536-4145, by FAX at 801-536-4242, or by Internet E-mail at durban@utah.gov  
 ♦ Sandra Allen by phone at 801-536-4122, by FAX at 801-359-8853, or by Internet E-mail at skallen@utah.gov

AUTHORIZED BY: Brad Johnson, Deputy Director

EFFECTIVE: 01/20/2017

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Financial Institutions, Credit Unions  
**R337-10**  
 Rule Designating Applicable Federal Law for Credit Unions Subject to the Jurisdiction of the Department of Financial Institutions

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41197  
 FILED: 01/18/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule designates which one or more federal laws are applicable to a credit union subject to the jurisdiction of the department. The rule establishes that designated federal law may only be enforced by the department by taking action permitted under Title 7 and the applicable chapters set forth in Section 7-1-325. The statutory provision states that the ". . . department shall by rule . . . designate which one or more federal laws are applicable to an institution subject to the jurisdiction of the department."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No supporting or opposing written comments have been received since the last notice of continuation.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes that designated federal law may only be enforced by the department by taking action permitted under Title 7 and the applicable chapters set forth in Section 7-1-325. Therefore, this rule should be continued.

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

FINANCIAL INSTITUTIONS  
 CREDIT UNIONS  
 ROOM 201  
 324 S STATE ST  
 SALT LAKE CITY, UT 84111-2393  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at pallred@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 01/18/2017

Health, Family Health and Preparedness, WIC Services

**R406-100**

Special Supplemental Nutrition Program for Women, Infants and Children

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41254  
 FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-15 authorizes the Executive Director of the Department of Health to accept federal funding to operate the Women, Infants, and Children (WIC) program in Utah. 7 CFR Part 246 is the set of federal regulations under which the Utah WIC program operates, and these regulations require that Utah implement state-specific policies to operate the program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Comments were requested from the Utah Association of WIC Administrators (UAWA), the WIC Advisory Council, and the health officers of the local health departments regarding the five-year review of this rule. Only one comment was received stating that no changes were needed. No comments opposing this rule were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to regulate the administration of the WIC program within the local health departments. This rule is also needed to outline how "high risk" status is determined for grocery retailers contracted to accept WIC checks. Therefore, this rule should be continued.

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

HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 WIC SERVICES  
 3760 S HIGHLAND DR  
 SALT LAKE CITY, UT 84106  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Rick Wardle by phone at 801-273-2991, by FAX at 801-272-3184, or by Internet E-mail at rwardle@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/30/2017

**Health, Family Health and Preparedness, WIC Services  
R406-200  
Program Overview**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41255  
FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-15 authorizes the Executive Director of the Department of Health to accept federal funding to operate the WIC program in Utah. 7 CFR Part 246 is the set of federal regulations under which the Utah WIC program operates, and these regulations require that Utah implement state-specific policies to operate the program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Comments were requested from the Utah Association of WIC Administrators (UAWA), the WIC Advisory Council, and the health officers of the local health departments regarding the five-year review of this rule. Only one comment was received stating that no changes were needed. No comments opposing this rule were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to regulate the administration of the WIC program within the local health departments and outlines how local grocery retailers under contract with the WIC program can redeem WIC checks. This rule also outlines how public comments are accepted regarding the details of the WIC State Plan and the Policy and Procedures Manual. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
WIC SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Rick Wardle by phone at 801-273-2991, by FAX at 801-272-3184, or by Internet E-mail at rwardle@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/30/2017

**Health, Family Health and Preparedness, WIC Services  
R406-201  
Outreach Program**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41256  
FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-15 authorizes the Executive Director of the Department of Health to accept federal funding to operate the WIC program in Utah. 7 CFR Part 246 is the set of federal regulations under which the Utah WIC program operates, and these regulations require that Utah implement state-specific policies to operate the program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Comments were requested from the Utah Association of WIC Administrators (UAWA), the WIC Advisory Council, and the health officers of the local health departments regarding the five-year review of this rule. Only one comment was received stating that no changes were needed. No comments opposing this rule were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: This rule is needed to regulate the administration of the WIC program within the local health departments. Therefore, this rule should be continued.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
WIC SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Rick Wardle by phone at 801-273-2991, by FAX at 801-272-3184, or by Internet E-mail at [rwardle@utah.gov](mailto:rwardle@utah.gov)

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/30/2017

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**Health, Family Health and  
Preparedness, WIC Services  
R406-202  
Eligibility**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41257  
FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-15 authorizes the Executive Director of the Department of Health to accept federal funding to operate the WIC program in Utah. 7 CFR Part 246 is the set of federal regulations under which the Utah WIC program operates, and these regulations require that Utah implement state-specific policies to operate the program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Comments were requested from the Utah Association of WIC Administrators (UAWA), the WIC Advisory Council, and the health officers of the local health departments regarding the five-year review of this rule. Only one comment was received stating that no changes were needed. No comments opposing this rule were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to regulate the administration of the WIC program within the local health departments. Therefore, this rule should be continued.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
WIC SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Rick Wardle by phone at 801-273-2991, by FAX at 801-272-3184, or by Internet E-mail at [rwardle@utah.gov](mailto:rwardle@utah.gov)

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/30/2017

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**Health, Family Health and  
Preparedness, WIC Services  
R406-301  
Clinic Guidelines**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41258  
FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-15 authorizes the Executive Director of the Department of Health to accept federal funding to operate the WIC program in Utah. 7 CFR Part 246 is the set of federal regulations under which the Utah WIC program operates, and these regulations require that Utah implement state-specific policies to operate the program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Comments were requested from the Utah Association of WIC Administrators (UAWA), the WIC Advisory Council, and the health officers of the local health

departments regarding the five-year review of this rule. Only one comment was received stating that no changes were needed. No comments opposing this rule were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to regulate the administration of the WIC program within the local health departments. Therefore, this rule should be continued.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
WIC SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Rick Wardle by phone at 801-273-2991, by FAX at 801-272-3184, or by Internet E-mail at rwardle@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/30/2017

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Heritage and Arts, Arts and Museums  
**R451-1**  
Utah Arts Council General Program  
Rules

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41196  
FILED: 01/18/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 9-6-204 authorizes the Utah Arts Council Board to make, amend, or repeal rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments supporting or opposing the rule within the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should continue based on statutory authority, which establishes the purpose, scope, and authority of the Utah Arts Council.

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

HERITAGE AND ARTS  
ARTS AND MUSEUMS  
617 E SOUTH TEMPLE  
SALT LAKE CITY, UT 84102-1177  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Natalie Petersen by phone at 801-236-7552, or by Internet E-mail at npetersen@utah.gov

AUTHORIZED BY: Jill Love, Executive Director

EFFECTIVE: 01/18/2017

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Heritage and Arts, Arts and Museums  
**R451-2**  
Policy for Commissions, Purchases,  
and Donations to, and Loans from, the  
Utah State Art Collections

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41201  
FILED: 01/20/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 9-6-203, 9-6-305, and 9-6-306 give authorization for the Utah Arts Council to make, amend, or repeal rules as specified in Rule R451-2.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing the rule have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statutory authority still exists for the rule. Therefore, this rule should be continued.

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

HERITAGE AND ARTS  
ARTS AND MUSEUMS  
617 E SOUTH TEMPLE  
SALT LAKE CITY, UT 84102-1177  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Natalie Petersen by phone at 801-236-7552, or by Internet E-mail at npetersen@utah.gov

AUTHORIZED BY: Jill Love, Executive Director

EFFECTIVE: 01/20/2017

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**Human Services, Administration**  
**R495-884**  
**Kinship Locate**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41217  
FILED: 01/27/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is needed because it defines the requirement for making a kinship locate request. It also describes the types of locate information that may be provided from the Office of Recovery Services (ORS) when a kinship locate is received. The rule incorporates by reference 42 USC 653 (2008), which defines "authorized persons". Section 62A-11-107 gives the ORS the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. In addition, 45 CFR 302.35 provides the requirements for ORS to maintain a state parent locator service to provide locate information about authorized persons for authorized purposes. The requirements for safeguarding confidential information and the disclosure of confidential information are found in 45 CFR 303.21. 45 CFR 303.70 further provides the procedures for submitting requests to the state or federal parent locator service for the purpose of locating parents, putative fathers, or children for the purpose of establishing parentage or establishing, setting the amount of, modifying, or enforcing child support obligations; and for the purposes of enforcing any federal or state law with respect to the unlawful taking or restraint of a child or making or enforcing a child custody or visitation determination; or for the purpose of assisting state agencies to carry out their responsibilities under title IV-A, IV-B, IV-D, and IV-E programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received for this rule during or since its enactment.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because of the laws that require ORS to maintain a state parent locator service for use in locating authorized persons. This rule also provides the procedures required by law to submit requests to the federal and state parent locator service for the purpose of locating parents, putative fathers, or children for the purpose of assisting state agencies to carry out their responsibilities. This rule also provides procedures required by law for releasing information obtained from the federal or state parent locator service, including information that may be safeguarded.

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

HUMAN SERVICES  
ADMINISTRATION  
ADMINISTRATIVE OFFICE  
MULTI STATE OFFICE BUILDING  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov  
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 01/27/2017

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**Human Services, Recovery Services**  
**R527-37**  
**Closure Criteria for Support Cases**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41210  
FILED: 01/23/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE

**OR REQUIRE THE RULE:** This rule is enacted under Section 62A-11-107 which authorizes the Office of Recovery Services (ORS) to adopt, amend, and enforce rules necessary to carry out its necessary duties, including closure of cases under appropriate circumstances. Federal regulations found at 45 CFR 303.11 provide detailed case closure criteria for state IV-D agencies. These required closure criteria have been adopted by ORS and incorporated by reference into this rule.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** There have been no comments received since the last five-year review of the rule.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** The federally mandated case closure criteria are still in effect and are not found in state statute. Therefore, this rule should be continued.

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

HUMAN SERVICES  
 RECOVERY SERVICES  
 515 E 100 S  
 SALT LAKE CITY, UT 84102-4211  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ Andrew Clement by phone at 801-741-7434, by FAX at 801-536-8509, or by Internet E-mail at aclement@utah.gov  
 ♦ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov  
 ♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonessrobbins@utah.gov

**AUTHORIZED BY:** Liesa Stockdale, Director

**EFFECTIVE:** 01/23/2017

**Human Services, Recovery Services  
 R527-255  
 Substantial Change in Circumstances**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION  
 DAR FILE NO.: 41207  
 FILED: 01/23/2017**

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

**CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS**

**ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE:** The Office of Recovery Services (ORS) is authorized to adopt rules as necessary by Section 62A-11-107. Utah guidelines apply to situations where there has been a substantial change of circumstances or an adjustment is made upon petition of a parent, legal guardian, or ORS when the support order has not been issued or modified within the previous three years. Under either situation, the law specifies the minimum percentage of change required between the ordered amount and amount that would be required under the guidelines and that the changes cannot be temporary in nature. Sections 62A-11-320.5 and 62A-11-320.6 deal specifically with review and adjustment of child support orders in and outside of the three-year cycle and also state that the change cannot be of a temporary nature. This rule provides the information about when a parent can request a review of the child support amount when a support order is less than three years old, as well as to identify what information must be included for a request for review to be completed by the office. The rule also provides the definition of what "temporary" means and makes it clear that the current support order may not be modified if the change in circumstances is temporary. Finally, the rule specifies that changes over 12 months are to be considered long term or permanent and therefore warrant adjustment under the guidelines statutes.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** There have been no comments received during or since the last five-year review of the rule.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** The rule should be continued so that it remains clear what is meant by a temporary change in circumstances and a permanent change in circumstances, as well as when the proceedings for an adjustment of a support award must be initiated. Therefore, this rule should be continued.

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

HUMAN SERVICES  
 RECOVERY SERVICES  
 515 E 100 S  
 SALT LAKE CITY, UT 84102-4211  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov  
 ♦ Scott Weight by phone at 801-741-7435, by FAX at 801-536-8509, or by Internet E-mail at sweight2@utah.gov

**AUTHORIZED BY:** Liesa Stockdale, Director



EFFECTIVE: 01/23/2017

**Human Services, Recovery Services**  
**R527-300**  
**Income Withholding**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41208  
FILED: 01/23/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Office of Recovery Services (ORS) is authorized to adopt rules as necessary by Section 62A-11-107. The IV-D program operated by ORS is mandated pursuant to Title 62A, Chapter 11, Part 4, to issue income withholding as a means of collecting child support. This rule clarifies Section 62A-11-405 by explaining how an obligee can request income withholding in cases where the obligor is not delinquent on a pre-October 13, 1990, order. If the order is issued after October 13, 1990, Section 62A-11-404 allows for income withholding regardless of whether or not a delinquency occurs unless there is a finding of good cause by the court or administrative body that issued the order or a written agreement that income withholding is not required has been entered in the order. The rule explains the verified statement of affidavit referred to in that section. The opportunity for a review and the requirements that ORS notify the obligor of the results of the review which are addressed in that section are given needed detail. Section 62A-11-406 refers to a limitation on the amount of income that may be withheld under the Consumer Credit Protection Act. Pursuant to Section 62A-11-406, ORS is required to notify the payor of income and the obligor of the amount of child support to be withheld. This rule provides instruction on how this notification is to be done when the payor of income has not changed and when there is a new payor of income. In accordance with Section 62A-11-413, the office is required to keep records to document and monitor all child support payments. Termination of income withholding is addressed in Section 62A-11-408. The rule addresses specific circumstances under which income withholding should be terminated. The rule allows for the obligor to contest income withholding when it is issued by another state and registered in this state pursuant to Section 78B-14-506.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received during or since the last five-year review of the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: All of the statutes under which this rule is enacted are still in effect. The rule continues to provide necessary clarification and detail for carrying out income withholding in IV-D cases. Therefore, this rule should be continued.

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

HUMAN SERVICES  
RECOVERY SERVICES  
515 E 100 S  
SALT LAKE CITY, UT 84102-4211  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov
- ◆ Scott Weight by phone at 801-741-7435, by FAX at 801-536-8509, or by Internet E-mail at sweigh2@utah.gov

AUTHORIZED BY: Liesa Stockdale, Director

EFFECTIVE: 01/23/2017

**Human Services, Recovery Services**  
**R527-330**  
**Posting Priority of Payments Received**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41209  
FILED: 01/23/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under Section 62A-11-107, which authorizes the Office of Recovery Services (ORS) to adopt, amend, and enforce rules necessary to appropriately carry out its duties. This rule enables ORS to establish a system for posting payments received when the non-custodial parent has not given instructions or made arrangements for the posting of payments when more than one case is involved. It also clarifies that ORS must first apply support payments to current support obligations before applying them to past-due support debts.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE

FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received during and since the last five-year review of the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule requires an organized approach to dealing with support payments paid to ORS and makes distribution to current support the first priority so that when payments are made, families not receiving IV-A cash assistance from the state can expect to receive financial support for their current family needs. The rule also allows an obligor with more than one case to indicate an intention to credit a payment to a particular case. Finally, the rule allows the state to recover money that has been expended in IV-A cash assistance to families and specifies that arrears owed to the family will be paid before arrears owed to the state. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 RECOVERY SERVICES  
 515 E 100 S  
 SALT LAKE CITY, UT 84102-4211  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov  
 ♦ Scott Weight by phone at 801-741-7435, by FAX at 801-536-8509, or by Internet E-mail at sweigh2@utah.gov

AUTHORIZED BY: Liesa Stockdale, Director

EFFECTIVE: 01/23/2017

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**Human Services, Recovery Services**  
**R527-412**  
**Intercept of Unemployment Compensation**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41214  
 FILED: 01/26/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-11-107 gives the Office of Recovery Services (ORS) the authority to adopt,

amend, and enforce rules necessary to carry out its responsibilities under state law. This rule is enacted under Subsection 35A-4-103(5), which authorizes the Department of Workforce Services (DWS) to deduct and withhold money from an individual's unemployment compensation benefits when that individual owes child support obligations. This rule outlines the criteria used to determine if unemployment compensation is subject to income withholding and clarifies that such withholding is subject to Section 303(b) of the Consumer Credit Protection Act (15 U.S.C. Section 1643), which provides the exceptions to withholding 25% of the obligor's income and specifies the maximum percentage of income that may be withheld.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments for this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because the laws authorizing income withholding to collect child support from unemployment compensation benefits are still in effect, as are the laws defining the limits of what can be withheld from such benefits.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 RECOVERY SERVICES  
 515 E 100 S  
 SALT LAKE CITY, UT 84102-4211  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov  
 ♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonessrobbins@utah.gov

AUTHORIZED BY: Liesa Stockdale, Director

EFFECTIVE: 01/26/2017

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**Insurance, Administration**  
**R590-116**  
**Valuation of Assets**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41215  
 FILED: 01/26/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 authorizes the commissioner to write rules to implement the provisions of the Insurance Code, Title 31A. Subsection 31A-17-401(3)(a)(ii) authorizes the commissioner to write rules to determine the present value of future income derived from securities owned by an insurer. Subsection 31A-17-401(4) requires the commissioner to adopt rules to implement the provisions of Section 31A-17-401. Section R590-116-4 of the rule sets standards for the valuation of an insurer's assets and securities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule sets a standard for all insurers doing business in Utah to use in determining the value of their assets. The rule helps the department assess the financial health of each licensed insurer in an effort to protect the financial security of their insureds. Therefore, this rule should be continued.

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

INSURANCE  
ADMINISTRATION  
ROOM 3110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [sgooch@utah.gov](mailto:sgooch@utah.gov)

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 01/26/2017

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**Insurance, Administration  
R590-117  
Valuation of Liabilities**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41216  
FILED: 01/26/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the commissioner to write rules to implement the Insurance Code, Title 31A. Section 31A-17-402 requires the commissioner to adopt a rule specifying which liabilities shall be reported by insurers and the methods for evaluating these assets. Section R590-117-4 of the rule states the liabilities that are to be listed on the insurer's financial statement and also the methods by which these liabilities are to be valued.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule standardizes those liabilities that should be listed on an insurer's annual statement, as well as how they are to be valued. It is important that the liabilities of all licensed insurers in Utah be evaluated by the same standard for fairness. Knowing the true value of an insurer's liabilities is one way the department has of determining the insurer's financial health. Therefore, this rule should be continued.

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

INSURANCE  
ADMINISTRATION  
ROOM 3110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [sgooch@utah.gov](mailto:sgooch@utah.gov)

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 01/26/2017

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Pardons (Board of), Administration  
**R671-202**  
Notification of Hearings

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41241  
FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 77-27-7(1) and 77-27-9(4)(a) give the Board authority to hold offender hearings following specific criteria. Rule R671-202 sets rules for the Board for offender hearing notifications.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued because it provides direction about how offender hearings are notified by the Board. The rule gives specific timelines and direction on how the public is notified of offender hearings.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
PARDONS (BOARD OF)  
ADMINISTRATION  
ROOM 300  
448 E 6400 S  
SALT LAKE CITY, UT 84107-8530  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
◆ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
◆ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-203**  
Victim Input and Notification

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41242  
FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-9.5, 77-37-3, 77-37-4, 77-38-1, and 77-27-1 and Subsection 77-27-9(4) give the Board authority to hold offender hearings following specific criteria and define a victim, victim's rights, and parole proceedings. Rule R671-203 sets parameters around a victim's rights to attend, give statements and testimony, and how they are notified of parole hearings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued because it provides direction about how victims are allowed rights at a parole hearing of an offender.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
PARDONS (BOARD OF)  
ADMINISTRATION  
ROOM 300  
448 E 6400 S  
SALT LAKE CITY, UT 84107-8530  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
◆ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
◆ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-205**  
Credit for Time Served

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41243  
FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 77-18-1(11)(a)(iii) and 77-18-1(12)(e)(iv) and Sections 77-27-5, 77-27-7, and 77-27-9 define the Board's parole authority and criteria for offender parole hearings. Rule R671-205 defines the credit for time served for an offender imprisoned before trial, exclusions for credit, concurrent and consecutive sentencing, and verification requirements of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule in order to support what qualifies for credit for time served.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
PARDONS (BOARD OF)  
ADMINISTRATION  
ROOM 300  
448 E 6400 S  
SALT LAKE CITY, UT 84107-8530  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
◆ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
◆ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-207**  
Mentally Ill and Deteriorated Offender  
Custody Transfer

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41244  
FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-16a-204 defines commitment and treatment of an offender with mental illness. Rule R671-207 gives guidance for the Department of Correction and the Board on transferring an offender with mental illness from the prison to the hospital or an offender whose mental health has deteriorated.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule in order to comply with the statute of committed offenders with mental illness.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
PARDONS (BOARD OF)  
ADMINISTRATION  
ROOM 300  
448 E 6400 S  
SALT LAKE CITY, UT 84107-8530  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
◆ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
◆ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-301**  
 Personal Appearance

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41245  
 FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 77-27-7(2) and 77-27-9(4)(a) define the Board's authority to hold parole hearings. Rule R671-301 defines an offender's right to be present at his or her original hearing, rehearing, or parole violation hearing.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule in order to comply with required parole hearing criteria.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 PARDONS (BOARD OF)  
 ADMINISTRATION  
 ROOM 300  
 448 E 6400 S  
 SALT LAKE CITY, UT 84107-8530  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
 ♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-302**  
 News Media and Public Access to Hearings

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41246  
 FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-27-1 et seq. and Subsection 77-27-9(4)(a) define the Board's criteria for parole hearing proceedings. Rule R671-302 gives the Board guidance on what constitutes a public hearing, security and conduct, an executive session, allowable media equipment, the approval process, reserved media seating, and violations of media coverage.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule in order to comply with Utah's Open Meetings Act and support the media in its efforts to cover parole hearings, rehearings, or parole violation hearings.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 PARDONS (BOARD OF)  
 ADMINISTRATION  
 ROOM 300  
 448 E 6400 S  
 SALT LAKE CITY, UT 84107-8530  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
 ♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-303**  
Information Received, Maintained or  
Used by the Board

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41240  
FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 63G, Chapter 2, defines GRAMA requirements. Rule R671-303 gives guidelines to information an offender will be provided, an opportunity to respond, the ability to continue a hearing, administrative routings, copies of relevant documents and photographs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule in order to comply with GRAMA requirements.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
PARDONS (BOARD OF)  
ADMINISTRATION  
ROOM 300  
448 E 6400 S  
SALT LAKE CITY, UT 84107-8530  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-304**  
Hearing Record

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41247  
FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63G-3-201(3), Sections 77-27-1 et seq. and 77-27-8, and Subsection 77-27-9(4)(a) define what a record is for the Board, as well as parole hearing proceedings. Rule R671-304 gives the retention schedule for a record.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule in order to comply with GRAMA requirements.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
PARDONS (BOARD OF)  
ADMINISTRATION  
ROOM 300  
448 E 6400 S  
SALT LAKE CITY, UT 84107-8530  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-305**  
 Board Decisions and Orders

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41239  
 FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 77-27-9(4)(a) and Section 77-27-10 give the Board authority to define conditions of parole. Rule R671-305 sets forth rules that the Board decisions will be reduced to a written order, which are public documents.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule because it keeps us compliant with GRAMA and records retention.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 PARDONS (BOARD OF)  
 ADMINISTRATION  
 ROOM 300  
 448 E 6400 S  
 SALT LAKE CITY, UT 84107-8530  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
 ♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-308**  
 Offender Hearing Assistance

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41248  
 FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-5, 77-27-9, 77-27-11, 77-27-29, and 78A-9-103 define the Board's authority, Board parole hearing procedures, revocation of parole, the rights and record of proceedings of the parolee or probationer, and the individual's right to represent him or herself. Rule R671-308 gives guidance to the Board or hearing official to appoint an offender a representative. It also gives guidance to the Board for parole revocation hearing counsel determination.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports this continuation of this rule because of its specific nature of the Board's functions with hearings and representation.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 PARDONS (BOARD OF)  
 ADMINISTRATION  
 ROOM 300  
 448 E 6400 S  
 SALT LAKE CITY, UT 84107-8530  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
 ♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017



Pardons (Board of), Administration  
**R671-310**  
 Rescission Hearings

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**

DAR FILE NO.: 41249  
 FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-5, 77-27-6, and 77-27-11 define the Board's authority, payment of restitution, and revocation of parole. Rule R671-310 gives the Board authority to hold rescission hearings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule in order to assure public safety when an offender will be released from custody.

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

PARDONS (BOARD OF)  
 ADMINISTRATION  
 ROOM 300  
 448 E 6400 S  
 SALT LAKE CITY, UT 84107-8530  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at [buipi@utah.gov](mailto:buipi@utah.gov)
- ◆ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at [gregjohnson@utah.gov](mailto:gregjohnson@utah.gov)

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-311**  
 Special Attention Reviews, Hearings,  
 and Decisions

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**

DAR FILE NO.: 41250  
 FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-1 et seq., 77-27-5.4, 77-27-7, 77-27-5, and 77-27-6, Subsections 77-27-9(4) (a) and 77-27-10(2)(b), and Section 77-27-11 define the earned time program, parole hearing procedures, the Board's authority, payment of restitution, conditions of parole, and revocation of parole. Rule R671-311 gives guidelines on special attention reviews, decisions, and hearings and defines any earned time adjustments.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule to align with the legislative intent of the Justice Reinvestment Initiative (JRI).

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

PARDONS (BOARD OF)  
 ADMINISTRATION  
 ROOM 300  
 448 E 6400 S  
 SALT LAKE CITY, UT 84107-8530  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at [buipi@utah.gov](mailto:buipi@utah.gov)
- ◆ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at [gregjohnson@utah.gov](mailto:gregjohnson@utah.gov)

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-315**  
 Pardons

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41251  
 FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 77-27-1(14) and Sections 77-27-5, 77-27-5.1, and 77-27-9 define a pardon, the Board's authority and authority to expunge, and pardon hearing procedures. Rule R671-315 gives the Board guidance on the process of restoring one's civil rights through the pardon's process.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule because it defines how the Board forgives acts of crimes, restoring one's civil rights.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 PARDONS (BOARD OF)  
 ADMINISTRATION  
 ROOM 300  
 448 E 6400 S  
 SALT LAKE CITY, UT 84107-8530  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
 ♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-316**  
 Redetermination

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41238  
 FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-5 and 77-27-9 grant the Board authority to determine by majority when and under which conditions an offender may be released, paroled, or pardoned and when sentences may be commuted or terminated. It also determines Board proceedings. Redetermination is a rule outlining the process whereby the Department of Corrections or an offender may request that the Board review new, material, and significant information or reconsider a prior determination.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule because it supports an offender's due process for consideration of significant information that may change a Board determination.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 PARDONS (BOARD OF)  
 ADMINISTRATION  
 ROOM 300  
 448 E 6400 S  
 SALT LAKE CITY, UT 84107-8530  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
 ♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-402**  
Special Conditions of Parole

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41252  
FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-5, 77-27-6, 77-27-9, 77-27-10, and 77-27-11 define the Board's authority, payment of restitution, parole hearing proceedings, conditions of parole, and revocation of parole. Rule R671-402 allows the Board the ability to add special conditions to a standard parole agreement.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule because if it feels that special conditions are in the best interest of the public, the Board should be allowed to implement those conditions to a parole agreement.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
PARDONS (BOARD OF)  
ADMINISTRATION  
ROOM 300  
448 E 6400 S  
SALT LAKE CITY, UT 84107-8530  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

Pardons (Board of), Administration  
**R671-405**  
Parole Termination

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41253  
FILED: 01/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 77-27-1(18), Section 77-27-5, Subsection 77-27-7(4), and Sections 77-27-9, 77-27-11, and 77-27-12 define termination, the Board's authority, parole hearing procedures and proceedings, revocation of parole, and parole discharge and termination. Rule R671-405 defines how an offender shall remain on parole, termination request reports, discretionary termination of parole, and earned early termination of parole for the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received related to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule because it remains a guide for the Board to strive for balance and fairness in parole terminations.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
PARDONS (BOARD OF)  
ADMINISTRATION  
ROOM 300  
448 E 6400 S  
SALT LAKE CITY, UT 84107-8530  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov  
♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 01/30/2017

**Public Safety, Driver License  
R708-2  
Commercial Driver Training Schools**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41203  
FILED: 01/20/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 53-3-505, which requires the commissioner to make rules regarding the requirements for a commercial driving school license, an instructor's license, applications for licenses, and minimum standards for use of driving simulators.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written public comment was received in reference to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required under Section 53-3-505, which requires the commissioner to make rules regarding the requirements for a commercial driving school license, an instructor's license, applications for licenses, and minimum standards for use of driving simulators. The rule allows the division to ensure that commercial driving schools and instructors maintain the equipment, knowledge, and materials to effectively train students to operate a motor vehicle on the highways. The rule also ensures that individuals involved in commercial driver education possess the moral character and physical ability necessary to engage with students. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov

♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Chris Caras, Director

EFFECTIVE: 01/20/2017

**Public Safety, Driver License  
R708-21  
Third-Party Testing**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41204  
FILED: 01/20/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 53-3-104(15), which requires the Division to make rules in accordance with Section 53-3-407.1 to establish procedures and standards to license a commercial driver license third-party tester or commercial driver license third-party examiner to administer the commercial driver license skills tests; minimum standards for the commercial driver license skills test; and procedures to enable a licensed commercial driver license third-party tester or commercial driver license third-party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written public comment was received in reference to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required under Subsection 53-3-104 (15), which requires the division make rules to establish procedures and standards for an individual to become licensed as a third-party tester or examiner, minimum standards for skills testing, and procedures to administer those tests. This rule also includes requirements under Section 53-3-407.1 to establish minimum standards for a commercial tester or examiner, the application process for a commercial tester or examiner license, and standards for administration of skills tests, in addition to auditing procedures to maintain the integrity of the program. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov  
♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Chris Caras, Director

EFFECTIVE: 01/20/2017

**Public Safety, Driver License**  
**R708-27**  
**Certification of Driver Education**  
**Teachers in the Public Schools to**  
**Administer Knowledge and Driving**  
**Skills Tests**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41202  
FILED: 01/20/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 53A-13-208 and Subsection 53-3-104(11), which require the Driver License Division of the Department of Public Safety and the State Board of Education to establish procedures and standards to certify teachers of driver education classes to administer written and driving tests.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written public comment was received in reference to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is required by Section 53A-13-208 and Subsection 53-3-104(11), which require the Driver

License Division of the Department of Public Safety and the State Board of Education to establish procedures and standards to certify teachers of driver education classes to administer written and driving tests. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov  
♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Chris Caras, Director

EFFECTIVE: 01/20/2017

**Public Safety, Driver License**  
**R708-39**  
**Physical and Mental Fitness Testing**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41205  
FILED: 01/20/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 53-3-104(1), which requires the division to make rules for examining applicants for a license, as necessary for the safety and welfare of the traveling public. Section 53-3-206 requires the division to examine every applicant's physical and mental fitness to operate a motor vehicle.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received supporting or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required under Subsection 53-3-

104(1), which requires the division to make rules for examining applicants for a license, as necessary for the safety and welfare of the traveling public. Section 53-3-206 requires the division to examine every applicant's physical and mental fitness to operate a motor vehicle. This rule outlines specific testing that will be administered to determine an applicant's physical and mental fitness, as well as knowledge of the traffic laws and rules. In accordance with Section 53-3-206, this rule establishes principles by which this division shall determine the physical and mental aptitude of each candidate for a Utah Driver License. Using these guidelines, we ensure that the Division examines the driver's understanding of simple English and knowledge of state laws. This rule also establishes the need for eyesight standards along with the potential need for further review of medical conditions by way of a doctor's statement. Using this rule, the Division clarifies the methods of knowledge testing, scoring standards, and subject material used for administering knowledge exams to ensure that they serve the Division in establishing a standard of mental and physical aptitude that matches the legislative intent. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov
- ◆ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Chris Caras, Director

EFFECTIVE: 01/20/2017

**Public Service Commission,  
Administration  
R746-349  
Competitive Entry and Reporting  
Requirements**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41262  
FILED: 01/31/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-8b-2.1 allows the Commission to issue certificates to multiple providers of telecommunications services. This rule identifies information that applicants should file in order to establish their qualifications for a certificate. The Federal Telecommunications Act of 1996 and Section 54-8b-2.2 require telecommunications providers to interconnect their networks and make their facilities available to one another. Section 54-8b-2.3 deals with pricing flexibility and maintenance of that authority. This rule addresses the information and processes used by the commission relative to service provider's pricing flexibility. Section 54-8b-17 require the Commission to resolve interconnection disputes and this rule identifies information that service providers should file in order for the commission to resolve service and interconnection disputes.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received in the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statutory provisions requiring commission regulation and resolution of disputes in the areas addressed by the rule continue in force and necessitate continuation of the rule.

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY, UT 84111-2316  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Melanie Reif by phone at 801-530-6709, by FAX at 801-530-6796, or by Internet E-mail at mreif@utah.gov
- ◆ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Melanie Reif, Legal Counsel

EFFECTIVE: 01/31/2017

**Public Service Commission,  
Administration  
R746-351  
Pricing Flexibility**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41263  
FILED: 01/31/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-8b-2.3 allows the Commission to grant or deny a petition for pricing flexibility to an incumbent telephone corporation for the same or substitutable public telecommunications services in the same defined geographic area. This rule clarifies the conditions and establishes the procedure by which the pricing flexibility granted to an incumbent telephone corporation becomes effective.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received in the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The procedure described in this rule by which the pricing flexibility, granted by the commission to an incumbent telephone corporation, may become effective continues to be necessary. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY, UT 84111-2316  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Melanie Reif by phone at 801-530-6709, by FAX at 801-530-6796, or by Internet E-mail at mreif@utah.gov  
♦ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Melanie Reif, Legal Counsel

EFFECTIVE: 01/31/2017

**Public Service Commission,  
Administration  
R746-440  
Voluntary Resource Decision**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41264  
FILED: 01/31/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 54-17-401 through 54-17-404 allow the Commission to establish the procedural and information requirements for approval of a utility's resource decision or when seeking an order to proceed with an approved resource decision.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received in the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes the procedures and information requirements for approval of a utility's resource decision or for seeking an order to proceed with an approved resource decision. This rule continues to be necessary because Sections 54-17-401 through 54-17-404 remain in force. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY, UT 84111-2316  
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◆ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Melanie Reif, Legal Counsel

EFFECTIVE: 01/31/2017

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**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal & Reenact  
REP = Repeal

### Administrative Services

Facilities Construction and Management  
No. 40947 (AMD): R23-3. Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting  
Published: 12/01/2016  
Effective: 01/20/2017

No. 40946 (AMD): R23-30. State Facility Energy Efficiency Fund  
Published: 12/01/2016  
Effective: 01/20/2017

Purchasing and General Services  
No. 40898 (AMD): R33-16. Protests  
Published: 11/15/2016  
Effective: 01/20/2017

### Agriculture and Food

Regulatory Services  
No. 40918 (AMD): R70-101. Bedding, Upholstered Furniture and Quilted Clothing  
Published: 11/15/2016  
Effective: 01/26/2017

### Attorney General

Administration  
No. 40950 (AMD): R105-1. Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services  
Published: 12/01/2016  
Effective: 01/20/2017

### Commerce

Real Estate  
No. 40952 (AMD): R162-2f. Real Estate Licensing and Practices Rules  
Published: 12/01/2016  
Effective: 01/19/2017

### Education

Administration  
No. 41033 (AMD): R277-404. Requirements for Assessments of Student Achievement  
Published: 12/15/2016  
Effective: 01/24/2017

### Environmental Quality

Air Quality  
No. 40773 (AMD): R307-302. Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber Counties  
Published: 10/01/2016  
Effective: 02/01/2017

No. 40773 (CPR): R307-302. Solid Fuel Burning Devices  
Published: 01/01/2017  
Effective: 02/01/2017

### Water Quality

No. 40987 (AMD): R317-1-7. TMDLs  
Published: 12/01/2016  
Effective: 01/30/2017

### Health

Administration  
No. 40996 (NEW): R380-77. Coordination of Patient Identification and Validation Services  
Published: 12/01/2016  
Effective: 02/01/2017

NOTICES OF RULE EFFECTIVE DATES

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Disease Control and Prevention, Epidemiology  
No. 41038 (AMD): R386-702. Communicable Disease Rule  
Published: 12/15/2016  
Effective: 01/27/2017

Family Health and Preparedness, Emergency Medical  
Services  
No. 41029 (AMD): R426-9. Trauma and EMS System  
Facility Designations  
Published: 12/15/2016  
Effective: 02/01/2017

Transportation  
Operations, Aeronautics  
No. 40937 (NEW): R914-3. Aircraft Registration  
Enforcement  
Published: 12/01/2016  
Effective: 01/18/2017

**End of the Notices of Rule Effective Dates Section**

**RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2017 through February 01, 2017. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<http://www.rules.utah.gov/>).

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**RULES INDEX - BY AGENCY (CODE NUMBER)**

**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>ADMINISTRATIVE SERVICES</b>					
<u>Facilities Construction and Management</u>					
R23-1	Procurement Rules with Numbering Related to the Procurement Code	41266	5YR	02/01/2017	Not Printed
R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting	40947	AMD	01/20/2017	2016-23/6
R23-19	Facility Use Rules	41267	5YR	02/01/2017	Not Printed
R23-20	Free Speech Activities	41268	5YR	02/01/2017	Not Printed
R23-30	State Facility Energy Efficiency Fund	40946	AMD	01/20/2017	2016-23/11
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	41127	EMR	01/06/2017	2017-3/71
R25-14	Payment of Attorney's Fees in Death Penalty Cases	41124	5YR	01/06/2017	2017-3/79
<u>Purchasing and General Services</u>					
R33-16	Protests	40898	AMD	01/20/2017	2016-22/10
<b>AGRICULTURE AND FOOD</b>					
<u>Administration</u>					
R51-2	Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	41120	5YR	01/03/2017	2017-2/45
<u>Animal Industry</u>					
R58-1	Admission, Identification, and Inspection of Livestock, Poultry, and Other Animals	41168	5YR	01/12/2017	2017-3/79
R58-3	Brucellosis Vaccination Requirements	41164	5YR	01/12/2017	2017-3/80
R58-6	Poultry	41165	5YR	01/12/2017	2017-3/80
R58-11	Slaughter of Livestock and Poultry	40951	AMD	01/12/2017	2016-23/16
R58-18	Elk Farming	41162	5YR	01/12/2017	2017-3/81
R58-19	Compliance Procedures	41194	5YR	01/18/2017	Not Printed
R58-22	Equine Infectious Anemia (EIA)	41163	5YR	01/12/2017	2017-3/81
R58-23	Equine Viral Arteritis (EVA)	41167	5YR	01/12/2017	2017-3/82
<u>Plant Industry</u>					
R68-19	Compliance Procedures	41195	5YR	01/18/2017	Not Printed
<u>Regulatory Services</u>					
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	40918	AMD	01/26/2017	2016-22/12
R70-201	Compliance Procedures	41160	5YR	01/12/2017	2017-3/82

R70-320	Minimum Standards for Milk for Manufacturing Purposes, Its Production and Processing	41166	5YR	01/12/2017	2017-3/83
R70-350	Ice Cream and Frozen Dairy Food Standards	41159	5YR	01/12/2017	2017-3/83
R70-360	Procedure for Obtaining a License to Test Milk for Payment	41161	5YR	01/12/2017	2017-3/84
R70-550	Utah Inland Shellfish Safety Program	41158	5YR	01/12/2017	2017-3/84
R70-560	Inspection and Regulation of Cottage Food Production Operations	41157	5YR	01/12/2017	2017-3/85

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-3-14	Type 5 Package Agencies	40922	AMD	01/03/2017	2016-22/16
R81-4	Retail Licenses	40924	NEW	01/03/2017	2016-22/17
R81-8	Manufacturer Licenses (Distillery, Winery, Brewery)	40923	AMD	01/03/2017	2016-22/19

ATTORNEY GENERAL

Administration

R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	40950	AMD	01/20/2017	2016-23/19
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COMMERCE

Consumer Protection

R152-6	Utah Administrative Procedures Act Rules	40920	AMD	01/09/2017	2016-22/21
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Occupational and Professional Licensing

R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule	41198	5YR	01/19/2017	Not Printed
R156-31b-703b	Scope of Nursing Practice Implementation	41113	NSC	01/18/2017	Not Printed
R156-55d	Burglar Alarm Licensing Rule	41199	5YR	01/19/2017	Not Printed
R156-56	Building Inspector and Factory Built Housing Licensing Act Rule	41144	5YR	01/10/2017	2017-3/85
R156-64	Deception Detection Examiners Licensing Act Rule	41145	5YR	01/10/2017	2017-3/86
R156-78B	Prelitigation Panel Review Rule	41146	5YR	01/10/2017	2017-3/87

Real Estate

R162-2f	Real Estate Licensing and Practices Rules	40952	AMD	01/19/2017	2016-23/26
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EDUCATION

Administration

R277-404	Requirements for Assessments of Student Achievement	41033	AMD	01/24/2017	2016-24/7
R277-499	Seal of Biliteracy	41004	NEW	01/10/2017	2016-23/30
R277-503	Licensing Routes	41005	AMD	01/10/2017	2016-23/31
R277-507	Driver Education Endorsement	41006	AMD	01/10/2017	2016-23/36
R277-512	Online Licensure	41007	AMD	01/10/2017	2016-23/39
R277-517	LEA Codes of Conduct	41008	NEW	01/10/2017	2016-23/41
R277-531	Public Educator Evaluation Requirements (PEER)	41009	AMD	01/10/2017	2016-23/43
R277-533	District Educator Evaluation Systems	41010	AMD	01/10/2017	2016-23/45
R277-702	Procedures for the Utah High School Completion Diploma	41186	5YR	01/17/2017	2017-3/87

ENVIRONMENTAL QUALITY

Air Quality

R307-110	General Requirements: State Implementation Plan	41231	5YR	01/27/2017	Not Printed
R307-120	General Requirements: Tax Exemption for Air Pollution Control Equipment	41230	5YR	01/27/2017	Not Printed

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R307-130	General Penalty Policy	41229	5YR	01/27/2017	Not Printed
R307-135	Enforcement Response Policy for Asbestos Hazard Emergency Response Act	41228	5YR	01/27/2017	Not Printed
R307-301	Utah and Weber Counties: Oxygenated Gasoline Program As a Contingency Measure	41227	5YR	01/27/2017	Not Printed
R307-302	Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber Counties	40773	AMD	02/01/2017	2016-19/38
R307-302	Solid Fuel Burning Devices	40773	CPR	02/01/2017	2017-1/102
R307-320	Ozone Maintenance Areas and Ogden City: Employer-Based Trip Reduction Program	41226	5YR	01/27/2017	Not Printed
R307-325	Ozone Nonattainment and Maintenance Areas: General Requirements	41225	5YR	01/27/2017	Not Printed
R307-326	Ozone Nonattainment and Maintenance Areas: Control of Hydrocarbon Emissions in Petroleum Refineries	41223	5YR	01/27/2017	Not Printed
R307-327	Ozone Nonattainment and Maintenance Areas: Petroleum Liquid Storage	41222	5YR	01/27/2017	Not Printed
R307-328	Gasoline Transfer and Storage	41221	5YR	01/27/2017	Not Printed
R307-335	Degreasing and Solvent Cleaning Operations	41220	5YR	01/27/2017	Not Printed
R307-341	Ozone Nonattainment and Maintenance Areas: Cutback Asphalt	41219	5YR	01/27/2017	Not Printed
R307-343	Emissions Standards for Wood Furniture Manufacturing Operations	41218	5YR	01/27/2017	Not Printed

Environmental Response and Remediation

R311-203	Underground Storage Tanks: Technical Standards	40755	AMD	01/03/2017	2016-19/60
R311-203	Underground Storage Tanks: Technical Standards	40755	CPR	01/03/2017	2016-23/118
R311-401	Hazardous Substances Priority List	41206	5YR	01/20/2017	Not Printed

Waste Management and Radiation Control, Radiation

R313-15	Standards for Protection Against Radiation	41177	5YR	01/17/2017	2017-3/88
R313-21	General Licenses	41178	5YR	01/17/2017	2017-3/88
R313-24	Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements	41179	5YR	01/17/2017	2017-3/89
R313-30	Therapeutic Radiation Machines	41180	5YR	01/17/2017	2017-3/90
R313-34	Requirements for Irradiators	41181	5YR	01/17/2017	2017-3/90
R313-35	Requirements for X-Ray Equipment Used for Non-Medical Applications	41183	5YR	01/17/2017	2017-3/91
R313-37	Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material	41184	5YR	01/17/2017	2017-3/91
R313-38	Licenses and Radiation Safety Requirements for Well Logging	41185	5YR	01/17/2017	2017-3/92

Water Quality

R317-1-7	TMDLs	40987	AMD	01/30/2017	2016-23/54
R317-12	Certification of Water Pollution Control Facility or Freestanding Pollution Control Property	41193	5YR	01/17/2017	2017-3/93

FINANCIAL INSTITUTIONS

Credit Unions

R337-10	Rule Designating Applicable Federal Law for Credit Unions Subject to the Jurisdiction of the Department of Financial Institutions	41197	5YR	01/18/2017	Not Printed
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Nondepository Lenders

R343-1	Rule Governing Form of Disclosures For Title Lenders, Who Are Under the Jurisdiction of the Department of Financial Institutions	41123	5YR	01/06/2017	2017-3/93
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HEALTH

Administration

R380-77	Coordination of Patient Identification and Validation Services	40996	NEW	02/01/2017	2016-23/58
R380-77	Coordination of Patient Identification and Validation Services	41055	NSC	02/01/2017	Not Printed
R380-400	Use of Statistical Sampling and Extrapolation	40993	REP	01/10/2017	2016-23/59

Children's Health Insurance Program

R382-10-11	Household Composition and Income Provisions	40997	AMD	01/17/2017	2016-23/62
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Disease Control and Prevention, Epidemiology

R386-702	Communicable Disease Rule	41038	AMD	01/27/2017	2016-24/12
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Disease Control and Prevention, Laboratory Improvement

R444-11	Rules for Approval to Perform Blood Alcohol Examinations	41000	REP	01/20/2017	2016-23/64
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Disease Control and Prevention, Laboratory Services

R438-10	Rules for Establishment of a Procedure to Examine the Blood of All Adult Pedestrians and All Drivers of Motor Vehicles Killed in Highway Accidents for the Presence and Concentration of Alcohol, for the Purpose of Deriving Statistics Therefrom	40868	REP	01/11/2017	2016-21/46
R438-12	Rule for Law Enforcement Blood Draws	41119	EXT	01/03/2017	2017-2/47

Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health

R388-803	HIV Test Reporting	40901	REP	02/01/2017	2016-22/59
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Family Health and Preparedness, Emergency Medical Services

R426-9	Trauma and EMS System Facility Designations	41029	AMD	02/01/2017	2016-24/30
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Family Health and Preparedness, WIC Services

R406-100	Special Supplemental Nutrition Program for Women, Infants and Children	41254	5YR	01/30/2017	Not Printed
R406-200	Program Overview	41255	5YR	01/30/2017	Not Printed
R406-201	Outreach Program	41256	5YR	01/30/2017	Not Printed
R406-202	Eligibility	41257	5YR	01/30/2017	Not Printed
R406-301	Clinic Guidelines	41258	5YR	01/30/2017	Not Printed

Health Care Financing, Coverage and Reimbursement Policy

R414-10A	Transplant Services Standards	41125	5YR	01/06/2017	2017-3/94
R414-21	Physical Therapy and Occupational Therapy	41126	5YR	01/06/2017	2017-3/94
R414-304-5	MAGI-Based Coverage Groups	40998	AMD	01/17/2017	2016-23/63

HERITAGE AND ARTS

Arts and Museums

R451-1	Utah Arts Council General Program Rules	41196	5YR	01/18/2017	Not Printed
R451-2	Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collections	41201	5YR	01/20/2017	Not Printed

HUMAN SERVICES

Administration

R495-884	Kinship Locate	41217	5YR	01/27/2017	Not Printed
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Administration, Administrative Services, Licensing

R501-1	General Provisions	40929	R&R	01/17/2017	2016-22/67
R501-1	General Provisions	41117	NSC	01/18/2017	Not Printed
R501-14	Human Service Program Background Screening	40931	AMD	01/17/2017	2016-22/77

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R512-311 Out-of-Home Services. Psychotropic Medication Oversight Panel 40933 NEW 01/10/2017 2016-23/67

Recovery Services

R527-37 Closure Criteria for Support Cases 41210 5YR 01/23/2017 Not Printed  
 R527-255 Substantial Change in Circumstances 41207 5YR 01/23/2017 Not Printed  
 R527-300 Income Withholding 41208 5YR 01/23/2017 Not Printed  
 R527-330 Posting Priority of Payments Received 41209 5YR 01/23/2017 Not Printed  
 R527-412 Intercept of Unemployment Compensation 41214 5YR 01/26/2017 Not Printed

Substance Abuse and Mental Health

R523-4 Screening, Assessment, Prevention, Treatment and Recovery Support Standards for Adults Required to Participate in Services by the Criminal Justice System 40934 AMD 01/17/2017 2016-23/68  
 R523-11-3 Certification Requirements for DUI Educational Providers 40999 AMD 01/17/2017 2016-23/75

INSURANCE

Administration

R590-70 Insurance Holding Companies 41134 5YR 01/09/2017 2017-3/95  
 R590-70 Insurance Holding Companies 40954 R&R 01/10/2017 2016-23/77  
 R590-95 Rule to Permit the Same Minimum Nonforfeiture Standards for Men and Women Insureds Under the 1980 CSO and 1980 CET Mortality Tables 41135 5YR 01/09/2017 2017-3/95  
 R590-114 Letters of Credit 41136 5YR 01/09/2017 2017-3/96  
 R590-116 Valuation of Assets 41215 5YR 01/26/2017 Not Printed  
 R590-117 Valuation of Liabilities 41216 5YR 01/26/2017 Not Printed  
 R590-142 Continuing Education Rule 41137 5YR 01/09/2017 2017-3/96  
 R590-143 Life and Health Reinsurance Agreements 41138 5YR 01/09/2017 2017-3/97  
 R590-147 Annual and Quarterly Statement Filing Instructions 41139 5YR 01/09/2017 2017-3/98  
 R590-150 Commissioner's Acceptance of Examination Reports 41140 5YR 01/09/2017 2017-3/98  
 R590-173 Credit for Reinsurance 40955 AMD 01/10/2017 2016-23/83

Title and Escrow Commission

R592-14 Delay or Failure to Record Documents and the Insuring of Properties with the False Appearance of Unmarketability as Unfair Title Insurance Practices 41141 5YR 01/09/2017 2017-3/99

NATURAL RESOURCES

Forestry, Fire and State Lands

R652-1 Definition of Terms 41012 AMD 01/10/2017 2016-23/97  
 R652-120 Wildland Fire 41011 AMD 01/10/2017 2016-23/99  
 R652-121 Wildland Fire Suppression Fund 41013 AMD 01/10/2017 2016-23/102  
 R652-122 County Cooperative Agreements with State for Fire Protection 41014 AMD 01/10/2017 2016-23/105  
 R652-123 Exemptions to Wildland Fire Suppression Fund 41015 REP 01/10/2017 2016-23/111  
 R652-140 Utah Forest Practices Act 41143 5YR 01/10/2017 2017-3/99

PARDONS (BOARD OF)

Administration

R671-101 Rules 41122 5YR 01/05/2017 2017-3/100  
 R671-202 Notification of Hearings 41241 5YR 01/30/2017 Not Printed  
 R671-203 Victim Input and Notification 41242 5YR 01/30/2017 Not Printed  
 R671-205 Credit for Time Served 41243 5YR 01/30/2017 Not Printed  
 R671-207 Mentally Ill and Deteriorated Offender Custody Transfer 41244 5YR 01/30/2017 Not Printed  
 R671-301 Personal Appearance 41245 5YR 01/30/2017 Not Printed  
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R671-303	Information Received, Maintained or Used by the Board	41240	5YR	01/30/2017	Not Printed
R671-304	Hearing Record	41247	5YR	01/30/2017	Not Printed
R671-305	Board Decisions and Orders	41239	5YR	01/30/2017	Not Printed
R671-308	Offender Hearing Assistance	41248	5YR	01/30/2017	Not Printed
R671-310	Rescission Hearings	41249	5YR	01/30/2017	Not Printed
R671-311	Special Attention Reviews, Hearings, and Decisions	41250	5YR	01/30/2017	Not Printed
R671-315	Pardons	41251	5YR	01/30/2017	Not Printed
R671-316	Redetermination	41238	5YR	01/30/2017	Not Printed
R671-402	Special Conditions of Parole	41176	5YR	01/17/2017	2017-3/100
R671-402	Special Conditions of Parole	41252	5YR	01/30/2017	Not Printed
R671-403	Restitution	41121	5YR	01/05/2017	2017-3/101
R671-405	Parole Termination	41253	5YR	01/30/2017	Not Printed

PUBLIC SAFETY

Driver License

R708-2	Commercial Driver Training Schools	41203	5YR	01/20/2017	Not Printed
R708-3	Driver License Point System Administration	41128	5YR	01/08/2017	2017-3/101
R708-7	Functional Ability in Driving: Guidelines for Physicians	41133	5YR	01/08/2017	2017-3/102
R708-8	Review Process: Driver License Medical Review Section	41129	5YR	01/08/2017	2017-3/102
R708-14	Adjudicative Proceedings for Driver License Actions Involving Alcohol and Drugs	41130	5YR	01/08/2017	2017-3/103
R708-21	Third-Party Testing	41204	5YR	01/20/2017	Not Printed
R708-27	Certification of Driver Education Teachers in the Public Schools to Administer Knowledge and Driving Skills Tests	41202	5YR	01/20/2017	Not Printed
R708-34	Medical Waivers for Intrastate Commercial Driving Privileges	41132	5YR	01/08/2017	2017-3/104
R708-35	Adjudicative Proceedings for Driver License Offenses Not Involving Alcohol or Drug Actions	41131	5YR	01/08/2017	2017-3/104
R708-39	Physical and Mental Fitness Testing	41205	5YR	01/20/2017	Not Printed

Emergency Management

R704-3	Local Government Emergency Response Loan Program	40956	NEW	01/12/2017	2016-23/112
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PUBLIC SERVICE COMMISSION

Administration

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R746-351	Pricing Flexibility	41263	5YR	01/31/2017	Not Printed
R746-440	Voluntary Resource Decision	41264	5YR	01/31/2017	Not Printed

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**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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	41013	R652-121	AMD	01/10/2017	2016-23/102
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	41156	R850-120	5YR	01/12/2017	2017-3/105
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	41230	R307-120	5YR	01/27/2017	Not Printed
	41229	R307-130	5YR	01/27/2017	Not Printed
	41228	R307-135	5YR	01/27/2017	Not Printed
	40773	R307-302	AMD	02/01/2017	2016-19/38
	40773	R307-302	CPR	02/01/2017	2017-1/102
	41226	R307-320	5YR	01/27/2017	Not Printed
	41225	R307-325	5YR	01/27/2017	Not Printed
	41223	R307-326	5YR	01/27/2017	Not Printed
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	41221	R307-328	5YR	01/27/2017	Not Printed
	41220	R307-335	5YR	01/27/2017	Not Printed
	41219	R307-341	5YR	01/27/2017	Not Printed
	41218	R307-343	5YR	01/27/2017	Not Printed

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	41135	R590-95	5YR	01/09/2017	2017-3/95	
	41138	R590-143	5YR	01/09/2017	2017-3/97	
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Agriculture and Food, Regulatory Services	41158	R70-550	5YR	01/12/2017	2017-3/84	
<u>intrastate driver license waivers</u>						
Public Safety, Driver License	41132	R708-34	5YR	01/08/2017	2017-3/104	
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Environmental Quality, Waste Management and Radiation Control, Radiation	41181	R313-34	5YR	01/17/2017	2017-3/90	
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Human Services, Administration	41217	R495-884	5YR	01/27/2017	Not Printed	
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Agriculture and Food, Regulatory Services	40918	R70-101	AMD	01/26/2017	2016-22/12	
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School and Institutional Trust Lands, Administration	41155	R850-90	5YR	01/12/2017	2017-3/105	
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School and Institutional Trust Lands, Administration	41156	R850-120	5YR	01/12/2017	2017-3/105	
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Commerce, Occupational and Professional Licensing	41113	R156-31b-703b	NSC	01/18/2017	Not Printed	
	41199	R156-55d	5YR	01/19/2017	Not Printed	
	41144	R156-56	5YR	01/10/2017	2017-3/85	
	41145	R156-64	5YR	01/10/2017	2017-3/86	
Human Services, Administration, Administrative Services, Licensing	40929	R501-1	R&R	01/17/2017	2016-22/67	
	41117	R501-1	NSC	01/18/2017	Not Printed	
	40931	R501-14	AMD	01/17/2017	2016-22/77	
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Administrative Services, Facilities Construction and Management	40946	R23-30	AMD	01/20/2017	2016-23/11	
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Public Safety, Emergency Management	40956	R704-3	NEW	01/12/2017	2016-23/112	
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Health, Administration	40993	R380-400	REP	01/10/2017	2016-23/59	
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	41126	R414-21	5YR	01/06/2017	2017-3/94	
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Health, Disease Control and Prevention, Laboratory Improvement	41000	R444-11	REP	01/20/2017	2016-23/64	

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	41226	R307-320	5YR	01/27/2017	Not Printed	
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Commerce, Occupational and Professional Licensing	41198	R156-11a	5YR	01/19/2017	Not Printed	
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Pardons (Board Of), Administration	41246	R671-302	5YR	01/30/2017	Not Printed	
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Natural Resources, Forestry, Fire and State Lands	41143	R652-140	5YR	01/10/2017	2017-3/99	
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Commerce, Real Estate	40952	R162-2f	AMD	01/19/2017	2016-23/26	
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	41255	R406-200	5YR	01/30/2017	Not Printed	
	41256	R406-201	5YR	01/30/2017	Not Printed	
	41257	R406-202	5YR	01/30/2017	Not Printed	
	41258	R406-301	5YR	01/30/2017	Not Printed	
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	41225	R307-325	5YR	01/27/2017	Not Printed
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	41222	R307-327	5YR	01/27/2017	Not Printed
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Environmental Quality, Waste Management and Radiation Control, Radiation	41177	R313-15	5YR	01/17/2017	2017-3/88	
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Public Safety, Driver License	41202	R708-27	5YR	01/20/2017	Not Printed
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teachers

Education, Administration	41005	R277-503	AMD	01/10/2017	2016-23/31
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Public Service Commission, Administration	41262	R746-349	5YR	01/31/2017	Not Printed
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Pardons (Board Of), Administration	41250	R671-311	5YR	01/30/2017	Not Printed
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Public Safety, Driver License	41128	R708-3	5YR	01/08/2017	2017-3/101
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Administrative Services, Finance	41127	R25-7	EMR	01/06/2017	2017-3/71
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Health, Family Health and Preparedness, Emergency Medical Services	41029	R426-9	AMD	02/01/2017	2016-24/30
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Health, Family Health and Preparedness, Emergency Medical Services	41029	R426-9	AMD	02/01/2017	2016-24/30
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Environmental Quality, Air Quality	41226	R307-320	5YR	01/27/2017	Not Printed
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Environmental Quality, Environmental Response and Remediation	40755	R311-203	AMD	01/03/2017	2016-19/60
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Environmental Quality, Waste Management and Radiation Control, Radiation	41179	R313-24	5YR	01/17/2017	2017-3/89
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Utah-based aircraft

Transportation, Operations, Aeronautics	40937	R914-3	NEW	01/18/2017	2016-23/114
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Agriculture and Food, Animal Industry	41164	R58-3	5YR	01/12/2017	2017-3/80
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Environmental Quality, Waste Management and Radiation Control, Radiation	41183	R313-35	5YR	01/17/2017	2017-3/91
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Human Services, Recovery Services	41208	R527-300	5YR	01/23/2017	Not Printed	
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Environmental Quality, Waste Management and Radiation Control, Radiation	41185	R313-38	5YR	01/17/2017	2017-3/92	
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Natural Resources, Forestry, Fire and State Lands	41014	R652-122	AMD	01/10/2017	2016-23/105	
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Health, Family Health and Preparedness, WIC Services	41254	R406-100	5YR	01/30/2017	Not Printed	
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	41256	R406-201	5YR	01/30/2017	Not Printed	
	41257	R406-202	5YR	01/30/2017	Not Printed	
	41258	R406-301	5YR	01/30/2017	Not Printed	
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