

# UTAH STATE BULLETIN

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

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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# EXECUTIVE DOCUMENTS

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

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

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## EXECUTIVE ORDER 2020-69

### Extending the Suspension of Enforcement of Statutes Relating to Telehealth Services

**WHEREAS**, on September 19, 2020, I issued Executive Order 2020-63, declaring a new state of emergency in response to the ongoing and evolving effects of the COVID-19 pandemic in Utah;

**WHEREAS**, on September 19, 2020, I announced my intent not to suspend the enforcement of statutes pursuant to the state of emergency declared in Executive Order 2020-63 except on the recommendation of the Public Health and Economic Emergency Commission (the "Commission");

**WHEREAS**, on September 25, 2020, I issued Executive Order 2020-68, temporarily extending the suspension of enforcement of certain statutes within Utah Code Title 26, Chapter 60, Telehealth Act through September 29, 2020, to address the state of emergency while providing time for the Commission to make a recommendation on the continued suspension of enforcement those statutes;

**WHEREAS**, on September 29, 2020, the Commission unanimously recommended that I extend the suspension of enforcement of certain statutes within the Telehealth Act in Executive Order 2020-68;

**WHEREAS**, I find that facts and conditions justifying the suspension of enforcement of certain statutes related to the provision of telehealth services continue to exist;

**WHEREAS**, COVID-19 has been characterized by the World Health Organization as a worldwide pandemic caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), a virus that spreads easily from person to person and can cause serious illness or death;

**WHEREAS**, COVID-19 continues to spread and threaten public health and safety, causing loss of life, human suffering, and social and economic disruption throughout Utah;

**WHEREAS**, the use of telehealth services is critical to ensure that the healthcare system is not overwhelmed and to mitigate the spread of COVID-19;

**WHEREAS**, the Centers for Disease Control and Prevention have issued guidelines encouraging healthcare facilities to use telehealth services to reduce in-person healthcare visits and to mitigate the transmission of COVID-19 and other respiratory viruses;

**WHEREAS**, the federal Office for Civil Rights announced an enforcement discretion policy giving providers flexibility during the COVID-19 nationwide public health emergency to increase telehealth services under certain conditions;

**WHEREAS**, state and local health authorities have encouraged patients needing access to healthcare to use telehealth services when possible rather than go to a healthcare facility or doctor's office;

**WHEREAS**, healthcare providers have expressed that increased access to telehealth services has been well-received and successful, and have requested the continued suspension of enforcement of telehealth-related statutes that create overly-burdensome barriers to provide telehealth services;

**WHEREAS**, Utah Code Title 26, Chapter 60, Telehealth Act governs the use of telehealth services in Utah;

**WHEREAS**, Utah Code §§ 26-60-102(9)(b)(ii) and 26-60-103(4)(a) may limit the ability of a healthcare provider to offer telehealth services during this state of emergency;

**WHEREAS**, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related and necessary to address a state of emergency;

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

**WHEREAS**, a delay in the effect of this order facilitating access to healthcare services would increase the threat of serious bodily injury or loss of life;

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

1. Enforcement of the following statutes is suspended:
  - a. Utah Code § 26-60-102(9)(b)(ii); and
  - b. Utah Code § 26-60-103(4)(a) to the extent that it interferes with a medical provider's ability to offer telehealth services.
2. A medical provider that pursuant to this Order offers telehealth services that do not comply with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or the federal Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended, shall:
  - a. inform the patient the telehealth service does not comply with those federal acts;
  - b. give the patient an opportunity to decline use of the telehealth service; and
  - c. take reasonable care to ensure security and privacy of the telehealth service.

This Order shall take effect September 30, 2020, and shall remain in effect until the termination of the state of emergency declared in Executive Order 2020-63, or until otherwise lawfully modified, amended, rescinded, or superseded.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 29th day of September, 2020.

(State Seal)

**Gary R. Herbert**  
Governor

ATTEST:

**Spencer J. Cox**  
Lieutenant Governor

2020/069/EO

**EXECUTIVE ORDER  
2020/70**

Wildland Fire Management

**WHEREAS**, the danger from wildland fires is high throughout the State of Utah;

**WHEREAS**, wildfires are currently burning in some areas of the State;

**WHEREAS**, fire restrictions and wildfire warnings are in place across the State;

**WHEREAS**, extreme dry conditions have occurred and are forecasted throughout the State;

**WHEREAS**, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;

**WHEREAS**, we have seen fires that are not immediately extinguished soon after ignition have grown to large fires;

**WHEREAS**; COVID-19 has exhausted State and Local resources and will increase the complexity of wildfire response;

**WHEREAS**, immediate action will be required to suppress fires and mitigate post burn flash floods to protect public safety, property, natural resources and the environment should these dangerous conditions escalate to active wildfires;

**WHEREAS**, these conditions do create the potential for a disaster emergency within the scope of the Disaster Response and Recovery Act of 1981;

**NOW THEREFORE**, I, Gary R. Herbert, Governor of the State of Utah by virtue of the power vested in me by the constitution and the laws of the State of Utah, do hereby order that:

It is found, determined and declared that a "State of Emergency" exists Statewide due to the threat to public safety, property, critical infrastructure, natural resources and the environment, effective for the month of October 2020, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 1st day of October, 2020.

(State Seal)

**Gary R. Herbert  
Governor**

ATTEST:

**Spencer J. Cox  
Lieutenant Governor**

2020/070/EO

**End of the Executive Documents Section**



## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between September 16, 2020, 12:00 a.m., and October 01, 2020, 11:59 p.m. are included in this, the October 15, 2020, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least November 16, 2020. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through February 12, 2021, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R25-22-4	Filing No. 53094

**Agency Information**

<b>1. Department:</b>	Administrative Services	
<b>Agency:</b>	Finance	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W, Third Floor	
<b>City, state:</b>	Taylorsville, UT 84127-2128	
<b>Mailing address:</b>	Division of Finance, PO Box 141031	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-1031	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Marilee P. Richins	801-957-7752	mprichins@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R25-22-4. Documents Required for Validation of Financial Institutions
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to remove the language "incorporated by reference" from Subsection R25-22-4(4). The rule refers to the work product, SOC 2 Reporting on an Examination of Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy - Type 2 report. It does not incorporate by reference the standard. Therefore, the "incorporate by reference" should be removed.
<b>4. Summary of the new rule or change:</b>
The language "incorporated by reference" is being removed from this rule. Subsection R25-22-4(4) refers to a work product not a standard and does not apply to this rule.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There are no anticipated costs or savings to state budget associated with this change because the incorporation being removed is not associated with any fiscal impact.

<b>B) Local governments:</b>																																
There are no anticipated costs to local governments. This rule will not impact local governments.																																
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>																																
There are no anticipated costs to small businesses. This rule will not impact small businesses.																																
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>																																
There are no anticipated costs or savings to non-small businesses associated by this change because the incorporation being removed is not associated with any fiscal impact.																																
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>																																
There are no anticipated costs or savings to small businesses, non-small businesses, state, or local government entities, associated by this change because the incorporation being removed is not associated with any fiscal impact.																																
<b>F) Compliance costs for affected persons:</b>																																
There are no other affected persons aside from the Division of Finance and Financial Institutions wishing to participate.																																
<b>G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)</b>																																
<b>Regulatory Impact Table</b>																																
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2021</th> <th>FY2022</th> <th>FY2023</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Other Persons</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td><b>Total Fiscal Cost</b></td> <td><b>\$0</b></td> <td><b>\$0</b></td> <td><b>\$0</b></td> </tr> <tr> <td><b>Fiscal Benefits</b></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Fiscal Cost	FY2021	FY2022	FY2023	State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0	Non-Small Businesses	\$0	\$0	\$0	Other Persons	\$0	\$0	\$0	<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>Fiscal Benefits</b>			
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Local Governments	\$0	\$0	\$0																													
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Non-Small Businesses	\$0	\$0	\$0																													
Other Persons	\$0	\$0	\$0																													
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>																													
<b>Fiscal Benefits</b>																																

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

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

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Marilee P. Richins, Deputy Executive Director	<b>Date:</b>	09/30/2020
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**R25. Administrative Services, Finance.**

**R25-22. Financial Institution Validation for Access to Medical Cannabis Inventory Control System.**

**R25-22-4. Documents Required for Validation of Financial Institutions.**

(1) A Financial Institution must provide a letter self-certifying that the access desired will be used only in accordance with Subsections 4-41a-103(6)(a)(i) through 4-41a-103(6)(a)(iii). The self-certification must stipulate that the financial institution will comply with the following regulations:

(a) Know Your Customer (KYC) in accordance with the Federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, 31 U.S.C. 5318 Sec. 326;

(b) Suspicious Activity Report (SAR) and Currency Transaction Report (CTR) filings in accordance with the Federal Bank Secrecy Act of 1970, 31 U.S.C 5311 et seq., as amended; and

(c) Due diligence in accordance with the Federal Department of Treasury, Financial Crimes Enforcement Network (FinCEN) guidance given in FIN-2014-G001, "BSA Expectations Regarding Marijuana-Related Businesses," Issued February 14, 2014, incorporated by reference.

(2) A Financial Institution must provide self-certification and supporting documentation that Automated Clearing House (ACH) transactions are compliant with National Automated Clearing House Association (NACHA) Rules and Operating Guidelines, incorporated by reference.

(3) A Financial Institution must provide documentation demonstrating compliance with the Gramm-Leach-Bliley Act (GLBA) of 1999, 15 U.S.C. 6801, et seq.

(4) A Financial Institution must provide a current American Institute of Certified Public Accountants (AICPA) SOC 2 Reporting on an Examination of Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy - Type 2 report [~~incorporated by reference~~].

**KEY: marijuana, medical cannabis, financial institution, inventory control system**

**Date of Enactment or Last Substantive Amendment: ~~June 8,~~ 2020**

**Authorizing, and Implemented or Interpreted Law: 4-41a-103(6)(a)**

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

I have reviewed the regulatory impact table and agree with the described fiscal impacts associated with this rule. Tani Pack Downing, Executive Director.

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

I have reviewed this rule and agree with the impact described in Sections 5C-F as associated with this rule.

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

Tani Pack Downing, Executive Director

**Citation Information**

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

Subsection		
4-41 a-103(6)(a)		

**Public Notice Information**

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

**A) Comments will be accepted until:** 11/16/2020

**10. This rule change MAY become effective on:** 11/23/2020

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R70-590	Filing No. 53081

**Agency Information**

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Regulatory Services	
<b>Street address:</b>	350 N Redwood Road	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R70-590. Utah Domestic Game Slaughter and Processing
<b>3. Purpose of the new rule or reason for the change:</b>
Currently, producers of domestic game animals are required to transport their live animals to a state or USDA inspected facility for slaughter and processing. This is not only onerous, but expensive and impractical for producers. Under this rule, that fulfills the requirements of H.B. 412, that was passed during the 2019 General Session, producers will be allowed to harvest the animal(s) in the field under the supervision of a veterinarian or his designee.
<b>4. Summary of the new rule or change:</b>
This new rule provides guidelines to allow domestic game producers to slaughter animals in the field, including requirements for licensing, sanitation, slaughtering procedures, and antemortem and postmortem inspections, which will be conducted under the supervision of a veterinarian or his designee to ensure proper sanitation and handling and transportation and animals.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
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<b>A) State budget:</b>
This is a new program that will cost the state budget approximately \$241,00 per year to hire two full time employees, including one veterinarian and one inspector to conduct postmortem and antemortem inspections. The current fees set in the fee schedule for the program will help to pay for the cost, including a domestic game slaughter licensing fee paid by each facility of \$500, and an inspection fee of \$100 per hour. Each facility would also need to register as a food manufacturing facility. The amount of this fee varies, depending on the size of the facility (between \$50 - 150). The Department of Agriculture and Food (Department) has averaged this fee to \$100 for the purpose of this analysis. The Department has estimated that 30 facilities will be interested in this program, that there would be approximately 52 slaughter events per year, and that will each require 11.5 inspection hours. This should raise a total of \$77,800. Given the difference between the cost of the program and the amount that will be raised in fees, the Department will consider making changes to the program to make it revenue neutral, which would likely involve increasing the fees charged.
<b>B) Local governments:</b>
There should be no cost to local governments related to this rule because local governments will not be subject to or involved in the administration of the program.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
The Department estimates that 50% of producers that will utilize this program will be classified as small businesses, or 15 facilities and 26 events per year. Given the fees listed above, this program will cost small businesses in the state approximately \$38,900 per year. Although the savings is not quantifiable, businesses will benefit from being able to slaughter their domestic game in the field rather than take them to a USDA or state inspected facility.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
The Department estimates that 50% of producers that will utilize this program will be classified as non-small businesses, or 15 facilities and 26 events per year. Given the fees listed above, this program will cost small businesses in the state approximately \$38,900 per year. Although the savings is not quantifiable, businesses will benefit from being able to slaughter their domestic game in the field rather than take them to a USDA or state inspected facility.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>

No other individuals will be affected by or subject to this program.

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

Compliance costs for affected persons utilizing this program will consist of a \$500 facility licensing fee, an averaged \$100 food manufacturing facility licensing fee, and a \$100 per hour inspection fee for each slaughter event.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$241,000	\$241,000	\$241,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$38,900	\$38,900	\$38,900
Non-Small Businesses	\$38,900	\$38,900	\$38,900
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$318,800</b>	<b>\$318,800</b>	<b>\$318,000</b>
<b>Fiscal Benefits</b>			
State Government	\$77,800	\$77,800	\$77,800
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$77,800</b>	<b>\$77,800</b>	<b>\$77,800</b>
<b>Net Fiscal Benefits</b>	<b>\$(241,000)</b>	<b>\$(241,000)</b>	<b>\$(241,000)</b>

**H) Department head approval of regulatory impact analysis:**  
 The Commissioner of the Utah Department of Agriculture and Food, R. Logan Wilde, has reviewed and approves the regulatory impact analysis.

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

While this new program does involve some cost for businesses, it is voluntary and allows businesses the option to slaughter domestic game in the field, which removes a burdensome process and will provide cost savings as well.

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

R. Logan Wilde, Commissioner

**Citation Information**

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

Section 4-32a-208		
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**Incorporations by Reference Information**

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

<b>First Incorporation</b>	
<b>Official Title of Materials Incorporated (from title page)</b>	9 CFR Section 310 Post-Morten Inspection
<b>Publisher</b>	US Federal Government
<b>Date Issued</b>	January 1, 2012

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

<b>Second Incorporation</b>	
<b>Official Title of Materials Incorporated (from title page)</b>	9 CFR Section 352.10 Ante-Mortem Inspection
<b>Publisher</b>	US Federal Government
<b>Date Issued</b>	January 1, 2003

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

<b>Third Incorporation</b>	
<b>Official Title of Materials Incorporated (from title page)</b>	9 CFR 313.2 Handling of Livestock
<b>Publisher</b>	US Federal Government
<b>Date Issued</b>	January 1, 2011

<b>D) This rule adds, updates, or removes the following title of materials incorporated by references:</b>	
	<b>Fourth Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	9 CFR 314, Handling and Disposal of Condemned or Other Inedible Products at Official Establishments
<b>Publisher</b>	US Federal Government
<b>Date Issued</b>	January 1, 2012

<b>E) This rule adds, updates, or removes the following title of materials incorporated by references:</b>	
	<b>Fifth Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	9 CFR 317.2 Labels; definition; required features
<b>Publisher</b>	US Federal Government
<b>Date Issued</b>	January 1, 2011

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	11/16/2020

<b>10. This rule change MAY become effective on:</b>	11/23/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	R. Logan Wilde, Commissioner	<b>Date:</b>	09/16/2020
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**R70. Agriculture and Food, Regulatory Services.**

**R70-590. Utah Domesticated Game Slaughter and Processing. R70-590-1. Authority.**

Promulgated under the authority of Title 4, Chapter 32a, Domesticated Game Slaughter and Processing and Section 4-32a-208.

**R70-590-2. Definitions.**

As used in this part:

1) "Antemortem inspector" means a person employed or contracted by the department who:

a) meets the definition of a veterinarian or veterinarian designee in Section 4-32a-201;

b) performs the antemortem inspection of a domesticated game animal; and

c) may be the same person as the postmortem inspector.

2) "Adulterated" means the same as found in Section 4-5-103.

3) "Department" means the Utah Department of Agriculture and Food.

4) "Establishment" means a plant or fixed premises used to slaughter or process domesticated game for human consumption.

5) "Licensee" means a person who holds a valid domesticated game slaughter and processing license.

6) "Postmortem inspector" means a person employed or contracted by the department who:

a) meets the definition of a veterinarian or veterinarian designee in Section 4-32a-201;

b) performs the postmortem inspection of a domesticated game animal; and

c) may be the same person as the antemortem inspector.

**R70-590-3. License Issuance.**

1) A person may not perform domesticated game slaughter or processing without first obtaining a farm custom slaughter license and a domesticated game slaughter and processing license from the department.

2) Farm custom slaughter licenses are issued under Section 4-32-107 and its correlating rules in Section R58-11-3.

3) Domesticated Game Slaughter and Processing License.

a) Any person desiring to perform domesticated game slaughter or processing shall apply to the department for a domesticated game slaughter and processing license using a form provided by the department for that purpose.

i) The form shall require:

A) the name, address, and telephone number of the owner of the business providing the domesticated game slaughter and processing services;

B) the name, address, and telephone number of the operator of the business providing the domesticated game slaughter and processing services if the operator is not the owner; and

C) the name, address, and telephone number of the establishment, if any.

ii) The application shall be signed by the owner as well as the operator, if applicable, attesting to the accuracy of the information submitted in the application.

b) The domesticated game slaughter and processing license shall not be issued until:

- i) the department receives a properly completed application;
- ii) the operator, whether the owner or a different person, has demonstrated the ability to operate a domesticated game slaughter and processing business according to the department's statutes, rules, and policies; and
- iii) a fee is paid to the department for the license.
- c) A license is valid for the calendar year, January 1 to December 31. A licensee desiring to continue performing domesticated game slaughter and processing services shall re-apply for a license every calendar year.
- d) A change of ownership, a change of establishment, or the addition, removal, or replacement of an operator requires the filing of a new license application.

**R70-590-4. Sanitation Requirements.**

- 1) Each licensee shall follow the guidelines outlined in Section R58-11-4, Equipment and Sanitation Requirements, substituting "livestock" with "domesticated game", as the sanitation requirements for the unit or vehicle and equipment used for farm custom slaughter of domesticated game.
- 2) Each establishment used for the processing of domesticated game must be operated and maintained in a manner sufficient to prevent the creation of insanitary conditions and to ensure that product is not adulterated.
  - a) Establishment grounds and facilities.
    - i) Grounds and pest control. The grounds about an establishment must be maintained to prevent conditions that could lead to insanitary conditions, adulteration of product, or interfere with inspection by department employees. Each establishment must have in place a pest management program to prevent the harborage and breeding of pests on the grounds and within facilities. Each pest control substance used must be safe and effective under the conditions of use and not be applied or stored in a manner that will result in the adulteration of product or the creation of insanitary conditions.
    - ii) Construction.
      - A) Establishment buildings, including their structures, rooms, and compartments, must be of sound construction, be kept in good repair, and be of sufficient size to allow for processing, handling, and storage of product in a manner that does not result in product adulteration or the creation of insanitary conditions.
      - B) Each walls, floor, and ceiling within an establishment must be built of durable materials impervious to moisture and be cleaned and sanitized as necessary to prevent adulteration of product or the creation of insanitary conditions.
      - C) Each wall, floor, ceiling, door, window, and other outside opening must be constructed and maintained to prevent the entrance of vermin, such as flies, rats, and mice.
      - D) Each room or compartment in which edible product is processed, handled, or stored must be separate and distinct from each room or compartment in which inedible product is processed, handled, or stored, to the extent necessary to prevent product adulteration and the creation of insanitary conditions.
    - iii) Light - Lighting of good quality and sufficient intensity to ensure that sanitary conditions are maintained and that product is not adulterated, must be provided in each area where food is processed, handled, stored, or examined; where equipment and utensils are cleaned; and in each hand-washing area, dressing and locker room, and toilet.
    - iv) Ventilation - Ventilation adequate to control odors, vapors, and condensation to the extent necessary to prevent

- adulteration of product and the creation of insanitary conditions shall be provided.
- v) Plumbing - Plumbing systems shall be installed and maintained to:
  - A) carry sufficient quantities of water to required locations throughout the establishment;
  - B) properly convey sewage and liquid disposable waste from the establishment;
  - C) prevent adulteration of product, water supplies, equipment, and utensils, and prevent the creation of insanitary conditions throughout the establishment;
  - D) provide adequate floor drainage in each area where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor;
    - E) prevent back-flow conditions in and cross-connection between piping systems that discharge waste water or sewage and piping systems that carry water for product manufacturing; and
    - F) prevent the backup of sewer gases.
  - vi) Sewage disposal - Sewage must be disposed into a sewage system separate from other drainage lines or disposed of through other means sufficient to prevent backup of sewage into areas where product is processed, handled, or stored. When the sewage disposal system is a private system requiring approval by a State or local health authority, the establishment must furnish the department with the letter of approval from that authority upon request.
    - vii) Water supply and water, ice, and solution reuse - A supply of running water that complies with the National Primary Drinking Water regulations found in 40 CFR part 141, at a suitable temperature and under pressure as needed, shall be provided in each area where required, including for processing product, for cleaning rooms and equipment, utensils, and packaging materials, for employee sanitary facilities, etc. If an establishment uses a municipal water supply, it shall make available to the department, upon request, a water report, issued under the authority of the state or local health agency, certifying or attesting to the potability of the water supply. If an establishment uses a private well for its water supply, it shall make available to the department, upon request, documentation certifying the potability of the water supply that has been renewed at least semi-annually.
      - viii) Dressing rooms, lavatories, and toilets.
        - A) Each dressing room, toilet room, and urinal shall be sufficient in number, ample in size, conveniently located, and maintained in a sanitary condition and in good repair to ensure cleanliness of any person handling any product. They must be separate from each room and compartment in which products are processed, stored, or handled.
        - B) A lavatory with running hot and cold water, soap, and towels, shall be placed in or near each toilet and urinal room and at other places in the establishment as necessary to ensure cleanliness of each person handling any product.
        - C) Refuse receptacles must be constructed and maintained in a manner that protects against the creation of insanitary conditions and the adulteration of product.
  - 3) Each unit or vehicle, equipment, utensil, establishment, and facility used for the slaughter or processing of domesticated game, as well as the people engaged in the slaughter or processing of domesticated game, shall adopt and abide by the following practices and procedures, as applicable, to prevent the creation of insanitary conditions and to ensure that product is not adulterated:
    - a) Equipment and utensils.

i) Equipment and utensils used for processing or otherwise handling edible product or ingredients shall be of material and construction to facilitate thorough cleaning and to ensure that their use will not cause the adulteration of product during processing, handling, or storage. Equipment and utensils shall be maintained in sanitary condition so as not to adulterate product.

ii) Equipment and utensils shall not be constructed, located, or operated in a manner that prevents department inspection program employees from inspecting the equipment or utensils to determine whether they are in sanitary condition.

iii) Receptacles used for storing inedible material must be of material and construction that their use will not result in the adulteration of any edible product or in the creation of insanitary conditions. Receptacles shall not be used for storing any edible product and shall bear conspicuous and distinctive marking to identify permitted uses.

b) Sanitary operations.

i) Food-contact surfaces, including food-contact surfaces of utensils and equipment, shall be cleaned and sanitized as frequently as necessary to prevent the creation of insanitary conditions and the adulteration of product.

ii) Non-food-contact surfaces of facilities, equipment, and utensils used in the operation of the establishment shall be cleaned and sanitized as frequently as necessary to prevent the creation of insanitary conditions and the adulteration of product.

iii) Each cleaning compound, sanitizing agent, processing aid, and other chemical used by an establishment shall be safe and effective under the conditions of use. Chemicals must be used, handled, and stored in a manner that will not adulterate product or create insanitary conditions. Documentation substantiating the safety of a chemical's use in a food processing environment shall be available to department inspection program employees for review.

iv) Product shall be protected from adulteration during processing, handling, storage, loading, and unloading at and during transportation from the establishment.

c) Employee hygiene.

i) Cleanliness. Each person working in contact with product, food-contact surfaces, and product-packaging materials shall adhere to hygienic practices while on duty to prevent adulteration of product and the creation of insanitary conditions.

ii) Clothing. Aprons, frocks, and other outer clothing worn by each person who handles product shall be of material that is disposable or readily cleaned. Clean garments shall be worn at the start of each working day and garments shall be changed during the day as often as necessary to prevent adulteration of product and the creation of insanitary conditions.

iii) Disease control. Any person who has or appears to have an infectious disease, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, shall be excluded from any operation that could result in product adulteration and the creation of insanitary conditions until the condition is corrected.

**R70-590-5. Antemortem Inspection.**

1) Antemortem inspections shall be performed by an antemortem inspector according to the applicable processes and practices described in 9 CFR section 352.10, Ante-Mortem Inspection, incorporated herein by reference, unless otherwise specified in this section.

2) An antemortem inspection of a domesticated game animal shall, where and to the extent considered necessary by the department and under instructions it may issue, be made on the day

of slaughter of a domesticated game animal, in one of the following ways or as determined by the department.

a) Field antemortem inspection.

i) Domesticated game are eligible for field antemortem inspection as approved by the department.

ii) A person desiring a field antemortem inspection shall comply with the notice provisions in Section 4-32a-203.

iii) The following shall be inspected and approved by the antemortem inspector prior to the field antemortem inspection:

A) the area designated for the field antemortem inspection;

B) the stunning or slaughtering area, including equipment needed to humanely restrain the domesticated game animal when stunned or slaughtered, shall be in a condition that minimizes the possibility of soiling the domesticated game animal when stunned or slaughtered and bled; and

C) the transport vehicle, which shall be as sanitary as practicable.

iv) The antemortem inspector shall determine the acceptableness and safety of performing the field antemortem inspection. If, in the opinion of the inspector, an unsafe or unacceptable condition or circumstance exists at the time of field antemortem inspection, the service shall be denied.

v) A domesticated game animal that, in the antemortem inspector's opinion, does not pass antemortem inspection shall be withheld from slaughter.

vi) The inspector shall supervise or personally conduct each phase of field ante-mortem inspection.

b) Transport vehicle antemortem inspection.

i) Bison and domesticated elk are eligible for antemortem inspection while inside of the transport vehicle at an establishment.

ii) The inspector shall remain outside the transport vehicle while performing the transport vehicle antemortem inspection.

iii) The person requesting transport vehicle antemortem inspection shall provide a transport vehicle that is as sanitary as practicable and that permits safe and thorough inspection of the domesticated game animal from outside of the transport vehicle.

iv) The antemortem inspector shall determine the adequacy and safety of performing the transport vehicle antemortem inspection. If, in the antemortem inspector's opinion, the transport vehicle is not adequate or safe to perform the transport vehicle antemortem inspection, the service shall be denied.

3) Handling of a domesticated game animal during antemortem inspection shall be in accordance with the provisions contained in 9 CFR 313.2, Handling of Livestock, which is incorporated herein by reference.

4) A stunned or slaughtered and bled domesticated game animal shall be tagged with department-approved tags by the postmortem inspector prior to loading on the transport vehicle to maintain carcass identification.

a) The tags shall be filled out by the postmortem inspector. The department's copy is to be retained by the postmortem inspector. The other copies shall be attached to the domesticated game carcass or carcass halves before loading the carcass into the transport vehicle.

b) The tags shall remain on the carcass until the carcass is delivered to the approved processing facility and processing begins.

c) The processing facility shall maintain traceability for each product derived from each individual carcass.

**R70-590-6. Slaughtering Procedures for Domesticated Game.**

1) Slaughter Area.

a) Slaughtering shall not take place under adverse conditions such as blowing// dirt, dust or in mud.

b) If a slaughter area is used for repeated kills, the area should be maintained to prevent blood from collecting, running off on to adjacent property, or contaminating water sources.

c) Hides, viscera, blood, paunch material, and all tissues must be removed and disposed at a rendering facility, landfill, composting, or by burial as allowed by law.

2) Humane Slaughter.

a) Domesticated game shall be rendered insensible to pain by a single blow, gun shot or electrical shock, or other means that is instantaneous and effective before being shackled, hoisted, thrown, cast or cut.

b) Domesticated game shall be securely restrained as needed to achieve the humane slaughter of the animal.

3) Hoisting and Bleeding - Domesticated game shall be hoisted and bled as soon after stunning as possible to utilize post-stunning heart action and to obtain complete bleeding. Carcasses shall be moved away from the bleeding area for skinning and butchering.

4) Skinning - Carcass and head skin shall be handled without neck tissue contamination. This may be done by leaving the ears on the hide and tying the head skin. Feet shall be removed before carcass is otherwise cut. Except for skinning and starting skinning procedures, skin should be cut from inside outward to prevent carcass contamination with cut hair. Hair side of hide should be carefully rolled or reflected away from carcass during skinning. When carcass is moved from skinning bed, caution should be taken to prevent exposed parts from coming in contact with adulterating surfaces.

5) Evisceration - Before evisceration, rectum shall be tied to include bladder neck and to prevent urine and fecal leakage. Care should also be taken while opening abdominal cavities to prevent carcass or viscera contamination.

6) Carcass washing - Hair, dirt, and other accidental contamination should be trimmed prior to washing. Washing should proceed from the carcass top downward to move away any possible contaminants from clean areas.

**R70-590-7. Postmortem Inspection.**

1) The postmortem inspection shall be conducted according to the applicable processes and practices described in 9 CFR part 310, Post-Mortem Inspection, incorporated herein by reference, unless otherwise specified in this Chapter.

2) Postmortem inspection of a field antemortem-inspected domesticated game animal.

a) The postmortem inspection of a field antemortem-inspected domesticated game animal shall occur in the shortest length of time practicable and on the day that field antemortem inspection is performed to minimize changes in the carcass that can affect the postmortem examination, disposition, and wholesomeness of the carcass and its parts.

b) A field postmortem inspection may be conducted by a postmortem inspector when the following conditions are met at the inspection site:

i) the domesticated game carcass is kept off of the ground;

ii) the inspection is performed between half an hour after sunrise and half an hour before sunset;

iii) the licensee provides and utilizes a table no smaller than two feet by six feet that provides enough space to contain the viscera of the animal, is impervious to liquid, and is easily sanitized; and

iv) the licensee provides a permanent or portable shelter that is utilized in inclement weather.

3) Postmortem inspection of elk shall be done in accordance with Rule R58-18, Elk Farming.

4) Identification of a carcass with certain severed parts and with the domesticated game animal from which derived.

a) The head, tail, tongue, thymus gland, and viscera of each slaughtered domesticated game animal, and blood and other parts of such domesticated game animal to be used in the preparation of meat food product or medical product, shall be handled in a manner as to identify them with the rest of the domesticated game carcass and as being derived from the particular domesticated game animal involved, until the postmortem examination of the domesticated game carcass and parts has been completed.

b) Handling shall include the retention of ear tags, back tags, implants, and other identifying devices affixed to the domesticated game animal, in a way to relate them to the domesticated game carcass until the postmortem examination has been completed.

c) Brucellosis and tuberculosis ear tags, herd identification ear tags, sales tags, ear bangles, and similar identification devices shall be removed from the domesticated game animal's hide or ear by the postmortem inspector and shall be placed in a clear plastic bag and affixed to the corresponding domesticated game carcass.

5) Carcasses and parts in certain instances to be retained.

a) Each domesticated game carcass, including detached organs and other parts, shall be retained by the postmortem inspector at the time of inspection pending a subsequent inspection or lab test results, if:

i) any lesion or other condition is found that might render the meat or any part unfit for food purposes;

ii) the meat or any part has been otherwise adulterated; or

iii) routine surveillance testing is being conducted for domesticated elk brucellosis or chronic wasting disease.

b) A domesticated elk carcass or domesticated elk meat shall not be released before negative lab test results are received for brucellosis and chronic wasting disease. Processing prior to the receipt of the negative test results shall be overseen by a veterinarian or the veterinarian's designee.

c) The identity of each retained domesticated game carcass, detached organ, or other part shall be maintained until the final inspection has been completed.

d) Retained domesticated game carcasses shall not be washed or trimmed unless authorized by the postmortem inspector or designated veterinarian.

e) The designated veterinarian shall inspect and make the final disposition of retained domesticated game carcasses, including detached organs and other parts.

6) Condemned carcasses and parts to be marked; tanking; separation.

a) Each domesticated game carcass or part that is found on final inspection to be unsound, unhealthful, unwholesome, or otherwise adulterated shall be conspicuously marked, on the surface tissues thereof, by the postmortem inspector at the time of inspection, as "Condemned."

b) Condemned detached organs and other parts of such character that they cannot be so marked shall be placed immediately in a truck or receptacle that shall be kept plainly marked "Condemned."

c) Condemned domesticated game carcasses and parts shall remain in the custody of the postmortem inspector until properly disposed of according to the applicable processes and practices described in 9 CFR part 314, incorporated herein by reference, at or before the close of the day on which they are condemned.

**R70-590-8. Identification and Records.**

- 1) Bison and Domesticated Elk Identification.
  - a) A domesticated elk owner must have a Brand Inspection Certificate or Custom Slaughter-Release Permit, issued by a Department Brand Inspector, prior to the farm custom slaughter of the domesticated elk.
  - b) Bison and domesticated elk owners must also obtain Domesticated Game Slaughter and Processing identification tags from the department for the established fee.
- 2) Records.
  - a) The Custom Slaughter-Release Permit shall record the following information:
    - i) date;
    - ii) owner's name, address and telephone number;
    - iii) description of the domesticated game animal including brands, official identification, ear-tags and marks; and
    - iv) Domesticated Game Slaughter and Processing tag number.
  - b) The Domesticated Game Slaughter and Processing tag shall record the following information:
    - i) date;
    - ii) owner's name, address and telephone number;
    - iii) location of slaughter;
    - iv) name of licensee;
    - v) licensee permit number; and
    - vi) carcass destination.

**R70-590-9. Finished Product Labeling.**

- 1) Mark of Inspection. Processed domesticated game meat shall be labeled with a mark of inspection obtained from the department bearing a unique identifier for the domesticated game processing licensee.
- 2) Mandatory Label Requirements. Processed domesticated game meat shall be labeled according to the applicable requirements in 9 CFR section 317.2, which is incorporated herein by reference. The labeling requirements include:
  - a) a handling statement, such as "Keep Refrigerated";
  - b) the name of the product, such as "Elk Steak";
  - c) an ingredient statement, if any have been added to the meat;
  - d) a signature line with the name and address of the manufacturer;
  - e) an inspection legend for wholesale product;
  - f) a net weight statement;
  - g) the packaging date, sell-by date, or lot number for traceability; and
  - h) safe handling instructions.

**R70-590-10. Withholding Action or Suspension.**

- 1) The department may take a withholding action or suspension because of:
  - a) insanitary conditions or practices;
  - b) product adulteration or misbranding;
  - c) conditions that preclude the department from determining that product is not adulterated or misbranded; or
  - d) inhumane handling or slaughtering of domesticated game.
- e) if a withholding action or suspension is taken, the department program employee will immediately notify the licensee in writing of the action and the basis for the action.

**R70-590-11. Unlawful Acts; Penalties.**

- 1) A person who commits any of the following acts is in violation of Title 4, Chapter 32a, Domesticated Game Slaughter and Processing, and is subject to action by the department provided for in Title 4, Chapter 2, Part 3, Enforcement and Penalties:
  - a) operates in a faulty, careless, or negligent manner that poses a threat to public health or safety;
  - b) refuses or neglects to comply with any limitation or restriction required by a department issued license or permit;
  - c) refuses or neglects to comply with any sanitation requirement;
  - d) refuses or neglects to comply with any slaughtering procedure requirement;
  - e) refuses or neglects to comply with, or interferes with, a withholding action or suspension issued by the department;
  - f) fails to handle, or interferes with the handling of, a condemned domesticated game carcass and parts as required;
  - g) fails to retain a domesticated game carcass and parts as required;
  - h) refuses or neglects to keep and maintain records required by these rules, or to make reports when and as required;
  - i) refuses or neglects to comply with any finished product labeling requirement;
  - j) interferes with an antemortem inspection or postmortem inspection;
  - k) slaughters a domesticated game animal without a Brand Inspection Certificate when required;
    - l) makes a false, fictitious, or fraudulent claim, written or spoken, misrepresenting the methods, practices, or procedures utilized for domesticated game slaughter or processing;
    - m) makes a false or fraudulent record, invoice, or report;
    - n) engages in the business of, advertises for, or holds himself out as a domesticated game slaughter or processing business without having a valid farm custom slaughter license and domesticated game slaughter and processing license;
    - o) uses fraud or misrepresentation in making application for a registration, license, permit, or certification, or the renewal;
    - p) aids or abets a licensed or an unlicensed person to evade the provisions of Title 4 Chapter 32a, Domesticated Game Slaughter and Processing, conspires with a licensed or an unlicensed person to evade the provisions of the Chapter, allows their license or permit to be used by another person; or
    - q) neglects or, after notice, refuses to comply with any other provisions of Title 4 Chapter 32a, these rules, or any lawful order of the department.
- 2) Penalties. A person who has committed an act that constitutes a violation under this Section is subject to the following fines:
  - a) Public safety violations. \$3,000 - \$5,000 per violation for an unlawful act that present a direct threat to public health or safety, including the violations in Subsection R70-640-11(1)(a)-(g) and (1)(q) when applicable;
  - b) Regulatory Violations. \$1,000 - \$5,000 per violation for an unlawful act that does not present a direct threat to public health or safety or constitute a license violation but are still violations of these rules, including the violations in Subsection R70-640-11(1)(h)-(m) and (1)(q) when applicable;
  - c) Licensing Violations. \$500 - \$5,000 per violation for an unlawful act that violates licensing requirements, including the violations in Subsection R70-640-11(1)(n) through Subsection R70-640-11(1)(p) and Subsection R70-640-11(1)(q) when applicable.
- 3) The department shall calculate each penalty based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

4) The department may enhance or reduce the penalty based on the seriousness of the violation.

**KEY: domesticated game slaughter**

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

**Authorizing, and Implemented or Interpreted Law: 4-32a-208**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-622	Filing No. 53100

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-622. School-based Mental Health Qualified Grant Program
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to reflect the changes made the regional service center code in S.B. 79 passed in the 2020 General Session. S.B. 79 renamed regional service centers, regional education service agencies (RESA) and authorizes a RESA to apply for grant programs under certain circumstances. This rule is being amended to specify how a RESA may receive funding for this particular school based mental health grant program.
<b>4. Summary of the new rule or change:</b>
The amendments to the funding distribution allow RESAs to receive \$50,000 per local education agency (LEA) member of the RESA as the funding formula for the grant governed by this rule. This rule also clarifies that any grant recipient will receiving 25% of their allocation upfront and 75% on a reimbursement basis in a post-performance manner.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have independent fiscal impacts on state government revenues or expenditures. The amendments align the rule with statutory changes found in S.B. 79 (2020). The change affects distributions of an existing grant program to LEAs but this does not change overall amounts funded or expended by Utah State Board of Education (USBE).
<b>B) Local governments:</b>
This rule change is not expected to have independent fiscal impacts on local governments' revenues or expenditures. The amendments align this rule with statutory changes found in S.B. 79 (2020). The change affects distributions of an existing grant program to LEAs but this does not change overall amounts funded or expended by USBE.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
This rule change is not expected to have independent fiscal impacts on small businesses' revenues or expenditures. The amendments align this rule with statutory changes found in S.B. 79 (2020). The change affects distributions of an existing grant program to LEAs but this does not change overall amounts funded or expended by USBE.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>
This rule change is not expected to have independent fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The amendments align this rule with statutory changes found in S.B. 79 (2020). The change affects distributions of an existing grant program to LEAs but this does not change overall amounts funded or expended by USBE.

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

There are no independent compliance costs for affected persons. The amendments align this rule with statutory changes found in S.B. 79 (2020). The change affects distributions of an existing grant program to LEAs but this does not change overall amounts funded or expended by USBE.

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

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

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

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

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS

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

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

Sydnee Dickson, State Superintendent

**Citation Information**

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

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

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

**A) Comments will be accepted until:** 11/16/2020

**10. This rule change MAY become effective on:** 11/23/2020

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

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	10/01/2020
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**R277. Education, Administration.**

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

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

(1) This rule is authorized by:

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

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

(c) Section 53F-2-415 which requires the Board to make rules that establish:

(i) procedures for submitting a plan for the School-based Mental Health Qualified Grant Program;

(ii) a distribution formula the Board will use to distribute funds to an LEA; and

(iii) annual reporting requirements for an LEA that receives funds pursuant to the School-based Mental Health Qualified Grant Program.

(2) The purpose of this rule is to establish the procedures for an LEA to receive a School-based Mental Health Qualified Grant including:

(a) plan submission process, format, and requirements;

(b) funding distribution methods; and

(c) additional requirements including reporting and accountability.

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

(1) "Plan" means a School-based Mental Health Qualified Grant plan described in Section R277-622-3.

(2) "Qualified Personnel" means the same as the term is defined in Subsection 53F-2-415(1).

(3) "Regional Education Service Agency" or "RESA" means the same as the term is defined in Subsection 53G-4-410(1)(b).

(~~3~~4) "Related Services" means mental-health or school nursing services provided by the local mental health authority or a private provider through a contract.

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

(1) To qualify for a School-based Mental Health Qualified Grant, an LEA shall submit a plan to the Superintendent.

(2) The plan shall include:

(a) a three-year projection for the LEA's goals, metrics, and outcomes;

(b) requirements outlined in Subsection 53F-2-415(3);

(c) plan for improving access to students who are underserved or at risk;

(d) how qualified personnel will increase access to mental health services;

(e) a process for utilization of qualified personnel in participating with an LEA's care team as outlined in R277-400;

(f) the source of the LEA's matching funds; and

(g) a timeline and process for stakeholder training in trauma-informed practices.

(3) Except as provided in Subsection (4), an LEA shall submit the LEA's plan no later than May 31 for a funding distribution to be made for the upcoming school year.

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

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

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

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

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

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

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

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

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

(a) \$25,000; and

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

(3) A RESA shall receive \$50,000 per member school district.

(~~3~~4) The number of students used in Subsection (2)(b) shall be:

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

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

(~~4~~5) An LEA or RESA may only receive an initial distribution totaling 25% of the allocation upon plan approval.

(~~5~~6) An LEA or RESA may receive a second distribution totaling 75% of the allocation on a reimbursement basis upon demonstration to the Superintendent of:

(a) contracting of services for qualified personnel; or

(b) hiring qualified personnel.

(~~6~~7) After the distribution described in subsections (2)(a) and (b), and by October 1 of each year, the Superintendent shall distribute any undistributed funds as an additional allocation to an LEA.

(~~7~~8) An LEA may qualify for the additional allocation described in Subsection (6) if the LEA demonstrates an intent to collaborate with the Local Mental Health Authority of the county the LEA is located.

(~~8~~9) The additional allocation described in subsection (6) shall be:

(a) the aggregate total of undistributed funds;

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

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

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

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

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

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

(a) prioritizing of existing unrestricted state or local funds including:

(i) an unrestricted donation; or

(ii) new funds available in the next fiscal year;

(b) funds generated from property tax;

- (c) charter school local replacement funds;
- (d) unrestricted MSP Basic program funds;
- (e) money distributed to the LEA under Section 53G-7-1303;

or

(f) another source of unrestricted state funds or local funds as approved by the Superintendent.

- (3) Funds may not qualify as a match if:
  - (a) the funds are from restricted state funds including:
    - (i) funds granted to an LEA for a specific program created in statute or rule;
    - (ii) funds that have already been used as a match in a different state grant program; or
    - (iii) funds from a federal source; or
  - (b) the funds are described in Subsection 53F-2-415(5).

(4) An LEA shall demonstrate that all matching funds fit within the scope of work for school-based mental health and general health services as outlined in an LEA's plan.

(5) An LEA shall report revenues and expenditures of program funds by location code according to the Board approved chart of accounts.

**R277-622-7. Allowable Uses of Funds.**

(1) An LEA that receives a distribution pursuant to Section R277-622-6 may use the funds only for the following:

- (a) salary and benefits for the hiring of qualified personnel;

or

- (b) procuring a contract for related services;
- (2) If an LEA fails to hire qualified personnel by January 31 the allocated funds shall be returned to the Board.

(3) All unexpended funds distributed to an LEA shall be returned to the Board at the end of the LEA's school year and redistributed in the following year's distribution.

(4) An LEA shall use the LEA's matching funds and allocation within the fiscal year the funds are distributed.

(5) An LEA that has remaining balances at year end shall report the remaining balances in the LEA's annual program report described in R277-484.

(6) An LEA with remaining balances shall receive a reduction totaling the remaining balances in the LEA's award for the following fiscal year.

**R277-622-8. Annual Reporting and Accountability.**

(1) An LEA with an approved plan and funding amount shall provide the Superintendent with an annual report no later than October 1 of each year.

- (2) The annual report shall include:
  - (a) a total baseline count of qualified personnel in an LEA before receiving the initial funding allocation;
  - (b) the number of qualified personnel hired above the baseline count using the funding allocation;
  - (c) the progress made toward achieving goals and outcomes outlined in the LEA's plan; and
  - (d) other information requested by the Superintendent.

**KEY: mental health, programs, reporting**

**Date of Enactment or Last Substantive Amendment:** ~~July 31, 2019~~ 2020

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-3-401; 53E-4-302(1)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R392-105	Filing No. 53095

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Disease Control and Prevention, Environmental Services	
<b>Room no.:</b>	Second Floor	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 142102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-2102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Karl Hartman	801-538-6191	khartman@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>
R392-105. Agritourism Food Establishment Sanitation
<b>3. Purpose of the new rule or reason for the change:</b>
The Department of Health (Department) has developed this rule as required in the Agritourism Food Establishment Act Subsection 26-15b-105(2), which requires that the Department make rules regarding sanitation, equipment, and maintenance requirements for agritourism food establishments.
<b>4. Summary of the new rule or change:</b>
The agritourism food establishment sanitation rule establishes minimum standards for the sanitation, operation, and maintenance of an agritourism food establishment and, in order to safeguard public health and ensure that food is safe, unadulterated, and honestly presented, provides for the prevention and control of health hazards associated with an agritourism food establishment.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
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<b>A) State budget:</b>
Enacting Rule R392-105 will not result in a cost or benefit to the state budget because the proposed rule does not require a change to state operations or programs, and it does not include requirements for the payment of fines or fees to the state.
<b>B) Local governments:</b>
Enacting Rule R392-105 will not result in a direct cost or benefit to a local health jurisdiction because this rule allows a local health department to impose a fee for an agritourism food establishment permit in an amount that reimburses the local health department for the cost of regulating the agritourism food establishment.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There are approximately 136 small businesses currently operating as working farms, ranches, or other commercial agricultural, aquacultural, horticultural, or forestry operations in Utah that may be affected by the proposed rule. These 136 businesses operate in the state under the North American Industry Classification System (NAICS) codes of 111199, 111998, 112111, 111150, 112519, 111191, 111336, 112511, 111335, 112340, and 111421. Enacting Rule R392-105 may result in an inestimable direct fiscal cost to small businesses that obtain a permit to operate as an agritourism food establishment. The cost to small business will vary depending on the scale of each agritourism food establishment and the permit fee to be assessed by the local health department to reimburse for the cost of regulating. The full fiscal impact to small businesses cannot be estimated as the necessary data are unavailable, and the cost to the state to obtain said data would be prohibitively costly.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There is one non-small business currently operating as a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation in Utah that may be affected by the proposed rule. This business operates in the state under the NAICS codes of 111421. Enacting Rule R392-105 may result in an inestimable direct fiscal cost to non-small businesses that obtain a permit to operate as an agritourism food establishment. The cost to non-small businesses will vary depending on the scale of each agritourism food establishment and the permit fee to be assessed by the local health department to reimburse for the cost of regulating. The full fiscal impact to non-small businesses cannot be estimated as the necessary data are unavailable, and the cost to the state to obtain said data would be prohibitively costly.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private

organization of any character other than an <b>agency</b> ):			
Enacting Rule R392-105 will not result in a direct cost or benefit to any one specific person.			
<b>F) Compliance costs for affected persons:</b>			
No specific person will be affected by this rule. No compliance costs.			
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The Interim Executive Director of the Department of Health, Richard Saunders, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
Due to the variations in costs based on the size of the business and costs imposed by each local health			

department, the fiscal impact on businesses are inestimable at this time.

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

Richard Saunders, Interim Executive Director

**Citation Information**

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

Section 26-1-5	Subsection 26-1-30(23)	Section 26-15-2
Subsection 26-15b-105(2)		

**Public Notice Information**

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

**A) Comments will be accepted until:** 11/30/2020

**10. This rule change MAY become effective on:** 12/07/2020

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

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Richard Saunders, Interim Executive Director	<b>Date:</b>	09/28/2020
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**R392. Health, Disease Control and Prevention, Environmental Services.**

**R392-105. Agritourism Food Establishment Sanitation.**

**R392-105-1. Authority and Purpose.**

(1) This rule is authorized under Sections 26-1-5 and 26-15-2, and Subsections 26-15b-105(2) and 26-1-30(23).

(2) This rule establishes minimum standards for the sanitation, operation, and maintenance of an agritourism food establishment, as defined by this rule, and, in order to safeguard public

health and ensure that food is safe, unadulterated, and honestly presented, provides for the prevention and control of health hazards associated with an agritourism food establishment.

**R392-105-2. Applicability.**

This rule applies to an agritourism food establishment, as defined, and does not apply to any other type of food establishment.

**R392-105-3. Definitions.**

As used in this rule:

(1) "Agritourism tourism activity" means an educational or recreational activity that:

(a) takes place on a farm or ranch or other commercial agricultural, aquacultural, horticultural, or forestry operation; and

(b) allows an individual to tour, explore, observe, learn about, participate in, or be entertained by an aspect of agricultural operations.

(2) "Agritourism" means the travel or visit by the general public to a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation for the enjoyment of, education about, or participation in the activities of the farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.

(3) "Agritourism food establishment" means a non-commercial kitchen facility on a farm where food is handled, stored, or prepared to be offered for sale on the same farm in connection with an agricultural tourism activity.

(4) "Agritourism food establishment permit" means a permit issued by a local health department to the operator for the purposes of operating an agritourism food establishment.

(5) "Clean" means the condition of being visibly free from dirt, soil, stain, leftover food particles, or other materials not intended to be a part of the object in question.

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

(7) "Farm" means a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.

(8) "FDA Food Code" or "Food Code" means the version of U.S. Public Health Service, Food and Drug Administration, Model Food Code as incorporated by reference with exceptions and amendments in Rule R392-100.

(9) "Food" means:

(a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

(b) chewing gum.

(10) "Hot water" means water heated to a temperature of not less than 110 deg F at the outlet.

(11) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury. An imminent health hazard may include an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstances that may endanger public health.

(12) "Linens" means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

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

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

(15) "Operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the farm.

(16) "Plumbing fixture" means a receptacle or device that is connected to the water supply system of the premises; or discharges wastewater, liquid-borne waste materials, or sewage to the drainage system of the premises.

(17) "Ready-to-eat food" means the same as defined in the FDA Food Code.

(18) "Sanitized" means the application of cumulative heat or chemicals on cleaned food, ice, or potable water contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

(19) "Time/temperature control for safety food" or "TCS" means food that requires time/temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

(20) "Wastewater" means sewage, industrial waste, or other liquid or waterborne substances causing or capable of causing pollution of waters of the state.

(21) "Working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation" means an operation involved in the growing or harvesting of plants or crops, the raising of livestock, poultry, or aquatic animals, or similar activities conducted by a farmer on a site such as a farm, ranch, orchard, dairy farm, or freshwater pond and whose primary income is derived from such operations.

#### **R392-105-4. General Requirements.**

(1) This rule does not require a construction change in any portion of an agritourism food establishment if the agritourism food establishment was in compliance with the law in effect at the time the facility was constructed, except that the local health officer may require construction changes if it is determined the agritourism food establishment or portion thereof is creating an imminent health hazard.

(2) The operator of an agritourism food establishment shall:

- (a) comply with the provisions of this rule; and
- (b) be responsible for the conduct of employees to ensure compliance with this rule.

(3) Agritourism food establishments are exempt from the requirements of Rule R392-100, Food Service Sanitation, unless otherwise stated in this rule.

(4) Severability - If any provision of this rule, or its application to any person or circumstance is declared invalid, the application of such provisions to other persons or circumstances, and the remainder of this rule, may not be affected thereby.

(5) An agritourism food establishment employee who works with unpackaged food, food equipment or utensils, or food-contact surfaces for an agritourism food establishment is a food handler, and shall meet the requirements of Rule R392-103.

#### **R392-105-5. Agritourism Food Establishment Permit Requirements.**

(1) An operator shall operate an agritourism food establishment only after obtaining a valid permit to operate issued by a local health department that has jurisdiction over the area in which the farm is located.

(2) An operator shall only qualify for an agritourism food establishment permit if:

(a) poultry products that are served at the agritourism establishment are slaughtered and processed in compliance with the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., and the applicable regulations issued pursuant to that act;

(b) meat not described in Subsection (2)(a) that is served at the agritourism food establishment is slaughtered and processed in compliance with the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq., 9 CFR 303.1 and the applicable regulations issued pursuant to that act;

(c) a kitchen facility used to prepare food for the agritourism food establishment meets the requirements of this rule;

(d) the agritourism food establishment is in operation for no more than 14 consecutive days at a time; and

(e) the operator complies with the requirements of this rule, including payment of a permit fee.

(3) A local health department shall impose a fee for an agritourism food establishment permit in an amount that reimburses the local health department for the cost of regulating the agritourism food establishment.

(4) An operator applying for an agritourism food establishment permit shall provide to the local health department:

(a) written consent to enter the premises where food is prepared, cooked, stored, or harvested for the agritourism food establishment;

(b) a list of any agritourism food service events scheduled within the permit period; and

(c) written standard operating procedures that include:

(i) food that will be stored, handled, and prepared;

(ii) the proposed procedures and methods of food preparation and handling;

(iii) procedures, methods, and schedules for cleaning utensils and equipment;

(iv) procedures and methods for the disposal of refuse; and

(v) a plan for maintaining time/temperature control for safety food at the appropriate temperatures for each TCS food.

(5) At least 14 days prior to the event, the operator shall notify the local health department of any agritourism food service event not listed on the application as required in Subsection R392-105-5(4)(b), and scheduled after the application has been submitted.

(a) The operator shall include the following agritourism food service event details:

(i) type of event;

(ii) event start date;

(iii) duration of event; and

(iv) contact information for the event operator.

(b) The operator may provide this notification by mail, email, or in person.

(6) A local health officer may require local health department approval of the procedures and plans specified in Subsection R392-105-5(4) before issuing an agritourism food establishment permit.

(7) In addition to a fee charged under Subsection R392-105-5(3), if the local health department is required to inspect the farm as a source of an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the farm has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the farm a fee for that inspection.

(8) An agritourism food establishment permit:

(a) is nontransferable;  
(b) is renewable on an annual basis;  
(c) is restricted to the location listed on the permit; and  
(d) shall provide the operator the opportunity to update the information required in Subsection R392-105-5(5)(a) as well as the food types and products handled without requiring the operator to renew the permit.

(9) This section does not prohibit an operator from applying for a different type of food event permit from a local health department such as a food establishment permit or a temporary food service permit.

(10) Nothing in this rule prevents a local health department from revoking an agritourism food establishment permit issued by the local health department if the operation of the agritourism food establishment violates the terms of:

- (a) the permit
- (b) this rule; or
- (c) Chapter 26-15b.

(11) If a permit application is denied, or a permit is revoked, the agritourism food establishment operator may request information from a local health officer that includes:

- (a) the specific reasons and rule citations for permit denial; and
- (b) any actions the applicant must take to qualify, or requalify, for a permit.

(12) A local health department issuing an agritourism food establishment permit may not require:

- (a) submission of plans and specifications before construction or remodel of a kitchen facility except for the plans and procedures required in Subsection R392-105-5(4);
- (b) a pre-operational inspection before issuing or renewing the permit; or
- (c) food safety manager certification.

#### **R392-105-6. Construction and Maintenance Requirements.**

(1) Materials for indoor floor, wall, and ceiling surfaces of an agritourism food establishment shall be smooth, durable, and easily cleanable for areas where food is stored, prepared, held under temperature control, or served.

(2) The exterior of an agritourism food establishment shall be constructed of weather-resistant materials, and shall effectively protect the establishment interior from the entry of dust, debris, stormwater, insects, and rodents.

(3) If used, mats and duckboards shall be designed to be removable and easily cleanable.

(4) Physical facilities shall be maintained in good repair.

(5)(a) Physical facilities shall be cleaned as often as necessary to keep them clean and free of debris.

(b) Except for cleaning that is necessary due to a spill or other accident, cleaning shall be done during periods when the least amount of food is exposed such as after closing.

(6) Light intensity within the interior of an agritourism food establishment shall be well lit by natural or artificial light whenever food is being prepared.

(7)(a) An agritourism food establishment shall have at least one conveniently located handwashing station provided with warm water, soap, and disposable hand towels.

(b) Toilet facilities shall be equipped with proper handwashing stations.

(8) An agritourism food establishment shall have a properly maintained kitchen sink installed with hot and cold water.

(9) The operator shall supply hot water to all sinks.

(10) A toilet room shall be:

(a) available to employees during all hours of operation; and

(b) equipped with proper handwashing facilities as described in Subsection R392-105-6(7).

#### **R392-105-7. Equipment Requirements.**

(1) Materials that are used in the construction of utensils and food contact surfaces of equipment shall retain their characteristic qualities under normal use conditions.

(2) Food contact surfaces shall be smooth, easily cleanable, and in good repair.

(3) Utensils shall be maintained in a sanitary manner between uses.

(4) Non-food contact surfaces made of materials ordinarily used in residential settings shall be kept clean.

(5) Fixed floor-mounted and table-mounted equipment shall be sanitized between uses.

(6) Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

(7) Linens may not be used in contact with food unless they are used to line a container for the service of foods and the linens are replaced each time the container is refilled for a new consumer.

(8) Ventilation in food preparation and warewashing areas shall be designed and maintained to allow the escape of gases, odors, steam, heat, grease, vapors, and smoke from the kitchen.

(9) Plumbing fixtures shall be kept clean from the accumulation of residue and debris.

(10) Except for transport or display not to exceed four hours, an operator may not use a non-mechanical container such as a cooler for temperature control of TCS foods regardless of whether the container is used with or without ice or reusable ice packs.

(11) The operator shall maintain an operational non-fixed temperature-measuring device in each mechanically refrigerated unit or hot food storage unit.

(12) An operator shall equip the agritourism food establishment with at least one food temperature measuring device with a small diameter probe.

(a) Food temperature measuring devices may not have sensors or stems constructed of glass unless the thermometer with a glass sensor or stem is encased in a shatterproof coating such a candy thermometer.

(b) A food temperature measuring device shall be:

- (i) easily readable;
- (ii) readily accessible; and
- (iii) properly calibrated.

(13)(a) Receptacles and waste handling units for refuse and recyclables and for use with materials containing food residue shall be durable, cleanable, insect and rodent resistant, leakproof, and nonabsorbent.

(b) Receptacles and waste handling units for refuse and recyclables used with materials containing food residue and used outside the agritourism food establishment shall be:

- (i) designed and constructed to have tight-fitting lids, doors, or covers; and
- (ii) maintained in good repair.

(c) Refuse and recyclables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

(d) Receptacles and waste handling units for refuse and recyclables shall be kept covered inside the agritourism food establishment:

(i) if the receptacles and units contain food residue and are not in continuous use, or

(ii) after they are filled.

(14) Refuse and recyclables shall be removed from the agritourism food establishment premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

(15) An operator shall furnish or equip an agritourism food establishment with adequate electrical power to ensure uninterrupted service during food preparation and food service, and when storing any time/temperature control for safety food.

**R392-105-8. Requirements for Cleaning Equipment and Utensils.**

(1) Equipment food-contact surfaces and utensils shall be clean to sight and touch, and shall be sanitized before use after cleaning.

(2) The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.

(3) Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

(4) Equipment food-contact surfaces and utensils shall be cleaned and sanitized:

(a) before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry;

(b) each time there is a change from working with raw foods to working with ready-to-eat foods;

(c) between uses with raw fruits and vegetables and with time/temperature control for safety foods;

(d) before using or storing a food temperature measuring device; and

(e) at any time during the operation when contamination may have occurred.

(5) Equipment food contact surfaces and utensils shall be cleaned throughout the day at least every four hours if used with TCS food.

(6) Utensils and equipment contacting food that is not TCS shall be cleaned:

(a) at any time when contamination may have occurred;

(b) at least every 24 hours;

(c) before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and

(d) in equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:

(i) at a frequency specified by the manufacturer; or

(ii) at a frequency necessary to preclude accumulation of soil or mold.

(7) If using a kitchen sink for dishwashing, washed utensils and equipment shall be rinsed, after cleaning and prior to sanitizing, by using a distinct, separate water rinse.

(8) After cleaning and sanitizing, equipment and utensils shall be air-dried or used after adequate draining.

(9) The wash, rinse, and sanitize solutions shall be maintained clean.

(10) Clean and sanitized equipment and utensils shall be stored:

(a) in a self-draining position that allows air drying; and

(b) covered or inverted.

(11) Single-service and single-use articles may not be reused.

(12) Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

(13)(a) Cloths in-use for wiping food spills from tableware and carry-out containers that occur as food is being served shall be:

(i) maintained dry; and

(ii) used for no other purpose.

(b) Cloths in-use for wiping counters and other equipment surfaces shall be:

(i) held between uses in a container of chemical sanitizer solution at a concentration specified under Subsection R392-105-9(3); and

(ii) laundered daily when used.

(c) Cloths in-use for wiping surfaces in contact with raw animal foods shall be kept separate from cloths used for other purposes.

(d) Dry wiping cloths and the chemical sanitizing solutions specified in Subsection R392-105-8(13)(b)(i) in which wet wiping cloths are held between uses shall be free of food debris and visible soil.

(e) Containers of chemical sanitizing solutions specified in Subsection R392-105-8(13)(b)(i) in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, and single-service, or single-use articles.

(f) Single-use disposable sanitizer wipes shall be EPA-approved for foodservice and used in accordance with manufacturer's label use instructions.

(14) Soiled linens shall be:

(a) stored and laundered separately from household laundry; and

(b) stored to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

**R392-105-9. Requirements for Sanitizing Equipment and Utensils.**

(1) After being cleaned as required in Section R392-105-8, equipment and utensils shall be sanitized in chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under Subsection R392-105-9(2).

(2) Chemical sanitizers, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to food-contact surfaces shall:

(a) meet requirements specified in 40 CFR 180.940 and 40 CFR 180.2020; and

(b) be used in accordance with the EPA-registered label use instructions.

(3) The concentration of chemical sanitizer solution shall be maintained as follows:

(a) chlorine sanitizer solutions shall have a minimum concentration and temperature of 50 to 100 ppm at 100 deg F with an associated contact time of 7 seconds; and

(b) quaternary ammonium compound solutions shall have a minimum temperature of 75 deg F and a concentration as indicated by the manufacturer's use directions included in the labeling.

(4) When manual warewashing and sanitizing of utensils or food-contact equipment is done in an agritourism food establishment, the operator shall provide a test kit or other device that

accurately measures the concentration in parts per million of chemical sanitizer solution.

### **R392-105-10. Food Safety Requirements.**

- (1) An agritourism food establishment shall:
- (a) take steps to avoid any potential contamination to:
    - (i) food;
    - (ii) equipment;
    - (iii) utensils; or
    - (iv) unwrapped single-service and single-use articles; and
  - (b) prevent an individual from entering the food preparation, food storage, and warewashing areas while food is being prepared:
    - (i) if the individual is known to be suffering from:
      - (A) symptoms associated with acute gastrointestinal illness; or
      - (B) a communicable disease that is transmissible through food; or
    - (ii) if the individual is unnecessary to the food establishment operation while food is being prepared.
- (2)(a) Food shall be safe, unadulterated, and honestly presented.
- (b) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.
  - (c) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.
- (3) Amenable meat that may be used in the preparation of food shall be obtained from sources that comply with 9 C.F.R. 303.1.
- (4) Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.
- (5)(a) Raw eggs shall be received and maintained in a clean and sound condition, and shall be held in refrigerated equipment that maintains an ambient temperature of 45 degrees or less. Eggs shall be stored in a manner that does not allow for contamination.
- (b) An operator may not collect or store eggs in a previously used egg carton or package that is not designed or intended for reuse.
  - (c) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not cooked.
  - (d) Raw, unpasteurized eggs may be used in recipes that will not be cooked if the agritourism food establishment has a consumer advisory, as required in Subsection R392-105-11(4).
- (6)(a) Molluscan shellfish, shucked shellfish and shellstock shall comply with 3-202.17, 3-202.18, 3-203.11, and 3-203.12 of the FDA Food Code.
- (b) When received by an agritourism food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock, or those with badly broken shells, shall be discarded.
- (7) Ice for use as a food or a cooling medium shall be made from potable water.
- (8) Ice may not be used as food after use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment.
- (9) Food shall only contact surfaces of equipment and utensils that are cleaned and sanitized as specified in Sections R392-105-8 and R392-105-9 or single-service and single-use articles.

(10)(a) Food shall be protected from contamination by storing the food in a manner that does not allow for contamination.

(b) Food storage locations shall be smooth, of durable construction, easily cleanable, and kept free of debris.

(11) Items not ordinarily found in a home kitchen shall be placed or stored away from food preparation areas.

(12) Food shall be protected from cross contamination by:

(a) separating raw animal foods during storage, preparation, holding, and display from:

(i) raw ready-to-eat food, and

(ii) cooked ready-to-eat food;

(b) separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display, except when combined as ingredients, by:

(i) using separate equipment for each type of food;

(ii) arranging each type of food in equipment so that cross contamination of one type with another is prevented; and

(iii) preparing each type of food at different times or in separate areas;

(c) cleaning hermetically sealed containers of food of visible soil before opening;

(d) protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

(e) storing and segregating damaged, spoiled, or recalled food in designated areas within the agritourism food establishment that are separated from food, equipment, utensils, linens, and single-service and single-use articles; and

(f) separating fruits and vegetables before they are washed from ready-to-eat food.

(13) Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form.

(14) Food shall be prepared, handled, or stored only in kitchen and food storage areas except that cooking in an open air barbecue, grill, or outdoor wood-burning oven is permitted.

(15) Except for containers holding food that can be readily and unmistakably recognized such as dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the agritourism food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food.

(16) Animals shall be kept outside of food preparation and service areas during food service and food preparation.

(17) The operator shall protect food and food contact surfaces from physical hazards such as broken glass, hair or fur, and metal or wood debris.

(18) Food shall be protected from contamination that may result from a factor or source not specified elsewhere in this rule.

### **R392-105-11. Food Temperature Requirements.**

(1) Any food requiring cooking, thawing, cooling, freezing, or reheating before service shall be cooked, frozen, or reheated as required in Part 3-4 of the FDA Food Code.

(2)(a) Stored frozen foods shall be maintained frozen. Commercially processed foods which are labeled to be kept frozen must be kept frozen until cooked or served.

(b) Commercially processed foods labeled to be kept frozen may be thawed under refrigeration at 41 deg F or below in accordance the manufacturer's directions if:

(i) records are kept or date marking used indicating when the food entered refrigeration; and

(ii) discarded seven days after entering the refrigerator.

(3) Except during preparation, cooking, or cooling time/temperature control for safety food shall be maintained:

(a) at 135 deg F or above, or

(b) at 41 deg F or less.

(4) Except for whole-muscle intact beef steak, if raw animal-derived food is served raw, undercooked, or without otherwise being processed to eliminate pathogens, the operator shall:

(a) notify the consumer as to which food is being served raw or undercooked; and

(b) inform the consumer by way of effective written means that there is a significantly increased risk of consuming such foods.

(5)(a) Ready-to-eat, TCS food prepared and held for more than 24 hours at a temperature of 41 deg F or less in an agritourism food establishment shall be clearly marked to indicate the date or day by which the food shall be consumed, sold, or discarded, which date shall be a maximum of seven days from the date of preparation, with the day of preparation being counted as day one.

(b) Ready-to-eat, TCS food prepared and packaged by a food processing plant, and opened and held for more than 24 hours at a temperature 41 deg F or less in an agritourism food establishment shall be clearly marked at the time the original container is opened in an agritourism food establishment to indicate the date or day by which the food shall be consumed, sold, or discarded, with the day the original container is opened being counted as Day 1, and the day or date marked by the agritourism food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety.

(6) A refrigerated, ready-to-eat time/temperature control for safety food ingredient or a portion of a refrigerated, ready-to-eat, TCS food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

(7) A food specified in Subsection R392-105-11(5) shall be discarded if it:

(a) exceeds the temperature and time combination specified in Subsection R392-105-11(5), except time that the product is frozen;

(b) is in a container or package that does not bear a date or day; or

(c) is appropriately marked with a date or day that exceeds a temperature and time combination as specified in Subsection R392-105-11(5).

#### **R392-105-12. Poisonous or Toxic Materials.**

(1) Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

(2) Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

(3) Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(a) separating the poisonous or toxic materials by spacing or partitioning; and

(b) locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.

(4) Only those poisonous or toxic materials that are required for the operation and maintenance of an agritourism food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in an agritourism food establishment.

(5) Poisonous or toxic materials shall be:

(a) used according to:

(i) Rule R392-100 and local health department regulations;

(ii) manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment;

(iii) the conditions of certification for use of the pest control materials; and

(iv) additional conditions that may be established by the local health officer; and

(b) applied so that:

(i) a hazard to employees or other persons is not constituted; and

(ii) contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented.

(6) Restricted use pesticides may not be used in an agritourism food establishment.

(7) A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense a food or beverage.

(8) Rodent bait shall be contained in a covered, tamper-resistant bait station.

(9) Tracking powder may not be used inside of an agritourism food establishment unless the powder is non-toxic, such as flour or talcum powder, and is used in such a manner that it cannot contaminate food, equipment, utensils, linens, and single-service or single-use articles.

#### **R392-105-13. Personal Cleanliness and Protection from Contamination.**

(1) Agritourism food establishment employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.

(2) Agritourism food establishment employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

(3) If used, single-use gloves shall be used for only one task such as working with ready-to-eat food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.

(4) Agritourism food establishment employees shall keep their hands and exposed portions of their arms clean using the cleaning procedure specified in Subpart 2-301.12 of the FDA Food Code immediately before engaging in handling of food or clean equipment and utensils and:

(a) after touching bare human body parts other than clean hands and clean, exposed portions of arms;

(b) after using the toilet room;

(c) after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;

(d) after handling soiled equipment or utensils;

(e) during food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;

(f) when switching between working with raw food and working with ready-to-eat food;

(g) before donning gloves to initiate a task that involves working with food; and

(h) after engaging in other activities that contaminate the hands.

(5) The operator shall provide each handwashing station with:

(a) a supply of hand cleaning liquid, powder, or bar soap; and

(b) individual, disposable hand towels or other hand drying equipment as approved by the local health officer.

(6) Near each handwashing station in a conspicuous location, the operator shall place a sign or poster that notifies agritourism food establishment employees to wash their hands.

(7) Agritourism food establishment employees shall clean their hands in a handwashing station and may not clean their hands in a sink used for food preparation or warewashing.

(8) Agritourism food establishment employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

(9) Unless wearing intact gloves in good repair, an agritourism food establishment employee may not wear fingernail polish or artificial fingernails when working with exposed food.

(10) Except for a plain ring such as a wedding band, agritourism food establishment employees may not wear jewelry including medical information jewelry on their arms and hands.

(11)(a) Agritourism food establishment employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(b) Employee changing or dressing shall occur outside of the kitchen facility.

(12) Agritourism food establishment employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting:

(a) exposed food;

(b) clean equipment, utensils, and linens; and

(c) unwrapped single-service and single-use articles.

(13) A agritourism food establishment employee may not use a utensil more than once to taste food that is to be sold or served.

(14) The agritourism food establishment shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence in the agritourism food establishment by:

(a) routinely inspecting incoming shipments of food and supplies;

(b) routinely inspecting the agritourism food establishment for evidence of pests; and

(c) using pest management methods, if pests are found, such as trapping devices, eliminating harborage, or other means of pest control.

#### **R392-105-14. Supervision, Employee Health, and Contamination Events.**

(1) The operator shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the agritourism food establishment during all hours of operation.

(2) The person in charge shall ensure that:

(a) persons unnecessary to the agritourism food establishment operation are not allowed in the agritourism food establishment during food preparation;

(b) employees and other persons entering the agritourism food establishment comply with this rule;

(c) employees are effectively cleaning their hands as specified in Subsection R392-105-13(4);

(d) employees are visibly observing foods as they are received to determine that they are delivered at the proper temperatures, protected from contamination, unadulterated, and accurately presented, and are placing foods into appropriate storage locations;

(e) employees are properly cooking TCS food;

(f) employees are using proper methods to rapidly cool TCS food;

(g) consumers who order raw or partially cooked TCS food of animal origin are informed that the food is not cooked sufficiently to ensure its safety, as required in Subsection R392-105-11(4);

(h) employees are properly sanitizing cleaned equipment and utensils;

(i) employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils;

(j) employees are properly trained in food safety, including food allergy awareness;

(k) employees are informed in a verifiable manner of their responsibility to report, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under Subsection R392-105-14(4); and

(l) written procedures, where required in this rule or by the local health officer, are maintained and implemented as required.

(3) The operator, person in charge, and employees shall abide by Subpart 2-201 of the FDA Food Code in reporting of diseases, symptoms, and the exclusion or restriction of those working in the agritourism food establishment.

(4) Agritourism food establishment employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

(5) An agritourism food establishment shall have procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the agritourism food establishment. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.

#### **R392-105-15. Inspections, Corrective Actions, and Prevention of Foodborne Disease.**

(1) A local health officer shall:

(a) ensure compliance with this rule when inspecting a kitchen facility;

(b) inspect the kitchen facility of a farm that requests an agritourism food establishment permit only:

(i) for an initial inspection, no more than one week before the agritourism food establishment is scheduled to begin operation;

(ii) for an unscheduled inspection if the local health department conducts the inspection within three days before or after the day on which the agritourism food establishment is scheduled to begin operation; or

(iii) for subsequent inspections if:  
(A) the local health department provides the operator with reasonable advanced notice about an inspection; or  
(B) the local health department has a valid reason to suspect that the agritourism food establishment is the source of an adulterated food or of an outbreak of illness caused by a contaminated food; and  
(c) document the reason for any inspection on an inspection report form approved by the Department after the permitting inspection, keep a copy of that documentation on file with the agritourism food establishment's permit, and provide a copy of that documentation to the operator.  
(2) Upon presenting proper identification and providing notice of the intent to conduct an inspection as specified in Subsection R392-105-15(1)(b), the operator shall allow the local health officer to determine if the agritourism food establishment is in compliance with this rule by allowing access to the establishment, allowing inspection, and providing information and records specified in this rule.  
(3) If an operator denies access to the local health officer, the local health officer shall:  
(a) inform the operator that:  
(i) the operator is required to allow access to the local health officer as specified under Subsection R392-105-15(1);  
(ii) access is a condition of the acceptance and retention of a permit to operate as specified under Section R392-105-5; and  
(iii) if access is denied, an order issued by an appropriate authority allowing access may be obtained; and  
(b) make a final request for access; and  
(c) if the operator continues to refuse access, provide details of the denial of access on an inspection report form.  
(5) The local health officer shall document at least the following on an inspection report form that has been approved by the Department:  
(a) specific factual observations of noncompliant conditions or other deviations from this rule that require correction by the operator including:  
(i) failure of the operator to demonstrate the knowledge of foodborne illness prevention; and  
(ii) failure of employees and the operator to report a disease or medical condition; and  
(b) time frame for correction of violations.  
(6) At the conclusion of the inspection the local health officer shall provide a copy of the completed inspection report and the notice to correct violations to the operator or to the person in charge, and request a signed acknowledgement of receipt.  
(7)(a) The local health officer shall inform a person who declines to sign an acknowledgement of receipt of inspectional findings that:  
(i) an acknowledgment of receipt is not an agreement with findings;  
(ii) refusal to sign an acknowledgement of receipt will not affect the operator's obligation to correct the violations noted in the inspection report within the time frames listed; and  
(iii) a refusal to sign an acknowledgement of receipt is noted in the inspection report and conveyed to the historical record for the agritourism food establishment.  
(b) The local health officer shall then make a final request that the person in charge sign an acknowledgement of receipt of inspectional findings.

(8) The local health officer shall treat the inspection report as a public document and shall make it available for disclosure.  
(9) Repeat violations may prompt further compliance and enforcement actions.  
(10)(a) An operator shall immediately discontinue operations and notify the local health department if an imminent health hazard exists.  
(b) If operations are discontinued as required by the local health officer or in response to an imminent health hazard, the operator shall obtain approval from the local health officer before resuming operations.  
(11) A local health officer may conduct subsequent inspections, as needed and in accordance with Subsection R392-105-15(1)(b)(iii), to ensure the timely resolution of inspection findings after providing the operator with reasonable advanced notice about the inspection.

**KEY: agritourism, farm, food, public health**  
**Date of Enactment or Last Substantive Amendment: 2020**  
**Authorizing, and Implemented or Interpreted Law: 26-15b-105(2); 26-1-5; 26-1-30(9); 26-1-30(23); 26-15-2(1)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R414-12	Filing No. 53099

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>
R414-12. Laboratory Services
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this new rule is to implement provisions of laboratory drug testing for Medicaid members, based upon appropriation reductions in S.B. 5001 from the Fifth Special Session of the 2020 State Legislature to reduce the scope of drug testing covered by Utah Medicaid.

<b>4. Summary of the new rule or change:</b>
This new rule implements eligibility requirements, program access requirements, and provisions of coverage and limitations for drug testing services.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>			
<b>A) State budget:</b>			
There is a total annual savings of about \$2,620,000 to the state budget.			
<b>B) Local governments:</b>			
There is no impact on local governments because they neither fund nor provide laboratory services to members under the Medicaid program.			
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):			
About 47 small businesses may see a share of \$2,620,000 in total revenue reductions for providing statewide drug testing.			
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
About 138 non-small businesses may see a share of \$2,620,000 in total revenue reductions for providing statewide drug testing.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):			
About 13 private and public health providers may see a share of \$2,620,000 in total revenue reductions for providing statewide drug testing.			
<b>F) Compliance costs for affected persons:</b>			
A single provider of drug testing services may see a share of \$2,620,000 in total revenue reductions for providing statewide drug testing.			
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$500,000	\$0	\$0
Non-Small Businesses	\$1,855,000	\$0	\$0
Other Persons	\$265,000	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$2,620,000</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$2,620,000	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$2,620,000</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The Interim Executive Director of the Department of Health, Richard G. Saunders, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
Businesses may see a share of reductions in revenues for providing statewide drug testing.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Richard G. Saunders, Interim Executive Director			

**Citation Information**

<b>7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>		
Section 26-1-5	Section 26-18-3	

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	11/16/2020
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<b>10. This rule change MAY become effective on:</b>	11/23/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Richard G. Saunders, Interim Executive Director	<b>Date:</b>	10/01/2020
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**R414. Health, Health Care Financing, Finance Policy.**

**R414-12. Laboratory Services.**

**R414-12-1. Introduction and Authority.**

(1) Laboratory services provide a scope of services to meet the basic medical needs of eligible Medicaid members.

(2) Laboratory services are a mandatory Medicaid service authorized by Title XIX of the Social Security Act.

**R414-12-2. Definitions.**

(1) "COT" means chronic opioid therapy.

(2) "SUD" means substance use disorder.

(3) "Presumptive and qualitative drug testing" means testing used to determine the presence or absence of drugs or drug classes in a urine sample, with results expressed as negative, positive or as a numerical result, and includes competitive immunoassays and thin layer chromatography.

(4) "Definitive quantitative confirmation" means to identify specific medications, illicit substances and metabolites, which report the results of analytes absent or present typically in nanogram per milliliter concentrations. Definitive methods include gas chromatography-mass spectrometry (GC-MS) and lethal concentration-tandem mass spectrometry testing methods (LC-MS/MS).

**R414-12-3. Eligibility Requirements.**

Laboratory services are available to each eligible Medicaid member.

**R414-12-4. Program Access Requirements.**

An eligible Medicaid member may obtain laboratory services from any Utah Medicaid provider.

**R414-12-5. Service Coverage and Limitations.**

(1) Medicaid covers urine drug testing when medically necessary for COT or SUD as follows:

(a) annual quantity limits of 60 presumptive tests and 16 definitive tests;

(b) daily quantity limits of one presumptive test and one definitive test.

**KEY: Medicaid**

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

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R414-60-4	Filing No. 53090

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R414-60-4. Program Coverage
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to allow Medicaid members easier access to medications.
<b>4. Summary of the new rule or change:</b>
This amendment waives the proof of delivery requirement for pharmacies that distribute Non-Controlled Schedule 2 (Non-CII) medications, to allow Medicaid members easier access to prescriptions. The amendment, however, also maintains the proof of delivery requirement for Controlled Schedule 2 (CII) medications, and further clarifies documentation requirements for pharmacies. This amendment also makes other clarifications and changes. (EDITOR'S NOTE: A corresponding 120-day emergency rule that is effective as of 09/23/2020, is under Filing No. 53087 in this issue, October 15, 2020, of the Bulletin.)

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

There is no anticipated impact to the state budget as there are no additional costs associated with waiving proof of delivery of Non-CII medications.

**B) Local governments:**

There is no anticipated impact to local governments as there are no additional costs associated with waiving proof of delivery of Non-CII medications.

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

There is no anticipated impact to small businesses as there are no additional costs associated with waiving proof of delivery of Non-CII medications.

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

There is no anticipated impact to non-small businesses as there are no additional costs associated with waiving proof of delivery of Non-CII medications.

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

There is no anticipated impact to pharmacies and other service providers, as there are no additional costs associated with waiving proof of delivery of Non-CII medications.

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

There is no anticipated impact to a single pharmacy or other service provider, as there are no additional costs associated with waiving proof of delivery of Non-CII medications.

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

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

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

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

The Interim Executive Director of the Department of Health, Richard G. Saunders, has reviewed and approved this fiscal analysis.

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

Businesses will neither see cost nor revenue through waiver of the proof of delivery requirement.

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

Richard G. Saunders, Interim Executive Director

**Citation Information**

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

Section 26-1-5	Section 26-18-3	
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**Public Notice Information**

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

the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	11/16/2020

<b>10. This rule change MAY become effective on:</b>	11/23/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Richard G. Saunders, Interim Executive Director	<b>Date:</b>	09/25/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-60. Medicaid Policy for Pharmacy Program.**

**R414-60-4. Program Coverage.**

(1) Covered outpatient drugs eligible for Federal Medical Assistance Percentages funds are included in the pharmacy benefit; however, covered outpatient drugs may be subject to limitations and restrictions.

(2) In accordance with Subsection 58-17b-606(4), when a multi-source A-rated legend drug is available in the generic form, Medicaid will only reimburse for the generic form of the drug unless:

(a) reimbursing for the non-generic brand-name legend drug will result in a financial benefit to the [S]state; or

(b) the treating physician demonstrates a medical necessity for dispensing the non-generic, brand-name legend drug.

(3) Prescriptions that are not executed electronically must be written on tamper-resistant prescription forms as follows: [-]

(a) [F]tamper-resistant prescription forms must include [aH]each of the following:

([a]i) [O]ne or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form;

([b]ii) [O]ne or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription by the prescriber; and

([e]iii) [O]ne or more industry-recognized features designed to prevent the use of counterfeit prescription forms.

([d]b) Documentation by the pharmacy of verbal confirmation of a prescription not written on a tamper resistant prescription form by the prescriber or the prescriber's agent satisfies the tamper-resistant requirement. Documentation of the verbal confirmation must include the date, time, and name of the individual who verified the validity of the prescription.

([e]c) ~~Pharmacies must maintain documentation of receipt of a prescription by a Medicaid client or the client's authorized representative. The documentation must clearly identify the covered outpatient drug received by the client, the date the covered outpatient drug was received, and who received the covered outpatient drug.]~~ A pharmacy must maintain documentation that a Medicaid member or

authorized representative has received a prescription for a covered outpatient drug. The documentation must clearly identify the covered outpatient drug and the date it was received.

(i) The Division of Medicaid and Health Financing (DMHF) shall waive the proof of delivery requirement for Non-Controlled Schedule 2 (Non-CII) prescriptions.

(ii) In accordance with Subsection R414-60-4(3)(e), the proof of delivery requirement remains for Controlled Schedule 2 (CII) medications that includes a signature or other documentation. The pharmacy shall document member receipt as stated in Subsection R414-60-4(3)(e).

([f]d) Claims for covered outpatient drugs not dispensed to a Medicaid client or the client's authorized representative within 14 days must be reversed and any payment from Medicaid must be returned.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~[June 19,] 2020~~

**Notice of Continuation:** April 28, 2017

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R414-307	Filing No. 53083

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R414-307. Eligibility for Home and Community-Based Services Waivers
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to implement the new Community Transitions Waiver (CTW), in accordance with Section 1915(c) Home and Community Based Services Waivers.

**4. Summary of the new rule or change:**  
 This amendment implements the new CTW group, sets forth provisions for eligibility, spells out agency procedures, and makes other technical changes.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

There is an anticipated cost of about \$24,771,000 to the state budget.

**B) Local governments:**

There is no impact on local governments because they neither fund nor provide services under the CTW.

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

About 22 small business providers of CTW services may see a share in revenue based on the total amount of \$24,771,000. Conversely, about 15 small businesses that own intermediate care facilities (ICFs) will see a decrease in revenue based on that amount as individuals move out of ICFs into the CTW.

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

About 7 non-small business providers of CTW services may see a share in revenue based on the total amount of \$24,771,000. Conversely, about three non-small businesses that own ICFs may see a decrease in revenue based on that amount as individuals move out of ICFs into the CTW.

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

About 139 providers of CTW services may see a share in revenue based on the total amount of \$24,771,000. Conversely, about 46 Medicaid providers in ICFs may see a decrease in revenue based on that amount as individuals move out of ICFs into the CTW. Medicaid members who qualify for the CTW may see out-of-pocket savings.

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

A single ICF may see a decrease in revenue based on the total amount of \$24,771,000 as individuals move into the CTW.

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

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

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$24,771,000	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$2,972,520	\$0	\$0
Non-Small Businesses	\$743,130	\$0	\$0
Other Persons	\$8,669,850	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$37,156,500</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$5,945,040	\$0	\$0
Non-Small Businesses	\$1,486,260	\$0	\$0
Other Persons	\$17,339,700	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$24,771,000</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Interim Executive Director of the Department of Health, Richard G. Saunders, has reviewed and approved this fiscal analysis.

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

Some businesses may see a share in revenue as more individuals access HCBS, while other businesses may see a decrease in revenue as individuals move from ICFs into HCBS.

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

Richard G. Saunders, Interim Executive Director

**Citation Information**

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

<b>and federal laws. State code or constitution citations (required):</b>		
Section 26-1-5	Section 26-18-3	Pub L. No. 111-148

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	11/16/2020

<b>10. This rule change MAY become effective on:</b>	11/23/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Richard G. Saunders, Interim Executive Director	<b>Date:</b>	09/22/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-307. Eligibility for Home and Community-Based Services Waivers.**

**R414-307-5. Medically Needy Waiver Group.**

The following sets forth financial eligibility requirements for the medically needy coverage group, and applies to individuals seeking Medicaid coverage for HCBS under the New Choices Waiver, Community Transitions Waiver, or the Individuals with Physical Disabilities Waiver.

(1) If an individual's spouse meets the definition of a community spouse, the eligibility agency shall apply the resource provisions defined in 42 U.S.C. 1396r-5, ~~[Section 1924 of the Social Security Act and]~~ Section R414-305-3, and Section R414-305-4.

(2) If the individual does not have a spouse or the individual's spouse does not meet the definition of a community spouse, the eligibility agency may only count the individual's resources to determine eligibility. When both members of a married couple who live together apply for waiver services and meet the criteria for the medically needy waiver group, the eligibility agency shall count one-half of jointly[-] held assets available to each spouse. Each spouse must pass the medically needy resource test for one person.

(3) The eligibility agency may only count income of the individual determined under the most closely associated cash assistance program to decide eligibility for the medically needy waiver group. The

eligibility agency may not count income of the individual's spouse except for actual contributions from the spouse.

(4) If the individual is a minor child, the eligibility agency may only count income and resources of the child and may not count income and resources of the child's parents to decide if the child passes the income and resource tests for the medically needy waiver group. The eligibility agency shall count actual contributions from a parent, including court-ordered support payments as income of the child.

(5) The individual's income must exceed three times the payment that would be made to an individual with no income under 42 U.S.C. 1382(b)(1) ~~[Subsection 1611(b)(1) of the Social Security Act]~~.

(6) To determine eligibility for an individual, the eligibility agency shall apply the income deductions allowed by the community Medicaid category under which the individual qualifies.

(a) The eligibility agency shall compare countable income to the applicable medically needy income limit for a one-person household to determine the individual's spenddown. The individual's medical expenses, including the cost of long-term care services, must exceed the spenddown amount.

To receive Medicaid eligibility, the individual must meet the monthly spenddown as defined in Subsection R414-304-11(9).

(b) The eligibility agency deducts medical expenses incurred by the individual in accordance with Section R414-304-11.

(7) The eligibility agency shall determine an individual's financial eligibility for the medically needy waiver group based on the level[-]of[-]care date on a valid waiver referral form as defined in Subsection R414-307-3(2). The eligibility agency shall determine eligibility for prior months using the community Medicaid or institutional Medicaid rules that apply to the individual's situation.

**R414-307-13. Community Transitions Waiver.**

(1) The Community Transitions Waiver is limited to individuals with intellectual disabilities and other developmental disabilities as defined in 42 CFR 483.102(b)(3), who are moving from intermediate care facilities into home and community-based settings. In addition, individuals from other waiver programs who need professional nursing services due to chronic conditions that state plan services cannot support, may be eligible for this waiver.

(2) To qualify, an individual must demonstrate substantial functional limitations in three or more areas of major life activity as described in Section R414-502-8.

(3) An individual's resources must be equal to or less than \$2,000; however, the spousal impoverishment resource provisions for married, institutionalized individuals in Section R414-305-6 apply to this rule.

(4) Countable income is determined using income rules of Aged, Blind, or Disabled Institutional Medicaid. The eligibility agency counts an individual's income except for income excluded under other federal laws to determine eligibility for federally funded, needs-based medical assistance. Eligibility is determined counting only the gross income of an individual.

(5) The eligibility agency counts a spouse's income only if an individual receives a cash contribution from the spouse.

(6) An individual whose income does not exceed 300% of the federal benefit rate may be required to pay a cost-of-care contribution. The following provisions apply to the determination of cost-of-care contribution:

(a) the eligibility agency counts an individual's income except for income excluded under other federal laws to determine eligibility for federally funded, needs-based medical assistance.

(b) the eligibility agency deducts the maximum allowance available, which is a personal needs allowance equal to 300% of the

federal benefit rate payable under 42 U.S.C. 1382(b)(1) for an individual with no income. No other income deductions are allowed.

(7) An individual whose income exceeds three times the federal benefit rate payable under 42 U.S.C. 1382(b)(1) may pay a spenddown to become eligible. To determine the spenddown amount, the income rules and medically needy income standard for non-institutionalized aged, blind, or disabled individuals in Rule R414-304 apply except that income is not deemed from the individual's spouse.

(8) The provisions of Section R414-305-9 concerning transfers of assets apply to individuals seeking eligibility or receiving benefits under this home and community-based services waiver.

**KEY: eligibility, waivers, special income group**

**Date of Enactment or Last Substantive Amendment:** ~~May 20, 2016~~ **2020**

**Notice of Continuation:** March 29, 2017

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R414-512-3	Filing No. 53086

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R414-512-3. Use of Extrapolation Limited
<b>3. Purpose of the new rule or reason for the change:</b>
This change is necessary to be in accordance with the provisions of Section 26-18-20, which set forth criteria for extrapolation in provider audits.
<b>4. Summary of the new rule or change:</b>
This amendment removes a reference to a rule and provisions that no longer exist. It also makes other technical corrections.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>			
<b>A) State budget:</b>			
There is no impact to the state budget as this amendment only updates this rule to be consistent with state law and Medicaid policy.			
<b>B) Local governments:</b>			
There is no impact on local governments because they neither fund nor perform provider audits under the Medicaid program.			
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):			
There is no impact on small businesses as this amendment only updates this rule to be consistent with state law and Medicaid policy.			
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
There is no impact on non-small businesses as this amendment only updates this rule to be consistent with state law and Medicaid policy.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):			
There is no impact on Medicaid providers and Medicaid members as this amendment only updates this rule to be consistent with state law and Medicaid policy.			
<b>F) Compliance costs for affected persons:</b>			
There are no compliance costs to a single Medicaid provider or Medicaid member as this amendment only updates this rule to be consistent with state law and Medicaid policy.			
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

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

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

The Interim Executive Director of the Department of Health, Richard G. Saunders, has reviewed and approved this fiscal analysis.

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

Businesses will see neither revenue nor cost as this amendment simply updates current Medicaid policy.

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

Richard G. Saunders, Interim Executive Director

**Citation Information**

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

Section 26-1-5	Section 26-18-3	Section 26-18-20
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**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	11/16/2020
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<b>10. This rule change MAY become effective on:</b>	11/23/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Richard G. Saunders, Interim Executive Director	<b>Date:</b>	09/22/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-512. Use of Extrapolation in Provider Audits.**

**R414-512-3. Use of Extrapolation Limited.**

~~[(1)] The procedures set forth in Rule R380-400 may be used only if the Department or one of its contractors implements extrapolation pursuant to this rule.~~

~~[(2)]~~ The Department or a contractor that conducts audits of providers on behalf of the Department shall:

(a) have on staff or contract with a medical or dental professional who is experienced in the treatment, billing, and coding procedures used by the type of provider being audited; and

(b) use the services of the appropriate professional described in Subsection R414-512-3(2)(a) if the provider who is the subject of the audit disputes the findings of the audit.

~~[(3)]~~ The Department or a contractor may not base a finding of overpayment or underpayment on extrapolation as defined in Section 63A-13-102, unless:

(a) there is a determination that the level of payment error involving the provider exceeds a 10% error rate:

- (i) for a sample of claims for a particular service code; and
- (ii) over a three-year period of time;

(b) documented education intervention has failed to correct the level of payment error; and

(c) the value of the claims for the provider, in aggregate, exceeds \$200,000 in reimbursement for a particular service code on an annual basis.

~~[(4)]~~ If a contractor intends to implement the use of extrapolation as a method of auditing claims, the contractor shall, before adopting the extrapolation method of auditing:

(a) report its intent to use extrapolation to the Department; and

(b) proceed with the use of extrapolation only after the Department has granted permission.

~~[(5)]~~ If the Department or a contractor determines Subsection ~~[R414-512-3]~~(3)(a) through ~~[(e)]~~(b) is applicable to a provider, the Department or the contractor may use extrapolation only for the service code associated with the findings ~~[under that subsection].~~

~~[(6)]~~ If extrapolation is used under this rule, a provider may appeal the results of the audit based on:

- (a) each individual claim; or

(b) the extrapolation sample.

([7]6) Nothing in this rule limits a provider's right to appeal the audit under Title 63G, Chapter 4, the Medicaid program and its manual or rules, or other laws or rules that may provide remedies to providers.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~January 11, 2016~~2020

**Authorizing, and Implemented or Interpreted Law:** 26-1-5; 26-18-3; 26-18-20

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R590-258	Filing No. 53097

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	3110	
<b>Building:</b>	State Office Building	
<b>Street address:</b>	450 N State St.	
<b>City, state:</b>	Salt Lake City, UT 84114	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-538-3803	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R590-258. Email Address Requirement
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to remove an outdated reference to a defunct program, remove the enforcement date, update the severability clause, and make a small number of clerical changes.
<b>4. Summary of the new rule or change:</b>
A reference to the Utah Health Exchange is being removed because that program is no longer in operation, the enforcement date is being removed because the rule is currently in force, the severability clause is being updated to reflect the Insurance Department's current preferred language, and a small number of clerical changes are being made to promote clarity in this rule.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>																				
<b>A) State budget:</b>																				
There is no anticipated cost or savings to the state budget. The changes are merely clean-up amendments that do not create or remove requirements.																				
<b>B) Local governments:</b>																				
There is no anticipated cost or savings to local governments. The changes are merely clean-up amendments that do not apply to local governments.																				
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):																				
There is no anticipated cost or savings to small businesses. The changes are merely clean-up amendments that do not create or remove requirements.																				
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):																				
There is no anticipated cost or savings to non-small businesses. The changes are merely clean-up amendments that do not create or remove requirements.																				
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):																				
There is no anticipated cost or savings to any other persons. The changes are merely clean-up amendments that do not create or remove requirements.																				
<b>F) Compliance costs for affected persons:</b>																				
There are no compliance costs for any affected persons. The changes are merely clean-up amendments that do not create or remove requirements, and as such have no attendant costs.																				
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)																				
<b>Regulatory Impact Table</b>																				
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2021</th> <th>FY2022</th> <th>FY2023</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2021	FY2022	FY2023	State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0	Non-Small Businesses	\$0	\$0	\$0
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Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Commissioner of the Insurance Department, Todd E. Kiser, has reviewed and approved this fiscal analysis.

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

The above analysis represents the Insurance Department's best estimate of the fiscal impact that this rule may have on businesses.

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

Todd E. Kiser, Commissioner

**Citation Information**

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

Subsection 31A-2-201(3)	Section 31A-23a-412	Subsection 46-4-501(1)
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**Public Notice Information**

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

**A) Comments will be accepted until:** 11/16/2020

**10. This rule change MAY become effective on:** 11/23/2020

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

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer 1	<b>Date:</b>	09/29/2020
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**R590. Insurance, Administration.**

**R590-258. Email Address Requirement.**

**R590-258-1. Authority.**

This rule is promulgated pursuant to Subsection 31A-2-201(3), which authorizes the commissioner to adopt rules to implement the provisions of Title 31A, Insurance Code; Section 31A-23a-412, which requires licensees to provide the department with current contact information; and Subsection 46-4-501(1), which authorizes state governmental agencies to make rules relating to electronic transactions and records.

**R590-258-2. Purpose and Scope.**

(1) The purpose of this rule is to require a licensed or registered person to have a current valid email address on file with the commissioner in order to:

- (a) improve the accuracy, reliability, and promptness of communications between the department and ~~[those persons]~~ any person to whom the rule applies;
- (b) reduce mailing expense; and
- (c) promote paperless interaction with a licensed or registered person ~~[, and~~
- ~~\_\_\_\_\_~~ (d) support the Utah Health Exchange.

(2) ~~[Scope.—]~~ This rule applies to an individual, agency, provider, insurer, and other organization licensed or registered by the commissioner to do business in Utah.

**R590-258-3. Requirement to Submit and Maintain a Valid Email Address.**

(1) A person to whom this rule applies shall submit to, and maintain with, the commissioner a valid business email address where the person can receive from the department, communication which includes ~~[, but is not limited to]:~~

- (a) a general notification;
- (b) a license renewal notice;
- (c) a billing invoice;
- (d) a consumer complaint;
- (e) a request for information; or
- (f) other correspondence.

(2) A person to whom this rule applies must confirm that the spam filter for the email address required in Subsection (1) ~~[above]~~ will accept email correspondence from the department.

(3) Correspondence sent by the department to the email address required in Subsection (1)[~~above~~] shall be considered received by the person.

(4) A change of email address shall be submitted electronically at no cost to the licensed or registered person:

(a) an individual or agency licensee shall submit the change at <http://www.sircon.com/utah> or <http://www.nipr.com/>; and

(b) a licensed or registered person, other than an individual or agency licensee shall, submit the change at <http://clr.utah.gov/>.

**R590-258-4. Penalties.**

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R590-258-5. [Enforcement Date.**

~~The commissioner will begin enforcing this rule 45 days from the rule's effective date.~~

**R590-258-6. [Severability.**

~~[If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.]If any provision of this rule, Rule R590-258, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule which can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

**KEY: insurance, email address requirement**

**Date of Enactment or Last Substantive Amendment:** ~~September 8, 2010~~ **2020**

**Notice of Continuation:** September 4, 2015

**Authorizing, and Implemented or Interpreted Law:** 31A-2-201; 46-4-501

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R623-4	Filing No. 52996

**Agency Information**

<b>1. Department:</b>	Lieutenant Governor	
<b>Agency:</b>	Elections	
<b>Room no.:</b>	Suite 220	
<b>Building:</b>	Utah State Capitol	
<b>Street address:</b>	350 N State Street	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 142325	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-2325	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Derek Branchley	801-538-1746	dbrenchley@utah.gov

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

**General Information**

**2. Rule or section catchline:**  
R623-4. Processing Partisan Candidate Nomination Petitions

**3. Purpose of the new rule or reason for the change:**  
This amendment is designed to make technical changes, align requirements with current statute, and provide clarity on the processing of candidate nomination petitions.

**4. Summary of the new rule or change:**  
This amendment does the following:  
(1) Makes technical changes to align with rulemaking guidelines.  
(2) Eliminates Section R624-4-6, Declarations of Candidacy for State and Local School Board Candidates, because this is now outlined by statute.  
(3) Modifies the information required on a signature removal statement to align with signature removal statements for other types of petitions (e.g., initiatives) that are outlined in statute.  
(4) Clarifies that supplemental nomination petitions do not need to contain sufficient signatures to meet or exceed the qualification threshold.  
(5) Clarifies that if an individual signed two candidate nomination petitions for the same office, the signature on the first submitted nomination petition that meets or exceeds the qualification threshold is counted.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**  
**A) State budget:**  
Because this amendment makes minor technical changes and clarifies political petition processes, the Division of Elections (Division) does not anticipate any cost or savings to the state's budget.

**B) Local governments:**  
Because this amendment makes minor technical changes and clarifies political petition processes, the Division does not anticipate any cost or savings to local governments.

**C) Small businesses** ("small business" means a business employing 1-49 persons):  
Because this amendment makes minor technical changes and clarifies political petition processes, the Division does not anticipate any cost or savings to small businesses.

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

Because this amendment makes minor technical changes and clarifies political petition processes, the Division does not anticipate any cost or savings to non-small businesses.

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

Because this amendment makes minor technical changes and clarifies political petition processes, the Division does not anticipate any cost or savings to other persons.

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

Because this amendment makes minor technical changes and clarifies political petition processes, the Division does not anticipate any cost or savings to affected persons.

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

**Regulatory Impact Table**

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

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

The Director of the Division of Elections, Justin Lee, has reviewed and approved this fiscal analysis.

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

Because this amendment makes minor technical changes and clarifies political petition processes, I do not anticipate any fiscal impact on businesses.

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

Justin Lee, Director

**Citation Information**

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

Subsection 20A-9-403(3)(f)	Section 20A-9-410	
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**Public Notice Information**

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

**A) Comments will be accepted until:** 11/16/2020

**10. This rule change MAY become effective on:** 11/23/2020

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

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Justin Lee, Director	<b>Date:</b>	07/31/2020
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**R623. Lieutenant Governor, Elections.  
R623-4. Processing Partisan Candidate Nomination Petitions.**

**R623-4-1. Purpose.**

A. Pursuant to ~~[Utah Code Annotated]~~ Subsection 20A-9-403(3)(f), this rule provides for the transparent orderly, and timely submission, verification, and certification of nomination petition signatures.

B. Pursuant to ~~[Utah Code Annotated]~~ Section 20A-9-410, this rule provides procedures for complying with, and verifying compliance with, the candidate nominating process described in that part.

**R623-4-2. Authority.**

This rule is required by Chapter 9 of Title 20A, Candidate Qualifications and Nominating Procedures, and is enacted under the authority of the Utah Constitution Art. VII, Sections 1 and 14, and Chapter 3 of Title 63G, the Utah Administrative Rulemaking Act.

**R623-4-3. Definitions.**

A. "Filing Officer" for the purposes of this section means:

1. The Lieutenant Governor will serve as the filing officer for federal, state and multicounty legislative races.

2. The County Clerk will serve as the filing officer for single county legislative races.

B. "Qualification Threshold" means:

1. The number of signatures required for a given office as set forth in Subsections 20A-9-403(3) (a)(ii) and 20A-9-408(8)(b).

**R623-4-4. Uniform Nomination Petition Processing Standards.**

A. Nomination Petition Packet Submission Procedure.

1. Any candidate who submits a nomination petition for verification shall submit their nomination petition packets, personally or by a designated agent, to the filing officer before the deadlines established in ~~[UCA]~~ Sections 20A-9-403 and 20A-9-408.

2. ~~[Any]~~ A candidate's initial submission of nomination petition [packets] signatures must contain sufficient signatures to meet or exceed the qualification threshold.

3. At the time of submitting any nomination petition, a candidate or designated agent must provide the following, on a form provided by the filing officer:

a. The candidate's contact information.

b. The estimated number of nomination petition packets in the submission.

c. The estimated number of signatures in the submission.

d. For a candidate's initial submission of petition signatures, [A] a signed statement that the initial submission contains [candidate has gathered] the amount of signatures [r] required to meet the qualification threshold.

4. The filing officer shall provide the candidate a receipt of the submission that includes the following:

a. The date and submission time.

b. A copy of the form required by Subsection (A)(3).

5. The filing officer shall reject a submission if:

a. ~~[F]~~ the candidate fails to provide the form required in Subsection (A)(3);

b. for a candidate's initial submission of petition signatures, [F] the [candidate did not gather] submission does not contain the amount of signatures required to meet or exceed [s] the qualification threshold;

c. ~~[F]~~ the candidate did not meet the submission deadline established in ~~[Utah Code]~~ Sections 20A-9-403 and 20A-9-408; or

d. ~~[F]~~ the candidate has already met the qualification threshold.

6. If the filing officer rejects a submission in accordance with Subsection (A)(5), the filing officer shall provide the candidate with a written explanation of the rejection.

B. Supplementing Nomination Petition Packets.

1. Candidates may submit supplemental nomination petition packets following their ~~[first]~~ initial submission until the filing officer notifies the candidate that they have met the qualification threshold in accordance with Subsection (E)(1) or until the deadlines established in ~~[Utah Code]~~ Sections 20A-9-403 and 20A-9-408, whichever comes first.

2. The intake of supplemental nomination petition packets shall comply with Subsection ~~[s]~~ (A)(1) and Subsections (A)(3) through (A)(6).

3. The processing of supplemental nomination petition packets shall comply with Subsection (C)(1) through (E)(1).

C. Order of Nomination Petition Packet Verification.

1. The filing officer shall verify nomination petition submissions in the order received.

2. The filing officer shall ensure that nomination petition packets for candidates for the same office are not verified simultaneously.

D. Verifying Nomination Petition Packets.

1. The filing officer shall verify nomination petition packets in accordance with ~~[Utah Code]~~ Section 20A-7-206.3.

2. If an individual signed two candidate nomination petitions for the same office, the signature on the first submitted nomination petition that meets the requirements of Subsection (A)(2) shall be valid.

~~[2-]3.~~ The filing officer shall verify [a] each signature [s] of a nomination petition until the candidate has sufficient signatures to meet the qualification threshold.

~~[3-]4.~~ The filing officer may discontinue the verification of a nomination petition if the candidate officially withdraws their candidacy or withdraws their notice of intent to gather signatures.

E. Communication of Results to the Candidate.

~~[-----] 1. Within one (1) business day after verifying all signatures in a candidate's submission or after the candidate meets or exceeds the qualification threshold, the filing officer shall notify the candidate of the total number of valid signatures in the submission and whether the candidate has met the qualification threshold.]~~

1. Within one business day after verifying each signature in a candidate's submission, the filing officer shall notify the candidate of the total number of valid signatures in the submission and whether the candidate has met the qualification threshold.

2. Within one business day after the candidate meets or exceeds the qualification threshold, the filing officer shall notify the candidate that the candidate has met the qualification threshold.

**R623-4-5. Withdrawal of Petition Packets and Petition Signatures.**

A. A candidate may not withdraw a nomination petition packet[s] once it is ~~they are~~ submitted in accordance with Subsection R623-4-4(A).

B. A voter who has signed a candidate's nomination petition may have the voter's signature removed from the petition by submitting to the filing officer a statement requesting that the voter's signature be removed.

C. The statement shall include:

1. the name of the voter;

2. the name of the candidate;

3. the resident address at which the voter is registered to vote;  
~~[4. the last four digits of the voter's Social Security number;]~~  
~~[5. the voter's driver license or identification card number; and]~~  
~~[6.]~~4. the signature of the voter[-]; and  
 5. the date of the signature described in Subsection R623-4-5(C)(4).

D. To increase the likelihood of a voter's signature being identified and removed, the statement may include the voter's birth date or age.

~~[D.]~~E. A voter may not submit a statement by email or other electronic means.

~~[E.]~~E. In order for the signature to be removed, the statement must be received before the candidate submits any petition signatures for verification in accordance with Subsection R623-4-4(A).

**~~[R624-4-6. Declarations of Candidacy for State and Local School Board Candidates.~~**

~~A. Any state or local school board candidate under Utah Code Title 20A shall file a declaration of candidacy in accordance with 20A-9-201 and 20A-9-202.~~

~~B. If Utah Code does not establish a deadline for state or local school board candidates to file a declaration of candidacy, the candidate shall file a declaration of candidacy before 5 p.m. on the third Thursday in March before the next regular general election.]~~

**KEY:** candidate petitions, election law, elections  
**Date of Enactment or Last Substantive Amendment:** ~~[December 8, 2015]~~2020  
**Authorizing, and Implemented or Interpreted Law:** Art. VII, Secs. 1 and 14; 20A-9

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R710-10	Filing No. 53085

**Agency Information**

<b>1. Department:</b>	Public Safety	
<b>Agency:</b>	Fire Marshal	
<b>Street address:</b>	410 W 9800 S, Suite 372	
<b>City, state:</b>	Sandy, UT 84070	
<b>Mailing address:</b>	410 W 9800 S, Suite 372	
<b>City, state, zip:</b>	Sandy, Ut 84070	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kim Gibb	801-556-8198	kgibb@utah.gov
Coy Porter	801-256-2383	coyporter@utah.gov

Ted Black	801-256-2380	tblack@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R710-10. Rules Pursuant to Fire Service Training, Education, and Certification
<b>3. Purpose of the new rule or reason for the change:</b>
The authorizing statutory language for this rule was removed from the Utah Code as a result of the passage of SB209 during 2020 General Session. The language that was previously found under Subsection 53-7-204(1)(g), which authorized the rule, was stricken and replaced. In addition, the language previously found under Subsection 53-7-204(1)(i) was also stricken. The responsibility and oversight of the fire and rescue training program has been moved from Title 53, Chapter 7, to a newly created statute under Title 53B, Chapter 29, Utah Valley University.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety as a result of the passage of S.B. 209 during the 2020 General Session. The authority for this rule has been removed from statute, and the responsibility for oversight of the fire and rescue training program has been transferred to Utah Valley University.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is not an anticipated cost or savings to the state budget because this rule is being repealed due to the fact that oversight of the fire and rescue training program has been transferred from the Department of Public Safety, Fire Marshal, to the Utah Valley University, and the statutory language that previously authorized this rule has been repealed.
<b>B) Local governments:</b>
There is not an anticipated cost or savings to local governments because this rule is being repealed due to the fact that oversight of the fire and rescue training program has been transferred from the Department of Public Safety, Fire Marshal, to the Utah Valley University, and the statutory language that previously authorized this rule has been repealed.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>

There is not an anticipated cost or savings to small businesses because this rule is being repealed due to the fact that oversight of the fire and rescue training program has been transferred from the Department of Public Safety, Fire Marshal, to the Utah Valley University, and the statutory language that previously authorized this rule has been repealed.

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

There is not an anticipated cost or savings to non-small businesses because this rule is being repealed due to the fact that oversight of the fire and rescue training program has been transferred from the Department of Public Safety, Fire Marshal, to the Utah Valley University, and the statutory language that previously authorized this rule has been repealed.

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

There is not an anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities because this rule is being repealed due to the fact that oversight of the fire and rescue training program has been transferred from the Department of Public Safety, Fire Marshal, to the Utah Valley University, and the statutory language that previously authorized this rule has been repealed.

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

There are not anticipated compliance costs for affected persons because this rule is being repealed due to the fact that oversight of the fire and rescue training program has been transferred from the Department of Public Safety, Fire Marshal, to the Utah Valley University, and the statutory language that previously authorized this rule has been repealed.

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

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

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

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

The Commissioner of the Department of Public Safety, Jess L. Anderson, has reviewed and approved this fiscal analysis.

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

There is not an anticipated impact to businesses as a result of the repeal of this rule. The repeal of this rule is necessary because the statutory language that previously authorized this rule was repealed upon passage of S.B. 209 during the 2020 General Session. Oversight of the fire and rescue training program has been transferred from the Department of Public Safety to Utah Valley University.

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

Jess L. Anderson, Commissioner

**Citation Information**

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

Section 53-7-204

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members.)

Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	11/16/2020
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<b>10. This rule change MAY become effective on:</b>	11/23/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Coy Porter, State Fire Marshal	<b>Date:</b>	09/23/2020
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**R710. Public Safety, Fire Marshal.**

**[R710-10. Rules Pursuant to Fire Service Training, Education, and Certification.**

**R710-10-1. Purpose.**

~~The purpose of this rule is to provide minimum rules for fire service training, education and certification by establishing a Fire Service Education Administrator, a Fire Education Program Coordinator, the Fire Service Standards and Training Council, the Fire Service Certification Council, the Utah Fire and Rescue Academy, and standards for those agencies conducting non-affiliated fire service training.~~

**R710-10-2. Authority.**

~~This rule is authorized by Section 53-7-204.~~

**R710-10-3. Definitions.**

- ~~(1) "Academy" means Utah Fire and Rescue Academy.~~
- ~~(2) "Academy Director" means the Director of the Utah Fire and Rescue Academy.~~
- ~~(3) "Administrator" means Fire Service Education Administrator.~~
- ~~(4) "Board" means Utah Fire Prevention Board.~~
- ~~(5) "Career Firefighter" means one whose primary employment is directly related to the fire service.~~
- ~~(6) "Certification Council" means the Fire Service Certification Council.~~
- ~~(7) "Certification System" means the Utah Fire Service Certification System.~~
- ~~(8) "Coordinator" means Fire Service Education Program Coordinator.~~
- ~~(9) "EMT" means Emergency Medical Technician.~~
- ~~(10) "Non-Affiliated" means an individual who is not a member of an organized fire department.~~
- ~~(11) "Plan" means Fire Academy Strategic Plan.~~
- ~~(12) "RCA" means Recruit Candidate Academy~~
- ~~(13) "SFM" means State Fire Marshal or authorized deputy.~~

~~(14) "Standards Council" means Fire Service Standards and Training Council.~~

~~(15) "Volunteer/Part Paid Firefighter" means one whose primary employment is not directly related to the fire service.~~

**R710-10-4. Fire Service Education Administrator.**

~~(1) There is created by the Board a Fire Service Education Administrator for the State of Utah. This administrator shall be the State Fire Marshal.~~

~~(2) The administrator shall oversee statewide fire service education of all personnel receiving training monies from the Fire Academy Support Account.~~

~~(a) The administrator shall oversee fire service education in fire suppression, fire prevention, fire administration, operations, hazardous materials, rescue, fire investigation, and public fire education in the State of Utah.~~

~~(3) The administrator shall dedicate sufficient time and efforts to ensure that those monies dedicated from the Fire Academy Support Account are expended in the best interests of all personnel receiving fire service education.~~

~~(4) The administrator shall ensure equitable monies are expended in fire service education to volunteer, career, and prospective fire service personnel.~~

~~(5) The administrator shall as directed by the board, solicit the legislature for funding to ensure that fire service personnel receive sufficient monies to receive the education necessary to prevent loss of life or property.~~

~~(6) The administrator shall oversee the Fire Department Assistance Grant program by completing the following:~~

~~(a) ensure that a broad-based selection committee is impaneled each year;~~

~~(b) compile for presentation to the board the proposed grants; and~~

~~(c) receive the board's approval before issuing the grants.~~

~~(7) The administrator shall if necessary, establish proposed changes to fire service education statewide, insuring personnel receive the most proficient and professional training available, ensure completion of agreements and contracts, and ensure that payments on agreements and contracts are completed expeditiously.~~

~~(8) The administrator shall report to the board at each regularly scheduled board meeting the current status of fire service education statewide.~~

~~(a) The administrator shall present any proposed changes in fire service education to the board, and receive direction and approval from the board, before making those changes.~~

**R710-10-5. Fire Service Education Program Coordinator.**

~~(1) The Fire Service Education Program Coordinator shall assist the administrator in statewide fire service education.~~

~~(2) The coordinator shall conduct fire service education evaluations, budget reviews, performance audits, and oversee the effectiveness of fire service education statewide.~~

~~(3) The coordinator shall ensure that there is an established Utah Fire Service Strategic Training Plan for fire service education statewide. The coordinator shall work with the academy director to update the Strategic Plan and keep it current to the needs of the fire service.~~

~~(4) The coordinator shall report findings of audits, budgetary reviews, training contracts or agreements, evaluation of training standards, and any other necessary items of interest with regard to fire service education to the administrator.~~

\_\_\_\_\_ (5) The coordinator shall ensure that contracts are established each year for training and education of fire personnel that meets the needs of those involved in fire service education statewide.

\_\_\_\_\_ (6) The coordinator shall be the staff assistant to the Fire Service Standards and Training Council and shall present agenda items to the council chair that need resolution or review. As the staff assistant to the Training Council, the coordinator shall ensure that appointed members attend, encourage that the decisions made further the interests of fire service education statewide, and ensure that the board is kept informed of the Training Council's decisions.

#### **R710-10-6. Fire Service Standards and Training Council.**

\_\_\_\_\_ (1) There is created by the board, the Fire Service Standards and Training Council, whose duties are to provide direction to the board and academy in matters relating to fire service standards, training, and certification.

\_\_\_\_\_ (2) The Standards Council shall serve in an advisory position to the board, members shall be appointed by the board, shall serve four year terms, and shall consist of the following members:

\_\_\_\_\_ (a) representative from the Utah State Fire Chiefs Association;

\_\_\_\_\_ (b) representative from the Utah State Firemen's Association;

\_\_\_\_\_ (c) representative from the Fire Marshal's Association of Utah;

\_\_\_\_\_ (d) specialist in hazardous materials representing the State Fire Marshals Office;

\_\_\_\_\_ (e) fire/arson investigator representing the Utah Chapter of the International Association of Arson Investigators;

\_\_\_\_\_ (f) specialist in wildland fire suppression and prevention from the Utah State Division of Forestry, Fire and State Lands;

\_\_\_\_\_ (g) representative from the International Association of Firefighters;

\_\_\_\_\_ (h) representative from the Utah Fire Service Certification Council;

\_\_\_\_\_ (i) representative from the Utah Fire and Life Safety Education Association; and

\_\_\_\_\_ (j) representative from the Utah Fire Training Officers Association.

\_\_\_\_\_ (3) The Standards Council shall meet quarterly and may hold other meetings as necessary for proper transaction of business.

\_\_\_\_\_ (a) A majority of the Standards Council members shall be present to constitute a quorum.

\_\_\_\_\_ (4) The Standards Council shall select one of its members to act in the position of chair, and another member to act as vice chair.

\_\_\_\_\_ (a) The chair and vice chair shall serve one year terms on a calendar year basis.

\_\_\_\_\_ (b) Elections for chair and vice chair shall occur at the meeting conducted in the last quarter of the calendar year.

\_\_\_\_\_ (c) If voted upon by the council, the vice chair will become the chair the next succeeding calendar year.

\_\_\_\_\_ (5) If a Standards Council member has two or more unexcused absences during a 12 month period, from regularly scheduled Standards Council meetings, it is considered grounds for dismissal pending review by the board.

\_\_\_\_\_ (a) The coordinator shall submit the name of the Standards Council member to the board for status review.

\_\_\_\_\_ (6) A member of the Standards Council may have a representative of their respective organization sit in proxy of that member, if submitted and approved by the coordinator prior to the meeting.

\_\_\_\_\_ (7) The chair or vice chair of the Standards Council shall report to the board the activities of the Standards Council at regularly

scheduled board meetings. The coordinator may report to the board the activities of the Standards Council in the absence of the chair or vice chair.

\_\_\_\_\_ (8) The Standards Council shall consider all subjects presented to them, subjects assigned to them by the board, and shall report their recommendations to the board at regularly scheduled board meetings.

\_\_\_\_\_ (9) One half of the members of the Standards Council shall be reappointed or replaced by the board every two years.

#### **R710-10-7. Utah Fire Service Certification Council.**

\_\_\_\_\_ (1) There is created by the board, the Utah Fire Service Certification Council, whose duties are to oversee fire service certification in the State of Utah.

\_\_\_\_\_ (2) The Certification Council shall be made up of 12 members, appointed by the academy director, approved by the board, and each member shall serve three year terms.

\_\_\_\_\_ (3) The Certification Council shall be made up of users of the certification system and be comprised of both paid and volunteer fire personnel, members with special expertise, and members from various geographical locations in the state.

\_\_\_\_\_ (4) The purpose of the Certification Council is to provide direction on all aspects of certification, and shall report the activities of the Certification Council to the Fire Service Standards and Training Council.

\_\_\_\_\_ (5) Functioning of the Certification Council with regard to certification, re-certification, testing, meeting procedures, examinations, suspension, denial, annulment, revocation, appeals, and reciprocity, shall be conducted as specified in the Utah Fire Service Voluntary Certification Program, Policy and Procedures Manual.

\_\_\_\_\_ (6) A copy of the Utah Fire Service Voluntary Certification Program, Policy and Procedures Manual, shall be kept on file at the State Fire Marshal's Office and the Utah Fire and Rescue Academy.

#### **R710-10-8. Utah Fire and Rescue Academy.**

\_\_\_\_\_ (1) The primary fire service training school shall be known as the Utah Fire and Rescue Academy.

\_\_\_\_\_ (2) The director of the Utah Fire and Rescue Academy shall report to the administrator the activities of the academy with regard to completion of the agreed academy contract.

\_\_\_\_\_ (3) The academy director may recommend to the administrator or coordinator new or expanded standards regarding fire suppression, fire prevention, public fire education, safety, certification, and any other items of necessary interest about the academy.

\_\_\_\_\_ (4) The academy shall receive approval from the administrator, after being presented to the Standards and Training Council, any substantial changes in academy training programs that vary from the agreed contract.

\_\_\_\_\_ (5) The academy director shall provide to the coordinator by October 1st of each year, a numerical summary of those career, volunteer/part paid, and non-affiliated students attending the academy in the following categories:

\_\_\_\_\_ (a) Those who have received certification during the previous contract period at each certification level.

\_\_\_\_\_ (b) Those who have received an academic degree in any Fire Science category in the previous contract period.

\_\_\_\_\_ (c) Those who have completed other academy classes during the previous contract period.

\_\_\_\_\_ (6) The academy director shall provide to the coordinator by October 1st of each year, a numerical comparison of the categories required in Subsection R710-10-8(5), comparing attendance in the previous contract period.

~~(7) The academy director shall provide to the coordinator by October 1st of each year, in accepted budgeting practices, the following:~~

~~(a) A cost analysis of classes to include the total spent for each class title, the average cost per class, the number of classes delivered, the number of participants per class title, and the cost per participant for each class title provided by the academy.~~

~~(b) A budget summary comparing amounts budgeted to actual expenditures for each budget code funded by the contract.~~

~~(8) The academy director shall provide to the coordinator by October 1st of each year, a numerical summary of those students attending academy courses in the following categories:~~

~~(a) Non-affiliated personnel enrolled in college courses.~~

~~(b) Career fire service personnel enrolled in college credit courses.~~

~~(c) Volunteer and part-paid fire service personnel enrolled in college credit courses.~~

~~(d) Non-affiliated personnel enrolled in non-credit continuing education courses.~~

~~(e) Career fire service personnel enrolled in non-credit continuing education courses.~~

~~(f) Volunteer and part-paid fire service personnel enrolled in non-credit continuing education courses.~~

~~(9) The academy director shall present to the coordinator by January of each year, proposals to be incorporated in the academy contract for the next fiscal year.~~

#### **R710-10-9. Non-Affiliated Fire Service Training.**

~~(1) Those training organizations that desire to offer certification through the Certification System for non-affiliated personnel must receive accreditation in writing from the Standards Council and the academy director.~~

~~(2) Before accreditation is granted, the training organization requesting approval shall demonstrate the following:~~

~~(a) Complete a written application requesting approval to conduct the training course.~~

~~(b) Designate an approved course coordinator to oversee the course delivery and ensure the course meets each of the applicable objectives.~~

~~(c) Ensure that qualified instructors are used to teach each subject.~~

~~(d) Ensure sufficient student to instructor ratios for all subjects or skills to be taught to include those designated high hazard.~~

~~(e) Demonstrate that sufficient equipment and facilities will be provided to meet the training requirements of the course being taught.~~

~~(f) Maintain course documentation as required through the Certification System to ensure that all elements of the necessary training is completed.~~

~~(g) Follow the accepted requirements of the Certification System for requesting testing and certification.~~

~~(3) As required in Subsection R710-10-9(2)(b), the designated course coordinator shall meet the following requirements:~~

~~(a) Be currently certified at the certification level as established by the Standards Council.~~

~~(b) Ensure that all assigned instructors meet the requirements as required in Subsection R710-10-9(4).~~

~~(c) Ensure that the course syllabus and practical skills guide meet the requirements of the Certification System.~~

~~(d) Ensure that the requirements of Subsections R710-10-9(2)(d), (e), (f) and (g) are met.~~

~~(4) As required in Subsection R710-10-9(2)(c), qualified instructors shall meet the following requirements:~~

~~(a) Must be currently certified at the certification level as established by the Standards Council.~~

~~(b) If the instructor is not certified, instructor qualification can be satisfied by special knowledge, experience or establishment of expertise.~~

~~(5) An Introduction to Emergency Services class shall be completed by the non-affiliated student wishing to receive an RCA within the time period stated in Subsection R710-10-9(7). The Introduction to Emergency Services class may be waived if the applicant can demonstrate to the academy sufficient competency or prior experience in the fire service to make the class unwarranted.~~

~~(6) Non-affiliated training providers shall follow the curriculum outline that is taught at the academy in the RCA program in order to award students an RCA Certificate of Completion. Any changes to the curriculum of the RCA program at the academy shall be provided by the academy to the non-affiliated training providers to maintain consistency in the RCA program.~~

~~(7) An RCA Certificate of Completion may be issued to the non-affiliated student by the academy upon successful completion of the following within a 24 month period:~~

~~(a) Introduction to Emergency Services class or accepted waiver.~~

~~(b) EMT Basic Course.~~

~~(c) Completion of an accredited RCA.~~

~~(8) Non-affiliated training providers that have received accreditation shall be reaccredited every five years from the date of initial accreditation.~~

#### **R710-10-10. Repeal of Conflicting Board Actions.**

~~All former board actions, or parts thereof, conflicting or inconsistent with the provisions of this board action or of the codes hereby adopted, are hereby repealed.~~

#### **R710-10-11. Validity.**

~~The Utah Fire Prevention Board hereby declares that should any section, paragraph, sentence, or word of this board action, or of the codes hereby adopted, be declared invalid, it is the intent of the Utah Fire Prevention Board that it would have passed all other portions of this action, independent of the elimination of any portion as may be declared invalid.~~

#### **R710-10-12. Adjudicative Proceedings.**

~~(1) All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by Sections 63G-4-202 and 63G-4-203.~~

~~(2) A person may request a hearing on a decision made by the SFM, his authorized deputies, or the LFA, by filing an appeal to the board within 20 days after receiving final decision.~~

~~(3) All adjudicative proceedings, other than criminal prosecution, taken by the SFM, his authorized deputies, or the LFA, to enforce the Utah Fire Prevention and Safety Act and these rules, shall commence in accordance with Section 63G-4-201.~~

~~(4) The board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.~~

~~(5) The board shall direct the SFM to issue a signed order to the parties involved giving the decision of the board within a reasonable time of the hearing pursuant to Section 63G-4-203.~~

~~(6) Reconsideration of the board's decision may be requested in writing within 20 days of the date of the decision pursuant to Section 63G-4-302.~~

~~(7) Judicial review of all final board actions resulting from informal adjudicative proceedings is available pursuant to Section 63G-4-402.~~

~~KEY: fire training  
Date of Enactment or Last Substantive Amendment: August 23, 2016  
Notice of Continuation: October 5, 2015  
Authorizing, and Implemented or Interpreted Law: 53-7-204]~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R746-8-301	Filing No. 53096

**Agency Information**

<b>1. Department:</b>	Public Service Commission	
<b>Agency:</b>	Administration	
<b>Building:</b>	Heber M. Wells Building	
<b>Street address:</b>	160 E 300 S, Fourth Floor	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 4558	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4558	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Yvonne Hogle	801-530-6709	yhogle@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R746-8-301. Calculation and Application of UUSF Surcharge
<b>3. Purpose of the new rule or reason for the change:</b>
S.B. 225, enacted in the 2020 General Session, creates a statutory surcharge amount and collection method for prepaid wireless telecommunications service for the charges that are assessed on access line providers and connection providers to fund the Utah Universal Public Telecommunications Service Support Fund. This rule change is necessary to align the language in this rule with the language in Section 54-8b-15, that will be effective January 1, 2021.
<b>4. Summary of the new rule or change:</b>
This rule change aligns with the language in the prepaid wireless telecommunications service amendments which creates a statutory surcharge amount and collection method for prepaid wireless telecommunications service for the charges that are assessed on access line providers

and connection providers to fund the Utah Universal Public Telecommunications Service Support Fund.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
None--The rule change is made solely to align the language in this rule with the language in the prepaid wireless telecommunications service amendments. Any cost or savings is due to the statutory change, not to the rule amendment.
<b>B) Local governments:</b>
None--The rule change is made solely to align the language in this rule with the language in the prepaid wireless telecommunications service amendments. Any cost or savings is due to the statutory change, not to the rule amendment.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
None--The rule change is made solely to align this language in the rule with the language in the prepaid wireless telecommunications service amendments. Any cost or savings is due to the statutory change, not to the rule amendment.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
None--The rule change is made solely to align the language in this rule with the language in the prepaid wireless telecommunications service amendments. Any cost or savings is due to the statutory change, not to the rule amendment.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>
None--The rule change is made solely to align the language in this rule with the language in the prepaid wireless telecommunications service amendments. Any cost or savings is due to the statutory change, not to the rule amendment.
<b>F) Compliance costs for affected persons:</b>
None--The rule change is made solely to align the language in this rule with the language in the prepaid wireless telecommunications service amendments. Any cost or savings is due to the statutory change, not to the rule amendment.
<b>G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there</b>

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

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

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

The Chair of the Public Service Commission, Thad LeVar, has reviewed and approved this fiscal analysis.

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

There is no anticipated fiscal impact. S.B. 225 (2020) necessitated the proposed changes to this rule solely to align the language in this rule with the language in the prepaid wireless telecommunications service amendments. Any cost or savings is due to the statutory change, not to the rule amendment.

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

Thad LeVar, Chair

**Citation Information**

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

Section 54-8b-15

**Public Notice Information**

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

**A) Comments will be accepted until:** 11/16/2020

**10. This rule change MAY become effective on:** 11/23/2020

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

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Thad LeVar, PSC Chair	<b>Date:</b>	10/01/2020
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**R746. Public Service Commission, Administration.**

**R746-8. Utah Universal Public Telecommunications Service Support Fund (UUSF).**

**R746-8-301. Calculation and Application of UUSF Surcharge.**

(1) The Utah Universal Public Telecommunications Service Support Fund (UUSF) shall be funded as follows:

(a) Unless Subsection R746-8-301(3) applies, providers shall remit to the Commission \$0.54 per month per access line that, as of the last calendar day of each month, has a place of primary use in Utah in accordance with the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(b)(i) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs.

(ii) A provider of mobile telecommunications service shall consider the customer's place of primary use to be the customer's residential street address or primary business street address.

(iii) A provider of non-mobile telecommunications service shall consider the customer's place of primary use to be:

- (A) the customer's residential street address or primary business street address; or
- (B) the customer's registered location for 911 purposes.
- (c) A provider may collect the surcharge:
  - (i) as an explicit charge to each end-user; or
  - (ii) through inclusion of the surcharge within the end-user's rate plan.

(d) A provider that offers a multi-line service shall apply the surcharge to each concurrent real-time voice communication call session that an end-user can place to or receive from the public switched telephone network.

(e)(i) Except as provided in Subsection R746-8-301(1)(e)(ii):

(A) A provider that offers prepaid access lines or connections that permit access to the public telephone network shall remit to the Commission \$0.54 per month per access line for such service, such as [new access lines or connections, or recharges for existing lines or connections] purchased on or after January 1, 2018.

~~(ii)~~(B) Subsection R746-8-301(1)(e)(i) operates in lieu of Subsection R746-8-301(1)(a) in that a provider who is required to make a remittance for an access line under Subsection R746-8-301(1)(e)(i) is not required to make an additional remittance for the same access line under Subsection R746-8-301(1)(a).

~~(iii)~~(A)(C) Multiple recharges of a single prepaid access line during a single month do not trigger multiple remittance requirements.

(ii) The charge described in Subsection R746-8-301(1)(e)(2) does not apply to a prepaid wireless telecommunications service, as defined in Section 69-2-405, that is subject to the service charge described in Subsection 69-2-405(2)(b).

~~(B)~~iii \$0.54 per month is both the maximum and minimum amount of remittance necessary for any single access line.

(2)(a) A provider shall remit to the Commission no less than 98.69 percent of its total monthly surcharge collections.

(b) A provider may retain a maximum of 1.31 percent of its total monthly surcharge collections to offset the costs of administering this rule.

(3)(a) Subject to Subsection R746-8-301(3)(b), a provider may omit the UUSF surcharge with respect to an access line that is described in Subsection R746-8-301(1), and:

(i) generates revenue that is subject to a universal service fund surcharge in a state other than Utah for the relevant month for which the provider omits the UUSF surcharge;

(ii) for the relevant month for which the provider omits the UUSF surcharge, was not used to access Utah intrastate telecommunications services; or

(iii) subject to Subsection R746-8-403(5), receives subsidization through a federal Lifeline program approved by the FCC.

(b) A provider that omits any UUSF surcharge pursuant to Subsection R746-8-301(3)(a) shall:

(i) maintain documentation for at least 36 months that the omission complied with Subsection R746-8-301(3)(a); and

(ii) consent to any audit of the documentation requested by the:

- (A) Commission; or
- (B) Division of Public Utilities.

(c) A provider who omits any UUSF surcharge pursuant to Subsection R746-8-301(3)(a) shall report monthly to the Division of Public Utilities, using a method approved by the Division, the number of omissions claimed pursuant to each Subsection R746-8-301(3)(a)(i) and R746-8-301(3)(a)(ii).

**KEY:** Utah universal service fund, surcharges and disbursements, speech/hearing challenges, assistive devices and technology  
**Date of Enactment or Last Substantive Amendment:** ~~July 8,~~ 2020  
**Authorizing, and Implemented or Interpreted Law:** 54-3-1; 54-4-1; 54-8b-15; 54-8b-10

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R865-19S-12	Filing No. 53093

**Agency Information**

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Auditing	
<b>Building:</b>	Utah State Tax Commission	
<b>Street address:</b>	210 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT 84134	
<b>Mailing address:</b>	210 N 1950 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R865-19S-12. Filing of Returns Pursuant to Utah Code Ann. Sections 59-12-107 and 59-12-118
<b>3. Purpose of the new rule or reason for the change:</b>
The reason for the change is to increase efficiency and save processing costs, the Tax Commission (Commission) seeks to require all sales and use tax returns to be filed electronically. Pursuant to Section 59-12-107, the Commission must prescribe, by administrative rule, the form in which a sales and use tax return shall be filed. This amendment specifies that all sales and use tax returns must be filed in an approved electronic form.
<b>4. Summary of the new rule or change:</b>
Section 59-12-107 requires the Commission to prescribe, by administrative rule, the form in which a sales and use tax return shall be filed. This amendment specifies that all sales and use tax returns must be filed with the Commission in an approved electronic format.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

This proposed amendment is expected to reduce state government expenditures by approximately \$95,000 annually. This savings results from the elimination of printing and postage costs associated with mailing paper returns to taxpayers for filing.

**B) Local governments:**

This proposed amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because sales and use tax returns are filed and processed by the Commission who then distributes the appropriate revenues to local governments.

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

This proposed amendment is not expected to have any fiscal impact on small businesses' revenues or expenditures because it does not change the amount of sales and use tax due only the method of filing the return.

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

This proposed amendment is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because it does not change the amount of sales and use tax due only the method of filing the return.

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

This proposed amendment is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state governments, or local governments because it does not change the amount of sales and use tax due only the method of filing the return.

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

The impact of compliance with this proposed amendment by affected persons is expected to be minimal.

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

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$95,000	\$95,000	\$95,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$95,000</b>	<b>\$95,000</b>	<b>\$95,000</b>
<b>Net Fiscal Benefits</b>	<b>\$95,000</b>	<b>\$95,000</b>	<b>\$95,000</b>

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

Commissioner Rebecca L. Rockwell of the Utah State Tax Commission has reviewed and approved this fiscal analysis.

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

This proposed amendment is not expected to result in either costs or savings to businesses.

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

Rebecca Rockwell, Commissioner

**Citation Information**

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

Section 59-12-107	Section 59-12-118	
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it

receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	11/16/2020
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<b>10. This rule change MAY become effective on:</b>	11/23/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	09/24/2020
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#### R865. Tax Commission, Auditing.

##### R865-19S. Sales and Use Tax.

##### R865-19S-12. Filing of Returns Pursuant to Utah Code Ann. Sections 59-12-107 and 59-12-118.

(1)(a) Every person responsible for the collection of the tax under the act shall file a return with the Tax Commission whether or not sales tax is due.

(b) The return filed by a remote seller under Subsection 59-12-107(4) shall be the return the seller would have filed if the seller were not a remote seller.

(2) If the due date for a return falls on a Saturday, Sunday, or legal holiday, the return will be considered timely filed if it is received on the next business day.

(3) ~~If a return is transmitted through the United States mail, a legible cancellation mark on the envelope, or the date of registration of certification thereof by a United States post office, is considered the date the return is filed.~~ The return required by Subsection (1) shall be filed with the commission in an electronic format approved by the commission.

(4) Sales and use tax returns shall be filed and paid monthly or quarterly with the following exceptions:

(a) New businesses that expect annual sales and use tax liability less than \$1,000, shall be assigned an annual filing status unless quarterly filing status is requested.

(b)(i) Businesses currently assigned a quarterly filing status, in good standing and reporting less than \$1,000 in tax for the preceding calendar year may be changed to annual filing status.

(ii) The Tax Commission will notify businesses, in writing, if their filing status is changed to annual.

(c)(i) Businesses assigned an annual filing status reporting in excess of \$1,000 for a calendar year, will be changed to quarterly filing status.

(ii) The Tax Commission will notify businesses, in writing, if their filing status is changed to quarterly.

(5) Annual returns are due on January 31 following the calendar year end. The Tax Commission may revoke the annual filing status if sales tax collections are in excess of \$1,000 or as a result of delinquent payment history.

**KEY: charities, tax exemptions, religious activities, sales tax**  
**Date of Enactment or Last Substantive Amendment:** ~~July 9,~~ 2020

**Notice of Continuation:** November 10, 2016

**Authorizing, and Implemented or Interpreted Law:** 9-2-1702; 9-2-1703; 10-1-303; 10-1-306; 10-1-307; 10-1-405; 19-6-808; 26-32a-101 through 26-32a-113; 59-1-210; 59-12; 59-12-102; 59-12-103; 59-12-104; 59-12-105; 59-12-106; 59-12-107; 59-12-108; 59-12-118; 59-12-301; 59-12-352; 59-12-353

NOTICE OF PROPOSED RULE		
<b>TYPE OF RULE:</b> Amendment		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R873-22M-34</b>	<b>Filing No. 53062</b>

#### Agency Information

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Motor Vehicle	
<b>Building:</b>	Utah State Tax Commission	
<b>Street address:</b>	210 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT 84134	
<b>Mailing address:</b>	210 N 1950 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov

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

#### General Information

<b>2. Rule or section catchline:</b>
R873-22M-34. Rule for Denial of Personalized Plate Requests Pursuant to Utah Code Ann. Sections 41-1a-104 and 41-1a-411
<b>3. Purpose of the new rule or reason for the change:</b>
The reason for the change is to clarify the grounds and procedure for denial of a personalized license plate consistent with S.B. 97 passed in the 2020 General Session.
<b>4. Summary of the new rule or change:</b>
The changes: 1) amend this section to remove language that was codified under S.B. 97 (2020); 2) clarify the definition of "offensive to good taste and decency or would be misleading" as grounds for denial of a personalized

license plate; and 3) authorize a stay of an appeal proceeding under certain circumstances and makes technical changes.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

This proposed amendment is not expected to have any fiscal impact on state government revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for S.B. 97 (2020).

**B) Local governments:**

This proposed amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for S.B. 97 (2020).

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

This proposed amendment is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for S.B. 97 (2020).

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

This proposed amendment is not expected to have any fiscal impacts on non-small businesses' revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for S.B. 97 (2020).

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

This proposed amendment is not expected to result in costs or savings to persons other than small businesses, non-small businesses, state, or local governments because any fiscal impact would have been addressed in the legislative fiscal note for S.B. 97 (2020).

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

This proposed rule is not expected to impact compliance costs on affected persons.

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

**Regulatory Impact Table**

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

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

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

Commissioner Rebecca L. Rockwell of the Utah State Tax Commission has reviewed and approved this fiscal analysis.

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

This proposed amendment is unlikely to result in either costs or savings to businesses.

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

Rebecca Rockwell, Commissioner

**Citation Information**

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

Section 41-1a-104	Section 41-1a-411	
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**Public Notice Information**

**9. The public may submit written or oral comments to**

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

<b>A) Comments will be accepted until:</b>	11/02/2020
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<b>10. This rule change MAY become effective on:</b>	11/09/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	09/10/2020
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**R873. Tax Commission, Motor Vehicle.**

**R873-22M. Motor Vehicle.**

**R873-22M-34. Rule for Denial of Personalized Plate Requests Pursuant to Utah Code Ann. Sections 41-1a-104 and 41-1a-411.**

(1) The personalized plate is a non-public forum. Nothing in the issuance of a personalized plate creates a designated or limited public forum. The presence of a personalized plate on a vehicle does not make the plate a traditional public forum.

(2) ~~Pursuant to~~ For purposes of Subsection 41-1a-411(2)(a)(i), the division may not issue a personalized license ~~plates in the following formats:~~ plate if the combination of letters, numbers, or both is offensive to good taste and decency or would be misleading. A combination of letters, numbers, or both that is offensive to good taste and decency or that would be misleading includes any:

- (a) ~~Combination~~ combination of letters, words, or numbers with any connotation that is vulgar, derogatory, profane, or obscene;[-]
- (b) ~~Combinations~~ combination of letters, words, or numbers that connote breasts, genitalia, pubic area, buttocks, or relate to sexual and eliminatory functions. Additionally, except as provided in Subsection 41-1a-411(3), "69" formats are prohibited unless used in a combination with the vehicle make, model, style, type, or commonly used or readily understood abbreviations of those terms, for example, "69 CHEV;[-]"
- (c) ~~Combinations~~ combination of letters, words, or numbers that connote:
  - (i) any intoxicant or any illicit narcotic or drug;
  - (ii) the sale, use, seller, purveyor, or user of any intoxicant or any illicit narcotic or drug; or
  - (iii) the physiological or mental state produced by any intoxicant or any illicit narcotic or drug;[-]
- (d) ~~Combinations~~ combination of letters, words, or numbers that express contempt[;] or ridicule[-, or superiority] of any person or

~~group; or [a race, religion, deity, ethnic heritage, gender, or political affiliation.]~~

(e)(i) ~~Combinations~~ combination of letters, words, or numbers that express affiliations or actions that may be construed to suggest endangerment to the public welfare.

(ii) Examples of letters, words, or numbers described in Subsection (2)(e)(i) include words, signs, or symbols that represent:

- (A) illegal activity;
- (B) organized crime associations; or
- (C) gang or gang terminology.

(iii) The division shall consult with local, state, and national law enforcement agencies to establish criteria to determine whether a combination of letters, words, or numbers express affiliations or actions that may be construed to suggest endangerment to the public welfare.

(3) The division may not issue a personalized license plate if the combination of letters, numbers, or both disparages a group as described in Subsection 41-1a-411(2)(a)(ii).

~~(3)~~ (4) If the division denies a requested combination, the applicant may request a review of the denial, in writing, within 15 days from the date of notification. The request must be directed to the Director of the Motor Vehicle Division and should include a detailed statement of the reasons why the applicant believes the requested license plates are not offensive or misleading.

~~(4)~~ (5) The director shall review the format for connotations that may reasonably be detected through linguistic, numerical, or phonetic modes of communication. The review may include:

- (a) translation from foreign languages;
- (b) an upside down or reverse reading of the requested format; and

(c) the use of references such as dictionaries or glossaries of slang, foreign language, or drug terms.

~~(5)~~ (6) The director shall consider the applicant's declared definition of the format, if provided.

~~(6)~~ (7)(a) If the requested format is rejected by the director, the division shall notify the applicant in writing of the right to appeal the decision through the appeals process outlined in ~~Section [Tax Commission rule]~~ R861-1A-22.

(b)(i) For purposes of this Subsection (7)(b), "pending legislation" means legislation that:

- (A) has been passed by the Legislature;
- (B) has not yet taken effect; and
- (C)(I) has been signed by the Governor;
- (II) will go into effect without the Governor's signature; or
- (III) will go into effect as a result of veto override.

(ii) If the commission becomes aware of pending legislation that may affect the outcome of an appeal described in Subsection (7)(a), the commission may stay the appeal proceeding.

(iii) If the commission stays an appeal proceeding under Subsection (7)(b)(ii), the commission shall remand the application to the division.

(iv) An application the commission remands to the division in accordance with Subsection (7)(b)(iii) is considered to be a new application filed on the date the pending legislation takes effect.

(v) On or after the date the pending legislation takes effect, the division shall review the application the commission remands to the division and determine if the requested format for a personalized plate is prohibited by law.

(vi) If the division determines under Subsection (7)(b)(v) that a requested format is prohibited by law, the commission shall lift the stay issued under Subsection (7)(b)(ii) and issue a decision on the appeal.

(vii) If the division determines under Subsection (7)(b)(v) to issue the personalized license plate, the commission shall lift the stay issued under Subsection (7)(b)(ii) and close the appeal.

(8) If, after issuance of a personalized license plate, the commission becomes aware through written complaint that the format may be prohibited under Subsections (2) or (3), the division shall again review the format.

(9) If the division determines pursuant to Subsections (2) or (3) that the issued format is prohibited, the holder of the plates shall be notified in writing and directed to surrender the plates. This determination is subject to the review and appeal procedures outlined in this rule, Subsections (3) through (7).

(10) A holder required to surrender personalized license plates shall:

(a)(i) if within the first year of issuance, be refunded a prorated amount of the personalized license plate application fee; or

(ii) if after the first year of issuance, be refunded a prorated amount of the personalized license plate annual renewal fee; or, or shall

(b) be allowed to apply for replacement personalized license plates at no additional cost.

(11) If the holder of plates found to be prohibited fails to voluntarily surrender the plates within 30 days after the mailing of the notice of the division's final decision that the format is prohibited, the division shall ~~cancel~~ revoke the personalized license plates and ~~suspend~~ the vehicle registration.

**KEY:** taxation, motor vehicles, aircraft, license plates

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

**Notice of Continuation:** November 10, 2016

**Authorizing, and Implemented or Interpreted Law:** 41-1a-102; 41-1a-104; 41-1a-108; 41-1a-116; 41-1a-211; 41-1a-215; 41-1a-214; 41-1a-401; 41-1a-402; 41-1a-411; 41-1a-413; 41-1a-414; 41-1a-416; 41-1a-418; 41-1a-419; 41-1a-420; 41-1a-421; 41-1a-422; 41-1a-522; 41-1a-701; 41-1a-1001; 41-1a-1002; 41-1a-1004; 41-1a-1005; 41-1a-1009 through 41-1a-1011; 41-1a-1101; 41-1a-1209; 41-1a-1211; 41-1a-1220; 41-6-44; 53-8-205; 59-12-104; 59-2-103; 72-10-109 through 72-10-112; 72-10-102

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R884-24P-53</b>	<b>Filing No. 53092</b>
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**Agency Information**

<b>1. Department:</b>	Tax Commission
<b>Agency:</b>	Property Tax
<b>Building:</b>	Utah State Tax Commission
<b>Street address:</b>	210 N 1950 W
<b>City, state:</b>	Salt Lake City, UT 84134
<b>Mailing address:</b>	210 N 1950 W
<b>City, state, zip:</b>	Salt Lake City, UT 84134
<b>Contact person(s):</b>	
<b>Name:</b>	<b>Phone:</b> <b>Email:</b>

Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

**2. Rule or section catchline:**  
R884-24P-53. 2020 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act

**3. Purpose of the new rule or reason for the change:**  
Under Section 59-2-515, the Tax Commission (Commission) may promulgate rules necessary to effectuate the purposes of the Farmland Assessment Act. In order to effectuate the purposes of the Farmland Assessment Act, it is necessary to annually amend this rule containing the agricultural production values applied to land qualifying for valuation and assessment under the Farmland Assessment Act.

**4. Summary of the new rule or change:**  
This amendment annually updates the agricultural production values to be applied by county assessors to land qualifying for valuation and assessment under the Farmland Assessment Act. The values are recommended to the Commission by the State Farmland Evaluation Advisory Committee, which meets under the authority of Section 59-2-514.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**  
The amount of savings or cost to state government is undetermined. The state receives tax revenue for assessing and collecting and for the Education Fund based on increased or decreased real and personal property valuation, including property assessed under the Farmland Assessment Act (FAA). Property valuation (taxable value) changes have been recommended by class and by county. This year it is proposed that 120 rates increase slightly, 108 rates decrease, and 190 have no change. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. However, it is estimated that the overall change is minimal due to this amendment.

**B) Local governments:**  
The amount of saving or cost to local governments is undetermined. Local governmental entities receive tax revenue based on increased or decreased property valuation, including property assessed under FAA. Property valuation changes have been recommended by class and by county. This year it is proposed that 120 rates

increase slightly, 108 rates decrease, and 190 have no change. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. However, it is estimated that the overall change is minimal due to this amendment. County assessors' offices statewide will be required to input the new value indicators into their computer systems to be applied against the acreage for individual properties. This input process is easily accomplished on an annual basis and represents no significant cost in time or money to the assessors' offices.

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

Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

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

Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

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

Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

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

Local owners and property tax practitioners will be required to be aware of the new valuation figures. This is an annual occurrence; therefore, the ongoing compliance cost to complete this assessment process will not change. The change in taxes charged for these persons depends entirely on the owner's mix of property types and situs.

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

**Regulatory Impact Table**

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

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

Commissioner Rebecca L. Rockwell of the Utah State Tax Commission has reviewed and approved this fiscal analysis.

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

The fiscal impact on businesses is undetermined. Some acreage value rate are raised, some are lowered, and

some remain the same. Without knowing the 2021 property mix compared to the previous year, it is not possible to determine the impact on affected businesses.

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

Rebecca Rockwell, Commissioner

**Citation Information**

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

Section 59-2-515

**Public Notice Information**

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

**A) Comments will be accepted until:** 11/16/2020

**10. This rule change MAY become effective on:** 11/23/2020

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

**Agency Authorization Information**

**Agency head or designee, and title:** Rebecca L. Rockwell, Commissioner  
**Date:** 09/24/2020

**R884. Tax Commission, Property Tax.**

**R884-24P. Property Tax.**

**R884-24P-53. [2020]2021 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.**

(1) Each year the Property Tax Division shall update and publish schedules to determine the taxable value for land subject to the Farmland Assessment Act on a per acre basis.

(a) The schedules shall be based on the productivity of the various types of agricultural land as determined through crop budgets and net rents.

(b) Proposed schedules shall be transmitted by the Property Tax Division to county assessors for comment before adoption.

(c) County assessors may not deviate from the schedules.

(d) Not all types of agricultural land exist in every county. If no taxable value is shown for a particular county in one of the tables, that classification of agricultural land does not exist in that county.

(2) ~~All property~~ Property qualifying for agricultural use assessment pursuant to Section 59-2-503 shall be assessed on a per acre basis as follows:

(a) Irrigated farmland shall be assessed under the following classifications.

(i) Irrigated I. The following counties shall assess Irrigated I property based upon the per acre values listed in TABLE 1, Irrigated I ~~below~~:

TABLE 1  
Irrigated I

1)	Box Elder	<del>682</del> 684
2)	Cache	<del>576</del> 582
3)	Carbon	<del>439</del> 442
4)	Davis	<del>715</del> 720
5)	Emery	<del>416</del> 419
6)	Iron	<del>668</del> 673
7)	Kane	<del>347</del> 349
8)	Millard	<del>663</del> 668
9)	Salt Lake	<del>623</del> 625
10)	Utah	<del>639</del> 643
11)	Washington	<del>542</del> 546
12)	Weber	<del>684</del> 691

(ii) Irrigated II. The following counties shall assess Irrigated II property based upon the per acre values listed in TABLE 2, Irrigated II ~~below~~:

TABLE 2  
Irrigated II

1)	Box Elder	<del>599</del> 601
2)	Cache	<del>492</del> 497
3)	Carbon	<del>349</del> 351
4)	Davis	<del>629</del> 633
5)	Duchesne	<del>407</del> 409
6)	Emery	<del>335</del> 337
7)	Grand	<del>323</del> 325
8)	Iron	<del>586</del> 590
9)	Juab	<del>376</del> 378
10)	Kane	<del>268</del> 270
11)	Millard	<del>583</del> 587
12)	Salt Lake	<del>535</del> 537
13)	Sanpete	<del>458</del> 454
14)	Sevier	<del>476</del> 479
15)	Summit	<del>382</del> 385
16)	Tooele	<del>372</del> 375
17)	Utah	<del>552</del> 555
18)	Wasatch	<del>405</del> 408
19)	Washington	<del>462</del> 465
20)	Weber	<del>599</del> 605

(iii) Irrigated III. The following counties shall assess Irrigated III property based upon the per acre values listed in TABLE 3, Irrigated III ~~below~~:

TABLE 3  
Irrigated III

1)	Beaver	<del>512</del> 513
2)	Box Elder	<del>471</del> 472
3)	Cache	<del>372</del> 376
4)	Carbon	<del>233</del> 235
5)	Davis	<del>506</del> 510

6)	Duchesne	[286] 287
7)	Emery	[210] 211
8)	Garfield	[176] 177
9)	Grand	[206] 206
10)	Iron	[466] 468
11)	Juab	[253] 255
12)	Kane	[148] 149
13)	Millard	[464] 464
14)	Morgan	[320] 324
15)	Piute	[278] 280
16)	Rich	[148] 149
17)	Salt Lake	[408] 410
18)	San Juan	151
19)	Sanpete	[331] 334
20)	Sevier	[354] 356
21)	Summit	[262] 264
22)	Tooele	[249] 251
23)	Uintah	[308] 310
24)	Utah	[424] 427
25)	Wasatch	[281] 283
26)	Washington	[340] 342
27)	Wayne	[273] 275
28)	Weber	[476] 481

8)	Garfield	[493] 451
9)	Grand	[493] 451
10)	Iron	[493] 451
11)	Juab	[493] 451
12)	Kane	[493] 451
13)	Millard	[493] 451
14)	Morgan	[493] 451
15)	Piute	[493] 451
16)	Salt Lake	[493] 451
17)	San Juan	[493] 451
18)	Sanpete	[493] 451
19)	Sevier	[493] 451
20)	Summit	[493] 451
21)	Tooele	[493] 451
22)	Uintah	[493] 451
23)	Utah	[542] 496
24)	Wasatch	[493] 451
25)	Washington	[583] 534
26)	Wayne	[493] 451
27)	Weber	[538] 493

(c) Meadow IV [~~property shall be assessed per acre based upon the following schedule~~]. The following counties shall assess Meadow IV property based upon per acre values listed in TABLE 6, Meadow IV:

(iv) Irrigated IV. The following counties shall assess Irrigated IV property based upon the per acre values listed in TABLE 4, Irrigated IV [~~below~~]:

TABLE 4  
Irrigated IV

1)	Beaver	423
2)	Box Elder	[390] 391
3)	Cache	[289] 292
4)	Carbon	[149] 150
5)	Daggett	[158] 159
6)	Davis	[422] 425
7)	Duchesne	[200] 201
8)	Emery	[131] 132
9)	Garfield	[94] 95
10)	Grand	[124] 125
11)	Iron	[380] 383
12)	Juab	[168] 169
13)	Kane	66
14)	Millard	[374] 377
15)	Morgan	[237] 240
16)	Piute	[194] 195
17)	Rich	68
18)	Salt Lake	[316] 317
19)	San Juan	68
20)	Sanpete	[248] 250
21)	Sevier	[271] 273
22)	Summit	[180] 181
23)	Tooele	[170] 171
24)	Uintah	[228] 230
25)	Utah	[340] 342
26)	Wasatch	[200] 201
27)	Washington	[256] 258
28)	Wayne	[193] 194
29)	Weber	[389] 393

TABLE 6  
Meadow IV

1)	Beaver	217
2)	Box Elder	[218] 219
3)	Cache	[221] 223
4)	Carbon	[110] 111
5)	Daggett	[130] 131
6)	Davis	[225] 227
7)	Duchesne	[140] 141
8)	Emery	[115] 116
9)	Garfield	[87] 88
10)	Grand	[112] 113
11)	Iron	[220] 222
12)	Juab	[129] 130
13)	Kane	[90] 91
14)	Millard	[163] 164
15)	Morgan	[164] 166
16)	Piute	[159] 160
17)	Rich	[88] 89
18)	Salt Lake	[200] 201
19)	Sanpete	[163] 164
20)	Sevier	[169] 170
21)	Summit	[168] 169
22)	Tooele	[154] 155
23)	Uintah	[173] 174
24)	Utah	[213] 214
25)	Wasatch	[174] 175
26)	Washington	[190] 191
27)	Wayne	[143] 144
28)	Weber	[255] 258

(b) Fruit orchards [~~shall be assessed per acre based upon the following schedule~~]. The following counties shall assess Fruit Orchards based upon the per acre values listed in TABLE 5, Fruit Orchards:

TABLE 5  
Fruit Orchards

1)	Beaver	[493] 451
2)	Box Elder	[534] 489
3)	Cache	[493] 451
4)	Carbon	[493] 451
5)	Davis	[538] 493
6)	Duchesne	[493] 451
7)	Emery	[493] 451

TABLE 7  
Dry III

1)	Beaver	47
2)	Box Elder	80
3)	Cache	[99] 100
4)	Carbon	41
5)	Davis	44
6)	Duchesne	46
7)	Garfield	40
8)	Grand	41

(d) Dry land shall be classified as one of the following two categories and shall be assessed on a per acre basis as follows:

(i) Dry III. The following counties shall assess Dry III property based upon the per acre values listed [~~below~~] in TABLE 7, Dry III:

9)	Iron	41
10)	Juab	44
11)	Kane	40
12)	Millard	39
13)	Morgan	<del>54</del> 55
14)	Rich	40
15)	Salt Lake	48
16)	San Juan	46
17)	Sanpete	46
18)	Summit	40
19)	Tooele	44
20)	Uintah	46
21)	Utah	43
22)	Wasatch	40
23)	Washington	40
24)	Weber	<del>67</del> 68

18)	Salt Lake	62
19)	San Juan	65
20)	Sanpete	53
21)	Sevier	55
22)	Summit	60
23)	Tooele	60
24)	Uintah	67
25)	Utah	56
26)	Wasatch	44
27)	Washington	54
28)	Wayne	<del>73</del> 74
29)	Weber	<del>59</del> 60

(ii) Graze II. The following counties shall assess Graze II property based upon the per acre values listed in TABLE 10, GR II[below]:

(ii) Dry IV. The following counties shall assess Dry IV property based upon the per acre values listed in TABLE 8, Dry IV[below]:

TABLE 8  
Dry IV

1)	Beaver	14
2)	Box Elder	50
3)	Cache	<del>69</del> 70
4)	Carbon	13
5)	Davis	13
6)	Duchesne	16
7)	Garfield	13
8)	Grand	13
9)	Iron	13
10)	Juab	13
11)	Kane	13
12)	Millard	12
13)	Morgan	22
14)	Rich	13
15)	Salt Lake	15
16)	San Juan	17
17)	Sanpete	16
18)	Summit	13
19)	Tooele	13
20)	Uintah	16
21)	Utah	13
22)	Wasatch	13
23)	Washington	12
24)	Weber	37

TABLE 10  
GR II

1)	Beaver	20
2)	Box Elder	20
3)	Cache	19
4)	Carbon	13
5)	Daggett	12
6)	Davis	16
7)	Duchesne	16
8)	Emery	18
9)	Garfield	19
10)	Grand	19
11)	Iron	19
12)	Juab	16
13)	Kane	20
14)	Millard	21
15)	Morgan	18
16)	Piute	21
17)	Rich	17
18)	Salt Lake	18
19)	San Juan	22
20)	Sanpete	15
21)	Sevier	15
22)	Summit	17
23)	Tooele	17
24)	Uintah	23
25)	Utah	20
26)	Wasatch	14
27)	Washington	18
28)	Wayne	23
29)	Weber	17

(e) Grazing land shall be classified as one of the following four categories and shall be assessed on a per acre basis as follows:

(i) Graze I. The following counties shall assess Graze I property based upon the per acre values listed in TABLE 9, GR I[below]:

TABLE 9  
GR I

1)	Beaver	65
2)	Box Elder	63
3)	Cache	<del>59</del> 60
4)	Carbon	44
5)	Daggett	44
6)	Davis	52
7)	Duchesne	58
8)	Emery	59
9)	Garfield	64
10)	Grand	65
11)	Iron	63
12)	Juab	55
13)	Kane	63
14)	Millard	64
15)	Morgan	<del>56</del> 57
16)	Piute	<del>75</del> 76
17)	Rich	54

(iii) Graze III. The following counties shall assess Graze III property based upon the per acre values in TABLE 11, GR III[below]:

TABLE 11  
GR III

1)	Beaver	15
2)	Box Elder	14
3)	Cache	12
4)	Carbon	11
5)	Daggett	10
6)	Davis	11
7)	Duchesne	12
8)	Emery	12
9)	Garfield	13
10)	Grand	13
11)	Iron	13
12)	Juab	12
13)	Kane	13
14)	Millard	13
15)	Morgan	11
16)	Piute	15
17)	Rich	11
18)	Salt Lake	13

19)	San Juan	14
20)	Sanpete	12
21)	Sevier	12
22)	Summit	12
23)	Tooele	12
24)	Uintah	16
25)	Utah	12
26)	Wasatch	11
27)	Washington	11
28)	Wayne	15
29)	Weber	12

(iv) Graze IV. The following counties shall assess Graze IV property based upon the per acre values listed in TABLE 12, GR IV[below]:

TABLE 12  
GR IV

1)	Beaver	5
2)	Box Elder	5
3)	Cache	5
4)	Carbon	5
5)	Daggett	5
6)	Davis	5
7)	Duchesne	5
8)	Emery	5
9)	Garfield	5
10)	Grand	5
11)	Iron	5
12)	Juab	5
13)	Kane	5
14)	Millard	5
15)	Morgan	5
16)	Piute	5
17)	Rich	5
18)	Salt Lake	5
19)	San Juan	5
20)	Sanpete	5
21)	Sevier	5
22)	Summit	5
23)	Tooele	5
24)	Uintah	5
25)	Utah	5
26)	Wasatch	5
27)	Washington	5
28)	Wayne	5
29)	Weber	5

(f) ~~[Land classified as nonproductive shall be assessed as follows on a per acre basis]~~ Nonproductive Land. The following counties shall assess property classified as Nonproductive Land based upon the per acre value listed in TABLE 13, Nonproductive Land:

TABLE 13  
Nonproductive Land

[----- Nonproductive Land]	
[----- ] All Counties	5

**KEY: taxation, personal property, property tax, appraisals**  
**Date of Enactment or Last Substantive Amendment: [June 8,] 2020**  
**Notice of Continuation: November 10, 2016**  
**Authorizing, and Implemented or Interpreted Law: Art. XIII, Sec 2; 9-2-201; 11-13-302; 41-1a-202; 41-1a-301; 59-1-210; 59-2-102; 59-2-103; 59-2-103.5; 59-2-104; 59-2-201; 59-2-210; 59-2-211; 59-2-301; 59-2-301.3; 59-2-302; 59-2-303; 59-2-303.1; 59-2-305; 59-2-306; 59-2-401; 59-2-402; 59-2-404; 59-2-405; 59-2-405.1; 59-2-406; 59-2-508; 59-2-514; 59-2-515; 59-2-701; 59-2-702; 59-2-703; 59-2-704; 59-2-704.5; 59-2-705; 59-2-801; 59-2-918 through 59-2-924; 59-2-1002; 59-2-1004; 59-2-1005; 59-2-1006; 59-2-1101; 59-2-1102; 59-2-1104; 59-2-1106; 59-2-1107 through 59-2-1109; 59-2-1113; 59-2-1115; 59-**

**2-1202; 59-2-1202(5); 59-2-1302; 59-2-1303; 59-2-1308.5; 59-2-1317; 59-2-1328; 59-2-1330; 59-2-1347; 59-2-1351; 59-2-1365; 59-2-1703**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R907-80	Filing No. 53088

**Agency Information**

<b>1. Department:</b>	Transportation	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	Administrative Suite, First floor	
<b>Building:</b>	Calvin Rampton	
<b>Street address:</b>	4501 S 2700 W	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 148455	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-8455	
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Linda Hull	801-965-4253	lhull@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	ledwards@agutah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R907-80. Disposition of Surplus Land
<b>3. Purpose of the new rule or reason for the change:</b>
The Department of Transportation (Department) proposes this rule change to update, clarify, and correct procedures included in this rule to conform to practices that work most efficiently for the Department. In the years since the Department promulgated this rule is has changed from a rule that allowed but required live and mail auctions only to authorizing online auctions. The Department has learned much from the transition and this proposed change eliminates some things that have not worked and added some things that the Department hopes will make this rule work better.
<b>4. Summary of the new rule or change:</b>
The proposed change eliminates redundant and unnecessary text, deletes a subsection that is no longer

necessary, adds a subsection that is needed to increase efficiency, and adds text to various subsections that is needed to protect the interests of the state and the Department. The proposed changes also make numerous technical, grammatical, and formatting changes.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

This proposed rule change will not lead to additional costs or savings to the state's budget because it only updates regulations the state is already responsible for enforcing.

**B) Local governments:**

This proposed rule change will not lead to additional costs or savings to local governments because it does not apply to them.

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

This proposed rule change will not lead to additional costs or savings to small businesses because it does not apply to them, generally.

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

This proposed rule change will not lead to additional costs or savings to non-small businesses because it does not apply to them, generally.

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

This proposed rule change will not lead to additional costs or savings to persons other than small businesses, non-small businesses, state, or local government entities because it does not apply to them.

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

This proposed rule change will not lead to compliance costs for persons affected by this proposed rule change that they do not already experience. This proposed change only updates existing requirements.

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

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023

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

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

<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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**H) Department head approval of regulatory impact analysis:**

Carlos M, Braceras, the Executive Director of the Department of Transportation, approves this regulatory impact analysis.

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

This proposed rule change will not have a fiscal impact on businesses, generally.

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

Carlos M, Braceras, Executive Director

**Citation Information**

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

Section 72-5-117	Section 72-5-111	Section 72-5-404
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**Public Notice Information**

**9. The public may submit written or oral comments to**

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

<b>A) Comments will be accepted until:</b>	11/16/2020
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<b>10. This rule change MAY become effective on:</b>	11/23/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Carlos M. Braceras, Executive Director	<b>Date:</b>	09/24/2020
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**R907. Transportation, Administration.**

**R907-80. Disposition of Surplus Land.**

**R907-80-1. Authority and Purpose.**

The Department of Transportation makes this rule pursuant to ~~Utah Code~~ Sections 72-5-111, 72-5-117, 72-5-404, 78B-6-520.3, and 78B-6-521, which authorize the ~~E~~ executive ~~D~~ director to prescribe the terms and conditions for the sale or exchange of surplus right of way, and to make rules to ensure that the value of the real property is consistent with the proposed price and other terms of the purchase, sale, or exchange. Property or property interests that involve federal requirements must be sold or exchanged in accordance with the requirements of 23 C.F.R. Section 710.409.

**R907-80-2. Definitions.**

~~[1-](1)~~ "Appraisal" means the same as it is defined in ~~Utah Code~~ ~~[5]~~ Subsection 61-2G-102(1)(a).

~~[2-](2)~~ "Bidder" means a person who offers to pay a certain amount of money in exchange for title to an interest in real or personal property the ~~D~~ department offers for sale.

~~[3-](3)~~ "Confirmable Delivery Method" means any method of delivering documents that provides a way to confirm they were delivered to the intended party or location.

~~[4-](4)~~ The "Department" means the Utah Department of Transportation.

~~[5-](5)~~ The "Director" means the Executive Director of the Utah Department of Transportation or the Executive Director's designee.

~~[6-](6)~~ "First right of refusal" means the same as "right of first refusal" and "right of first consideration."

~~[7-](7)~~ "Minimum acceptable selling price" means a price established by the ~~D~~ department based upon the market value of the property as established by an appraisal or other means; plus, costs associated with preparing the property for and executing the sale, such as

the costs of advertising, appraising, performing environmental assessments, and processing the transaction.

~~[8-](8)~~ As used in this rule, "surplus land," "surplus property," or "land" mean an estate in real property to which the ~~D~~ department is the owner and the ~~D~~ director has declared to be surplus.

~~[9-](9)~~ The "Transportation Commission" or "Commission" means the Utah Transportation Commission.

~~[10-](10)~~ A "Utah Public Entity" means a political subdivision of the ~~S~~ state, an agency of the state, a county, a municipality, or a special services district of the state, a county, or municipality.

**R907-80-3. Sales or Exchange Initiation Process.**

In determining the appropriateness of a parcel of surplus land for sale or exchange, the ~~D~~ department may consider nominations by interested parties. Such a nomination shall in no way obligate the department to the interested party making the nomination.

~~[R907-80-4. Sales Deposits.~~

~~Should the Department evaluate a parcel of surplus land for sale or exchange due to a nomination by an interested party, the interested party making such nomination may be required to deposit funds in an amount determined by the Department to be used to offset costs incurred in preparing the parcel for sale. In the event the interested party making the deposit is the successful buyer of such Land, the Department will subtract the deposit amount from the total of the purchase price and fees charged to the buyer for preparing the Land for sale. In the event the person making the deposit is not the successful buyer of such property or the property is not offered for sale, the Department will refund the deposit.]~~

**R907-80-~~[5]~~4. Methods of Sale.**

~~[1-](1)~~ The ~~D~~ department may sell ~~[E-]land~~ or other assets using one of the methods described below:

(a) ~~[A-]a~~ public sale mail and live auction pursuant to Section R907-80-7~~[7]~~;

(b) ~~[A-]a~~ negotiated sale pursuant to Section R907-80-10~~[7]~~;

(c) ~~[A-]a~~ negotiated exchange pursuant to Section R907-80-11~~[7]~~; or

(d) ~~[A-]a~~ public sale online, or web-based auction pursuant to Section R907-80-8.

~~[2-](2)~~ The ~~D~~ department will execute sales and exchanges pursuant to rule Section R933-1-4.

**R907-80-5. Notice to Local Jurisdiction Prior to Public Sale.**

Prior to publicly listing or advertising any land for sale by a public sale mail and live auction pursuant to Section R907-80-7 or a public sale online or web-based auction pursuant to Section R907-80-8, the department shall provide at least 30 days written notice of its intent to proceed with such a sale to the municipal or county entity with planning and zoning jurisdiction over the land to be sold. Such written notice may be by electronic mail or other written means, need only reference this rule and a general description of the land to be sold, and shall be sent to the chief executive of the jurisdiction. This notice requirement shall not apply to exchanges of real property.

**R907-80-6. Public Sale Notice and Advertising - Mail and Live Auctions.**

~~[1-](1)~~ The ~~D~~ department may notify the public about the sale of surplus property by commercially feasible methods, including publication of a notice in one or more newspapers of general circulation in the county in which the sale is proposed at least 15 days before the

deadline to submit bids pursuant to the requirements of Section R907-80-7.

~~2-~~(2) The notice and any associated advertising will include a general description of the parcel including township, range, and section, and any other information that may create interest in the sale. The [D]department must also identify the desired form of payment.

~~3-~~(3) The [D]department may advertise public sales using any other methods the [D]director has determined may increase the potential for additional competition at the sale.

#### **R907-80-7. Public Sale - Mail and Live Auctions.**

Public sale, mail and live auctions will be conducted as follows:

~~1-~~(1) The Comptroller's Office of the [D]department will accept sealed bids by any means of delivery until 5:00 P.M. the day prior to the auction.

~~2-~~(2) The officer conducting the auction will accept sealed bids by personal delivery on the day of the auction up until the beginning of the auction.

~~3-~~(3) A sealed bid must contain deposit funds in an amount determined and advertised by the [D]department, as required by Section R907-80-4 to purchase the subject property. The [D]department may require this deposit to consist of certified funds. Bids and bid deposits must be a specified dollar amount. The [D]department has the right to reject any bid however submitted.

~~4-~~(4) The [D]department may require buyers who have defaulted on certificates of sale in the past to make larger deposits or submit sealed bids in the form of certified funds even if such a requirement is not contained in the notice of sale.

~~5-~~(5) The officer conducting the auction will open ~~all~~ sealed bids after declaring that the auction has started. After determining which sealed bid is highest, the officer will allow ~~all~~ bidders willing to bid more than the highest sealed bid received to participate in live bidding. Live bids must be for more than the amount of the highest sealed bid, subject to those terms and conditions set forth in Subsection R907-80-7(6). Persons who submit sealed bids eligible to participate in the live bidding will also be allowed to participate by telephone, subject to the terms and conditions of Subsection R907-80-7(6).

~~6-~~(6) Bids less than the minimum acceptable selling price will be disqualified, and the bidder will not be eligible for live bidding even if such bids would otherwise meet those requirements in Subsections ~~R907-80-7~~(4) or (6).

~~7-~~(7) ~~All~~ Bids, whether sealed or live, constitute a valid offer to purchase. An attempt to withdraw a sealed bid after the first sealed bid has been opened, or an attempt to withdraw or amend an live bid may result in the forfeiture of the bid deposit and any other remedy afforded the [D]department at law or equity.

~~8-~~(8) At the conclusion of the auction and subject to the terms of Section R907-80-8, the successful bidder must sign a written offer agreement prepared by the [D]department that states the terms included in the public sale notice.

~~9-~~(9) If the successful bidder defaults on the offer agreement, or otherwise fails to meet the requirements of Section R907-80-12, and upon approval by the [D]director, the property may be offered for sale to the person whose bid was second highest at the auction provided that the terms of the sale meet or exceed the minimum acceptable selling price established for the subject property. The second highest bidder will have 30 days from the date of the [D]department's offer to submit the purchase price balance plus costs required by Subsection R907-80-10(5).

~~10-~~(10) Third parties owning authorized improvements on the parcel at the time of the sale will be allowed 90 days from the date of the sale to remove the improvements. This provision ~~is not~~

~~applicable~~ will not apply when such improvements are permitted under a valid existing right of record when such right survives the sale of the parcel, or the improvements are subject to a separate lease agreement.

#### **R907-80-8. Online or Web-based Public Sale Auctions.**

The [D]department may establish an online or web-based application to use in conducting public sale auctions. The [D]department may subscribe to or use a commercially available online or web-based service to use in conducting public sale auctions, or it may subscribe to or use an online or web-based service provided by a public entity for conducting public sale auctions. The ~~executive-~~director ~~or designee~~ must provide written approval to use the online or web-based application or service the [D]department uses for public sale auctions. For good cause, the director may disqualify a party from participating in the online auction to maintain the integrity of the bidding process. An example of good cause is when a party has previously participated in an auction and failed to perform its obligations as the winning bidder.

#### **R907-80-9. First Right of Refusal.**

(1) If the [D]department does not use any portion of a parcel of property it acquires from a private party for transportation purposes, the [D]department must allow the original grantor an opportunity to repurchase the property at the original purchase price to the grantor before the [D]department may sell the parcel of property to another buyer as required by ~~Utah Code-~~Section 72-5-111.

(a) The [D]department must send a written offer by certified mail to the original grantor at the original grantor's last known address, to sell the acquired property to the original grantor at the [D]department's acquisition price.

(b) The original grantor of the parcel of property may assign this first right of refusal to another person before the [D]department may sell the parcel of property to another buyer. The original grantor or the assignee must notify the department of an assignment of the first right of refusal by certified mail to the current office address of the executive director.

(c) The original grantor or the assignee must accept the [D]department's offer by certified mail within 90 days of the date the original grantor receives the [D]department's offer. If the [D]department does not receive an acceptance of it[']s offer within ~~the 90~~ ~~the~~ days, it is free to sell or exchange the parcel to someone other than the original buyer or assignee.

(d) The original grantor or the assignee may waive, in writing, the first right of refusal at any time.

(2) The [D]department must offer to sell property or an interest in property that it acquired by condemnation or threat of condemnation to the original grantor before it may sell to another buyer as required by ~~Utah Code-~~Sections 72-5-111 and 78B-6-521.

(a) The [D]department will offer the holder of this first right of refusal the opportunity to purchase the property or property interest for a price equal to the highest offer received at auction plus ~~all-~~costs associated with preparing and bringing to auction the property or property interest.

(b) The [D]department may, but is not required to contact the holder of this first right of refusal of its decision to sell at auction the property or property interest to provide the holder an opportunity to purchase the property or property interest for an amount equal to the appraised value plus ~~all-~~costs associated with preparing the property or property right for sale or waive the right by providing the [D]department a written waiver.

(c) Should the holder refuse to accept the [D]department's offer to sell or waive the right, the [D]department will contact the holder as soon as reasonably possible after the auction ends and offer the

property or property interest to the holder for a price equal to the highest offer received at auction plus ~~all~~ associated costs.

(d) The holder of the right will have 90 days to accept or assign the offer to another buyer. Assigning the right will not extend the 90 days allowed to accept the offer.

(e) If the holder of the right does not accept or assign the ~~D~~ department's offer within the 90 days, the ~~D~~ department is free to sell the property or property interest to the highest bidder.

(f) If the holder accepts the ~~D~~ department's offer, the holder must close the purchase in accordance with Section R907-80-14, and any other pending offer or contract on which the department's offer is based becomes void.

#### **R907-80-10. Negotiated Sales, Justifications, Procedures, and Public Notice.**

~~4~~(1) The ~~D~~ department may dispose of surplus land by negotiated sale when the ~~Executive Director or designee~~ director determines such a sale is in the public interest of the state and the department, as set forth in Subsection R907-80-10(1)(c). ~~erves the best interests of the State.~~ The ~~D~~ department may sell surplus land or other property by negotiated sale if:

(a) ~~F~~ the buyer is a Utah public entity, and the property is being transferred for a public use, said public use to be established through one of the following methods:

(i) by a written finding presented to the department by the public entity's chief executive that the property will be used for a road, other transportation or transit facility, including bicycle paths and sidewalks, a transportation reinvestment zone created pursuant to Section 11-13-227, a public building or grounds, or a public park; or

(ii) by resolution declaring the proposed use of the land qualifies as a valid public use, said resolution to be approved by a public vote by the public entity's governing body at an open meeting after notice to at least adjoining landowners who shall have the opportunity to comment on the proposed public use prior to the public vote;

(b) the buyer of the surplus land also owns adjoining land, but only if the department determines that competition for the purchase of the surplus land is not likely; ~~or~~

(c) the surplus land comprises an easement, and said easement is being released to the owner of the fee simple estate that is subject to the easement;

(d) the surplus land is being transferred to a public utility, as defined in Section 72-6-116, to provide utility services to the public; or

(e) the ~~executive~~ director, where any designee of the executive director of the department may only be a deputy director of the department ~~or designee~~ determines a negotiated sale is in the ~~best~~ public interest of the state and the ~~D~~ department after considering at least the following factors: (1) the needs of the department for proceeds from surplus sales; (2) the likelihood of competition to purchase the parcel if sold through public means; (3) any additional costs to the department associated with a sale by other means; (4) the price to be paid by the buyer; (5) whether there are any public benefits expected from a negotiated sale that could not be achieved by a public sale; and (6) any other factor the director determines is relevant to a public interest determination.

(f) Any negotiated sale carried out pursuant to this Rule must be for an established minimum acceptable selling price, unless the land is to be sold to a public entity for a road or park, in which case it may be sold for a lesser amount or at no cost if a clause is placed into the deed that specifies title will revert to the department if the property ceases to be used for the purpose stated in the deed.

~~2~~(2) The ~~D~~ department may list, or contract with an agent or broker to list for sale a property or property interest on a commercial

listing service if the ~~executive director or designee~~ director determines doing so is in the best interest of the state. The ~~D~~ department will utilize a standard procurement process to select an agent or broker.

~~3~~(3) In the event a party submits a competing offer or offers to purchase the property from the ~~D~~ department, the ~~D~~ department must evaluate the offer or offers and accept the offer that best serves the interests of the ~~S~~ state and the department after consideration of the factors identified in Subsection (1)(c). If the ~~D~~ department receives multiple offers, the ~~executive director or designee~~ director may determine that the best interests of the state and the department require ~~s~~ the ~~D~~ department to request best and final offers from ~~all~~ offerors. A written justification statement that articulates the reasoning used to determine the offer that best serves the interests of the ~~S~~ state and the department must be a part of ~~all~~ negotiated sales files.

~~3~~(4) The ~~D~~ department may require a buyer of surplus land purchased through a negotiated sale to reimburse the ~~D~~ department for costs incurred in preparing the parcel for sale. These costs may include ~~;~~ but are not limited to costs for advertising, appraisal, environmental assessments, and a sale processing charge.

#### **R907-80-11. Negotiated Exchanges.**

~~4~~(1) The ~~D~~ department may exchange real property for other real property with a Utah Public Entity, an individual, business, private enterprise, or not-for-profit organization.

~~2~~(2) ~~The Transportation Commission must approve~~ Exchanges may be made to acquire land the ~~D~~ department needs for highway use in compliance the approval requirements of ~~as required by Utah Code~~ Subsection 72-5-111(1)(c).

~~3~~(3) Real property exchange transactions are not subject to competitive solicitation procedures.

~~4~~(4) Exchanges of surplus real property must comply with state law. Exchanges of real property involving the ~~D~~ department and a Utah public entity must follow the requirements of the Interlocal Cooperation Act, ~~Utah Code~~ Sections 11-13-101 through 608.

~~5~~(5) The financial consideration received for any real property exchange to an individual, business, private enterprise, or not-for-profit organization must be equal to or higher than the current market value of the ~~D~~ department's real property, as determined by any reasonable means.

~~6~~(6) Real property received in an exchange must be free from ~~all~~ liens, encumbrances, and clouds on title unless the ~~D~~ director determines after review that accepting the property is in the best interests of the ~~S~~ state. The ~~D~~ director's justification for accepting property with a lien, encumbrance, or cloud on title must be in writing.

#### **R907-80-12. Contracts of Sale or Exchange.**

~~4~~(1) The ~~D~~ department will prepare and deliver a contract of sale to the buyer following a public auction sale or upon concurrence of the parties in a negotiated sale or an exchange. This contract must contain the legal description of ~~all~~ subject property or properties, and include:

(a) ~~F~~ information regarding the amount paid or the values of the properties exchanged;

(b) ~~F~~ the identities of buyer of the land or the entity or entities participating in the exchange with the ~~D~~ department;

(c) ~~Provisions for~~ remedies the ~~D~~ department may elect in the event of a default; and

(d) ~~A~~ any other terms, covenants, deed restrictions, or conditions ~~that~~ the ~~D~~ department considers appropriate.

~~2~~(2) Buyers or persons participating in a property exchange must execute contracts of sale or exchange and return them to the ~~D~~ department within 20 days from the date the ~~D~~ department delivers

the contract. If the [D]department does not receive the contract within the 20-day period, the [D]department will send notice by a confirmable delivery method to the buyer or exchanging party giving notice that after 10 days the transaction may be canceled with [all] monies received by the [D]department, including any deposit made, will be forfeited to the [D]department. Notification of this forfeiture provision must accompany the transmittal of the contract.

[3-](3) The [D]department reserves the right to cancel a sale or exchange of surplus land for any reason prior to execution of the contract by the [D]director.

[4-](4) The [D]department will issue a quit claim deed to the appropriate person upon payment in full or [all] amounts owed to the [D]department and surrender of the original contract of sale or exchange for any tract of land sold or exchanged.

**R907-80-13. Competition Protection.**

[1-](1) Collusion between bidders or between a bidder and an employee or agent of the [D]department to affect a public sale auction is prohibited. Anyone having reason to believe that a public sale auction conducted under this rule may have been affected by collusion between bidders or between one or more bidders and an employee or agent of the [D]department must report that information to the attorney general as soon as reasonably possible.

[2-](2) Should an adjudicative body determine that collusion intended to affect a public sale auction conducted under this rule has occurred, the resulting sale will be voidable by the [D]department.

**R907-80-14. Closings.**

[1-](1) [All-a] Auction sales, negotiated sales, or negotiated exchanges must go through this closing process.

[2-](2) Transactions must be closed within 60 days after the date of the contract unless good cause exists to delay the closing. Information intended to show that good cause that warrants delaying a closing exists must be provided in writing to the [D]director within 30 days after the date of the contract. The [D]director must determine if good cause to delay exists.

[3-](3) A minimum of 3% security deposit on a negotiated sale will be required to be held in escrow.

[4-](4) If closing does not complete within 60 days after the date of the contract, the deposit money becomes non-refundable if the [D]director decides good cause to delay does not exist.

[5-](5) If closing is not complete within the 60 days after the date of the contract and the [D]director determines that good cause to delay does not exist, the buyer still wishes to buy the property, and the [D]department agrees to allow the buyer more time to complete the purchase, the buyer must provide an additional 7% security deposit to the [D]department to be held in escrow and the parties will have an additional 30 days after the date of the contract to close.

[6-](6) If the buyer does not provide the additional 7% security deposit required by Subsection R907-80-13(5) within 5 business days after the date the [D]department agrees to allow the buyer more time to complete the purchase, the purchase contract is voidable by the department, and the [D]department may contact the next highest bidder who will then have an opportunity to purchase the property.

[7-](7) If closing is not complete within the additional [60]30 days allowed by Subsection R907-80-13(5), [all] deposit money becomes non-refundable, the contract becomes voidable by the department and the [D]department may provide the next highest bidder an opportunity to purchase the property.

[8-](8) The [executive director or designee]director has authority to extend time frames allowed to close a transaction if he or she determines that doing so serves the [best]public interest of the state.

[9-](9) The closing of a real property transaction may be conducted at a title company provided the buyer pays for [all]-related costs. If a title company is used for closing, the [D]department will instruct the company to record the deed, and after recording, send it to the Department of Transportation, Director of Right of Way.

[10-](10) Only the [Executive-][D]director [or designee-]is authorized to sign closing papers, real property contracts, or deeds.

**KEY: surplus land, negotiated exchanges, public sales auctions, negotiated sales**

**Date of Enactment or Last Substantive Amendment: [May-9, 2018]2020**

**Authorizing, and Implemented or Interpreted Law: 72-5-117; 72-5-111; 72-5-404**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R930-5-8	Filing No. 53084

**Agency Information**

<b>1. Department:</b>	Transportation	
<b>Agency:</b>	Preconstruction	
<b>Room no.:</b>	Administrative Suite, First floor	
<b>Building:</b>	Calvin Rampton	
<b>Street address:</b>	4501 S 2700 W	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 148455	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-8455	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Linda Hull	801-965-4253	lhull@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	ledwards@agutah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R930-5-8. Maintenance
<b>3. Purpose of the new rule or reason for the change:</b>
The Department of Transportation (Department) proposes this change to Section R930-5-8 to clarify the Department's intent when it originally promulgated this rule in 2008.

**4. Summary of the new rule or change:**  
 The change to Section R930-5-8 adds text to make it clear that Section R930-5-8 requires Railroads to maintain their railroad crossings through state owned right of way and to pay for maintenance of their railroad crossings through state owned right of way. The Department's original intent was that meaning of the phrase "responsibility for maintenance" includes the obligation to perform and pay for the maintenance of railroad crossings.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**  
 This proposed rule change will not lead to additional costs or savings to the state's budget because it only updates regulations the state is already responsible for enforcing.

**B) Local governments:**  
 This proposed rule change will not lead to additional costs or savings to local governments because it does not apply to them.

**C) Small businesses** ("small business" means a business employing 1-49 persons):  
 This proposed rule change will not lead to additional costs or savings to small businesses because it does not apply to them, generally.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):  
 This proposed rule change will not lead to additional costs or savings to non-small businesses because it does not apply to them, generally.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):  
 This proposed rule change will not lead to additional costs or savings to persons other than small businesses, non-small businesses, state, or local government entities because it does not apply to them.

**F) Compliance costs for affected persons:**  
 This proposed rule change will not lead to compliance costs for persons affected by this proposed rule change that they do not already experience. This proposed change only updates existing requirements.

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

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

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

**H) Department head approval of regulatory impact analysis:**  
 Carlos M. Braceras, PE, Executive Director of the Department of Transportation, approves this regulatory impact analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**  
 This proposed rule change will not have a fiscal impact on businesses, generally.

**B) Name and title of department head commenting on the fiscal impacts:**  
 Carlos M. Braceras, PE, Executive Director

**Citation Information**

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

Section 41-6a-1205	Section 54-4-14	Section 54-4-15
Section 72-1-201		

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	11/16/2020
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<b>10. This rule change MAY become effective on:</b>	11/23/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Carlos M. Braceras, PE, Executive Director	<b>Date:</b>	09/18/2020
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**R930. Transportation, Preconstruction.**

**R930-5. Establishment and Regulation of At-Grade Railroad Crossings.**

**R930-5-8. Maintenance.**

(1) Responsibility for maintenance is as described in this section unless a [separate] prior signed written agreement applies. Responsibility means the obligation to perform and pay for the maintenance.

(a) The Railroad is responsible for the maintenance of all Railroad Passive Warning Devices and Active Warning Devices within the Railroad right-of-way.

(b) If the Railroad has a property interest in the right-of-way, the Railroad is responsible for the maintenance of Crossing material within the Railroad right-of-way and two feet beyond each outside rail for Crossings without concrete crossing panels or edge of concrete crossing panel.

(c) On a temporary Highway Detour Crossing, the Railroad shall be responsible for the maintenance of pavement, Active Warning

Devices, and Passive Warning Devices within the Railroad right-of-way at expense of the Highway Authority.

(d) When the Railroad alters the railway due to track and ballast maintenance, the Railroad shall coordinate their work with the Highway Authority so the pavement approaches can be adjusted to provide a smooth and level Crossing surface.

(e) When the Highway Authority changes the Highway profile, through construction or maintenance activities, the Highway Authority shall coordinate their work with the Railroad so the tracks can be adjusted to provide as smooth and level a Crossing surface as possible.

(f) Where a Highway structure overpasses a Railroad, the Highway Authority is responsible for the maintenance of the entire structure and its approaches.

(g) Where a Highway underpasses a Railroad and the Railroad owns the right-of-way in fee title, the Highway Authority is responsible for the maintenance of the Highway and the entire structure below and including the deck plate, girders, handrail, and parapets. The Railroad is responsible for the maintenance of the ballast, ties, rails and any portion of the supporting structure above the top of the ballast deck plate between parapets.

(i) If the Highway Authority owns the right-of-way in fee title, the Railroad is responsible for the maintenance of the entire structure unless a [separate] prior signed written agreement applies.

(ii) Cost of repairing damages to a Highway or a Highway structure, occasioned by collision, equipment failure, or derailment of the Railroad's equipment shall be borne by the Railroad.

(h) Responsibility for maintenance of private industrial trackage not owned by a Railroad that crosses a Highway shall be as follows:

(i) When a facility, plant, or property owner receives goods and services from a Railroad over private industrial trackage that crosses a Highway, maintenance of the Crossing shall be the responsibility of the industry owning the trackage, or as agreed to by the parties.

(ii) When the Crossing becomes a safety hazard to vehicles and is not maintained, the Department ~~[and]~~ or the Railroad shipping the goods and services shall notify the industry owning the trackage in writing to maintain or replace the Crossing material.

(iii) If the industry owning the trackage does not maintain or replace the Crossing material by a specified date, the Department shall order the Railroad to cease and desist operations across the Crossing.

(iv) If the industry owning the trackage does not respond to the order to maintain or replace the Crossing material the Department shall arrange to have the Crossing material replaced and bill the industry owning the trackage for the expenses to repair the trackage.

**KEY: railroad, crossing, transportation, safety**

**Date of Enactment or Last Substantive Amendment: ~~[April 21, 2011]~~2020**

**Notice of Continuation: November 2, 2016**

**Authorizing, and Implemented or Interpreted Law: 41-6a-1205; 54-4-14; 54-4-15; 72-1-201**

**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 November 16, 2020.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through February 12, 2021, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

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

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R70-580	Filing No. 52663

**Agency Information**

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Regulatory Services	
<b>Street address:</b>	350 N Redwood Road	
<b>City, state, zip:</b>	Salt Lake City, UT 84115	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>		
R70-580. Kratom Product Registration and Labeling		
<b>3. Change in Proposed Rule:</b>		
Changes FILING Name, Publication date of prior filing:	R70-580. Kratom Product Registration and Labeling, First CPR Filing No. 52663, Published 06/15/2020	
<b>4. Reason for this change:</b>		
Additional changes are needed to the change in proposed rule (CPR) filling published on June 15, 2020, based on feedback from the Department's lab director and industry stakeholders. The changes clarify the testing requirements and allow for an additional product form to be sold.		
<b>5. Summary of this change:</b>		
The changes add clarification to testing requirements for the Certificate of Analysis in Section R70-580-5 with regard to microbials and heavy metals by adding specific reference values. The changes provide specificity to cannabis and benzodiazepine testing as well, however, those tests are moved from Section R70-580-5, along with fentanyl testing requirements, to the Inspection and		

Testing Section of the rule, Section R70-580-8. This change will allow for Department of Agriculture and Food (Department) random sampling and testing but not require it in each certificate of analysis. The ability to test for pesticides is added to Section R70-580-8 as well. The changes also add gummies as a potential approved kratom delivery form. (DAR NOTE: This is the second change in proposed rule (CPR) for Rule R70-580. The original proposed new rule upon which the first CPR was based was published in the May 1, 2020, issue of the Utah State Bulletin, on page 16. The first CPR upon which this second CPR is based was published in the June 15, 2020, issue of the Utah State Bulletin, on page 105. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike out indicates text that has been deleted. You must view the first CPR, the second CPR, and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**Fiscal Information**

<b>6. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The changes do not affect the cost to the state for the Department to administer the kratom program nor does it change the fees collected by the Department.
<b>B) Local government:</b>
The changes do not create any costs or savings for local governments because they do not regulate kratom or act as kratom processors.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The changes do not create new costs or savings to small businesses because the fees charged by the Department remain the same.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
The changes do not create new costs or savings to non-small businesses because the fees charged by the Department remains the same.
<b>E) Persons other than small businesses, non-small businesses, or state or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
The changes do not affect any other individuals because they do not act as kratom processors in the .

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

The changes do not affect compliance costs for affected persons because the fees charged by the Department have not changed.

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

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

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

The Commissioner of the Utah Department of Agriculture and Food, R. Logan Wilde, has reviewed and approves this fiscal analysis.

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

These rule changes will allow for improved administration of the kratom program but will not have any fiscal impact on business.

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

R. Logan Wilde, Commissioner

**Citation Information**

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

Section 4-15-107

**Public Notice Information**

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

**A) Comments will be accepted until:** 11/16/2020

**11. This rule change MAY become effective on:** 11/23/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 11, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	R. Logan Wilde, Commissioner	<b>Date:</b>	09/16/2020
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**R70. Agriculture and Food, Regulatory Services.**

**R70-580. Kratom Product Registration and Labeling.**

**R70-580-1. Authority and Purpose.**

Pursuant to Section 4-45-107, this rule establishes the requirements for labeling and registration of products made from and containing kratom.

**R70-580-2. Definitions.**

1) "Certificate of Analysis (COA)" means a certificate from a third-party laboratory describing the results of the laboratory's testing of a sample.

2) "End Consumer" means an individual who does not resell the purchased kratom product.

## NOTICES OF CHANGES IN PROPOSED RULES

3) "Food" means a raw, cooked, or processed edible substance, ice, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

4) "Label" means the display of all written, printed, or graphic matter upon the immediate container of a kratom product or a statement by the kratom processor directly related to and accompanying the kratom product bearing the label.

5) "Third-party Laboratory" means a laboratory that has no direct interest in a processor of kratom product that is capable of performing mandated testing utilizing validated methods.

6) "Approved Kratom Delivery Form" means a kratom product in raw leaf, capsule, tablet, powder, liquid tincture, tea bag, concentrated, or extract forms. Any form that is combustible or intended to be used for vaporization is not an approved kratom delivery form. Any form that is intended to be added to food is not an approved kratom delivery form.

7) "Kratom Type" means the specified strain of *Mitragyna speciosa*.

8) "Kratom Processor" means any kratom product manufacturer, distributor, or retailer who offers a kratom product for sale or resale to consumers in the state.

9) "Kratom Product" means a product manufactured or processed from kratom raw materials acquired by a kratom processor that is certified to be compliant with provisions of Title 4, Chapter 4, U.C.A., the Kratom Consumer Protection Act.

10) "Kratom Retailer" means a kratom processor who sells a kratom product to an end consumer.

### **R70-580-3. Product Registration.**

1) A kratom product distributed or available for distribution that is intended to be offered for sale to an end consumer in Utah, including on internet or social media platforms, shall be:

a) in an approved kratom delivery form; and

b) registered with the department annually by the kratom processor.

2) A product that contains the same kratom ingredients in the same kratom delivery form but a different container, package, or volume shall be included in a single registration.

3) Application for registration shall be made on a form provided by the department that includes the following information:

a) the name and address of the kratom processor and the name and address of the person whose name will appear on the label, if other than the kratom processor;

b) the name of the kratom product included in the registration;

c) the kratom type and recommended usage, including directions for use or serving size for the kratom product;

d) the approved kratom delivery form;

e) the weights or volumes, as appropriate, of the package of kratom product offered for sale for the recommended usage and for the entire package;

f) a complete copy of the label that will appear on the kratom product or the document that can be reached via scannable bar code, QR code or web address, pursuant to Subsection R70-580-6 (7);

g) a certificate of analysis for the kratom product from a third-party laboratory that shall obtain and keep the International Organization for Standardization (ISO) 17025:2017 accreditation;

h) a third-party laboratory may test kratom product prior to obtaining ISO 17025:2017 accreditation provided the third-party laboratory:

i) adopts and follows minimum good laboratory practices which satisfy the OECD Principles of Good Laboratory Practice and Compliance Monitoring published by the Organization for Economic Co-operation and Development; and

ii) becomes ISO 17025:2017 accredited within 18 months;

i) if a kratom processor uses an out-of-state laboratory they shall include a copy of the laboratory accreditation with the registration;

j) certification that:

i) the kratom manufacturer has not added any substance to the kratom product that is listed in Title 58, Chapter 37, U.C.A., the Utah Controlled Substances Act;

ii) the kratom manufacturer has not mixed or packed any nonkratom substance that affects the quality or strength of the kratom product to such a degree as to render the kratom product injurious to a consumer;

iii) the kratom product manufacturer has not added any synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compound of the kratom plant;

iv) the registrant assumes full responsibility and liability for the product; and

v) that the registered kratom product is compliant with current state and federal guidelines for food safety.

4) A non-refundable registration fee, as set forth in the fee schedule approved by the legislature, shall be paid to the department with the submission of a registration application.

5) A separate registration fee shall be required for each kratom product manufactured or processed from raw materials with the same specifications, same name, and same kratom delivery form.

6) The department may deny registration for an incomplete application.

7) The department shall deny or withdraw registration for a kratom product that:

a) violates Title 4, Chapter 4, U.C.A., the Kratom Consumer Protection Act;

b) is adulterated with foreign materials that would be injurious to a consumer;

c) makes a material change in the alkaloid content of the kratom product; or

d) if there is any reasonable basis to suspect that the kratom product is unsafe or that ingredients violate state law or rules.

8) A new registration application is required for the following:

a) a change in the kratom product ingredients or processes that materially alters the product;

b) a change to the recommended usage; and

c) a change of name for the product.

9) Other changes shall not require a new registration application but the registrant shall submit copies of all label changes to the department as soon as they are effective.

10) The kratom processor registering the kratom product is responsible for the accuracy and completeness of the information submitted.

11) A registration is renewable for up to a one-year period with an annual renewal fee per kratom product that shall be paid on or before June 30th of each year.

12) A kratom product that has been discontinued shall continue to be registered in Utah until the kratom product is no longer available for distribution.

13) A late fee shall be assessed for a renewal of a kratom product registration submitted after June 30th and shall be paid before the registration renewal is issued.

**R70-580-4. Establishment Registration.**

1) Pursuant to Subsection 4-45-104(5), a kratom processor shall register as a food establishment under Section 4-5-301.

2) A kratom processor may be registered in another state that meets or exceeds the requirements in Section 4-5-301, if they provide the department with a copy of the registration from the federal or state regulatory agency.

3) A kratom processor shall be subject to all statutes, rules, regulations, policies, and procedures for food establishments specific to the form of the kratom product offered for sale in Utah.

4) A kratom processor shall not have more than one DBA.

5) The application for registration shall include a certification that the kratom processor maintains a master manufacturing record (MMR) that documents:

a) batch-to-batch uniformity;

b) that each batch conforms to kratom raw material specifications;

c) that each batch record shows that each step of the MMR was performed;

d) that the product processes, controls, and tests ensure reliable, reproducible results; and

e) that the finished kratom product meets each specification before the product is released for distribution.[-]

5) MMR testing shall be performed on finished kratom product as identified by lot or batch number.

6) Each MMR shall also include the following information:[-]

a) the lot or batch identification number of the tested product;

b) the date received;

c) the date of testing completion;

d) the method of analysis for each test conducted;

e) a photo of the kratom product that was tested;

f) the name and address of the kratom processor that manufactured the product; and

g) the name and address where the MMR records are maintained and available for inspection by the department.

**R70-580-5. Certificate of Analysis.**

1) At a minimum, the certificate of analysis for each batch of kratom product shall include the following test results:

a) the contents of mitragynine and 7-hydroxymitragynine in the kratom product certifying compliance with ~~[Section R70-580-5]~~ this Rule and Subsection 4-45-104(1);

b) at a minimum, test results that indicate:

i) [that the kratom product tests as absent, negative, undetected, non-detected, or <1.0 cfu/g for pathogens Salmonella and E. Coli] that the level of pathogens in the kratom product do not exceed the amounts listed in Table 1 when a one gram or greater sample is tested;

TABLE 1

Microbial Analytes and Action Levels  
Microbial Limit Requirement

Total Aerobic Microbial Count	NMT ≤100,000 cfu/g
Total Combined Yeast and Mold	NMT ≤1,000 cfu/g
Total Bile-tolerant Gram-negative Bacteria	NMT <1,000 cfu/g
Absence of Salmonella spp. and E. coli	in 10g

ii) that the levels of heavy metals in the kratom product do not exceed the amounts listed in Table 2 ~~[that the kratom product tests as absent, negative, undetected, non-detected, or <1.0 ppm for heavy metals Lead and Arsenic;~~

~~iii) that the kratom product tests as absent, negative, undetected, non-detected or <0.41 ppm for heavy metal Cadmium; and~~

~~iv) that the kratom product tests as absent, negative, undetected, non-detected, or <0.3 ppm for heavy metal Mercury];~~

TABLE 2

Heavy Metals

Metals	Natural Health Products Acceptable limits in parts per million
Arsenic	<2
Cadmium	<0.82
Lead	<1.2
Mercury	<0.4

~~[c) testing that indicates that the kratom product does not contain cannabis, spice, cocaine, alcohol, fentanyl, caffeine, or benzodiazepines.]~~

2) Testing shall be performed on finished kratom product as identified by lot or batch number.

3) The certificate of analysis shall also include the following information:

a) the lot or batch identification number of the tested product;

b) the date received;

c) the date of testing completion;

d) the method of analysis for each test conducted;

e) a photo of the kratom product that was tested;

f) the name and address of the kratom processor that manufactured the product; and

g) the name and address of the laboratory that completed the testing.

4) The lot or batch number on the certificate of analysis shall match the lot or batch number on the kratom product and shall be conspicuously placed on the container or label of the kratom product.

5) Upon receipt of an adverse or non-compliant test result, the kratom processor shall be required to produce a new certificate of analysis from an independent third-party laboratory on the reported product to affirm compliance.

6) Failure to submit a new certificate of analysis shall be cause for withdrawal or denial of a product registration.

7) Mycotoxin testing of a kratom product may be required if the department has reason to believe that mycotoxins may be present.

NOTICES OF CHANGES IN PROPOSED RULES

**R70-580-6. Label Requirements.**

1) A kratom product shall be labeled pursuant to 21 CFR 101.1, 21 CFR 101.2, 21 CFR 101.3, 21 CFR 101.4, 21 CFR 101.5, 21 CFR 101.7, 21 CFR 101.9(j)(13), 21 CFR 101.9(j)(17), 21 CFR 101.15, and 21 CFR 101.36.

2) The label shall contain the factual basis upon which the kratom processor represents the product as a kratom product.

3) The label shall identify kratom product by batch or lot number for each container that shall match the batch and lot number on the certificate of analysis.

4) A kratom product shall not contain claims that the product is intended to diagnose, treat, cure, or prevent any medical condition or disease on the label.

5) Each kratom product label ~~if the product is intended to be sold as a dietary supplement,~~ shall include the following text pursuant to 21 CFR 101.93 (c), prominently displayed:

This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.

6) A kratom product shall meet the standards in 21 U.S.C. 9, the Food Drug and Cosmetic Act, other applicable federal laws and regulations, and all applicable state laws and regulations relating to the labeling of food and cosmetics.

7) If there is not sufficient room on the kratom product label, the kratom product shall display on the label a scannable bar code, QR code, or web address linked to a document containing the information required in Sections (1) through (6).

8) No other information, illustration, or depiction shall appear on the label.

**R70-580-7. Product Appearance and Flavor.**

1) A kratom processor may not produce a kratom product that is designed to mimic a candy product.

2) A kratom processor may not produce a product that includes a candy-like flavor or another flavor the facility knows or should know appeals to children.

3) A kratom processor may not shape a kratom product in any way that appeals to children.

4) A kratom product shall be packaged in child-resistant packaging, pursuant to 16 CFR 1700.

**R70-580-8. Inspection and Testing.**

1) The department shall conduct randomized inspection of the kratom product distributed or available for distribution in the state for compliance with this rule.

2) The department shall periodically sample, analyze, and test a kratom product distributed within Utah for compliance with registration and labeling requirements and the certificate of analysis.

a) Each department sample shall include at least ten grams of kratom product.

b) The department may test kratom product for any substance listed in Subsection R70-580-5(1) as well as for any of the following, at the discretion of the department:

i) any pesticide;

ii) any fentanyl derivative;

iii) any of the following cannabinoids with an action level of 0.01% (w/w):

A) delta-9-THC;

B) delta-8-THC;

C) THCA;

D) CBD;

E) CBDA;

F) CBG;

G) CBGA; or

H) any other cannabinoid tested for by the laboratory with an action level of 0.01% (w/w);

iv) cocaine; or

v) any of the following Benzodiazepines:

A) diazepam;

B) alprazolam;

C) triazolam;

D) lorazepam; or

E) clonazepam.

c) Kratom product that is found to contain a prohibited substance shall be considered adulterated in violation of this rule.

3) The department may conduct inspection of any kratom product distributed or available for distribution if there is any reasonable basis to suspect that the kratom product is unsafe or that ingredients violate state law or rules.

4) The test results from the department inspection samples shall be the official sample results.

5) Upon request, a kratom processor shall provide documentation certifying that any batch of kratom raw materials acquired pursuant to a compliant specification purchase that is used to process or manufacture a kratom product is compliant with Section R70-580-5.

**R70-580-9. Retailer Responsibilities.**

1) A retailer shall:

a) ensure that kratom product is labeled correctly; and

b) ensure that kratom product offered for sale is properly registered with the department.

2) A retailer shall provide the identity of the processor of a kratom product sold by the retailer upon request of the department.

3) A retailer shall register a kratom product in lieu of the kratom processor if the product is not registered.

**R70-580-10. Violation.**

1) Each improperly labeled kratom product shall be a separate violation of this rule.

2) A kratom product shall be considered misbranded if it does not meet the labeling requirements of this rule.

3) A kratom product shall be considered adulterated if it is found to contain pathogenic microorganisms, mold, or fungus.[-]

4) It is a violation to distribute or market a kratom product that is not registered with the department.

5) Each unit manufactured or processed from a batch of raw material or on a single retail invoice shall be considered a separate violation of this rule for an unregistered product marketed for sale.

6) It is a violation:

a) to prepare, distribute, sell, or offer for sale a kratom product that violates Subsection 4-45-104 (1);

b) to prepare, distribute, sell, or offer for sale a kratom product that is not in an approved kratom delivery form, including adding or processing kratom into another form of food;

c) to prepare, distribute, sell, or offer for sale a kratom product that would be potentially harmful to consumers;

d) for a kratom processor to fail to register as a food establishment pursuant to Section 4-5-301 or Subsection R70-580-4(2);

e) for a kratom processor to distribute, sell, or offer for sale a kratom product to an individual under 18 years of age; and

f) for a kratom processor to improperly sample, test, falsify a certificate of analysis, or knowingly submits a falsified certificate of analysis for a kratom product.

**R70-580-11. Penalties.**

Any violation of or failure to comply with any provision of this rule or any specific requirements, may be grounds for issuance of citations, fines, recall of kratom product, revocation of registration, or denial of future registration pursuant to Section 4-2-303 and 4-2-304.

**KEY:** kratom, kratom product registration, kratom processor  
**Date of Enactment or Last Substantive Amendment:** 2020  
**Authorizing, and Implemented or Interpreted Law:** 4-45-107

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R539-5	Filing No. 53010

**Agency Information**

<b>1. Department:</b>	Human Services	
<b>Agency:</b>	Services for People with Disabilities	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84116	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kelly Thomson	435-669-4855	kthomson@utah.gov
Jonah Shaw		jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>		
R539-5. Self-Administered Services		
<b>3. Change in Proposed Rule:</b>		
Changes Name, Publication date of prior filing:	FILING	R539-5. Self-Administered Services, Published 09/01/2020
<b>4. Reason for this change:</b>		
Incorporation by reference error. The wrong code of conduct is incorporated.		

<b>5. Summary of this change:</b>
The Department of Human Services Code of Ethics, referenced in Subsection R539-5-5(3)(e), will change to the Department of Human Services Provider Code of Conduct. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the September 1, 2020, issue of the Utah State Bulletin, on page 59. 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.)

**Fiscal Information**

<b>6. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This amendment does not have anticipated costs or savings associated with it. The document change does not impact Self-Administered Services spending.
<b>B) Local government:</b>
There is no anticipated impact. Local governments do not contribute funds to state provided waiver services.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
There is no anticipated impact. Small businesses do not contribute funds to state provided waiver services.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
There is no anticipated impact. Non-small businesses do not contribute funds to state provided waiver services.
<b>E) Persons other than small businesses, non-small businesses, or state or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>
Persons other than small businesses, non-small businesses, state, or local government entities will not see a cost or savings. Self-Administered Services budgets are funded by state and federal money.
<b>F) Compliance costs for affected persons:</b>
This amendment will not result in compliance costs for affected parties. The management of Self-Administered Services budgets will not change.

NOTICES OF CHANGES IN PROPOSED RULES

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

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

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

The Executive Director of the Department of Human Services, Ann Williamson, has reviewed and approved this fiscal analysis.

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

The Department does not anticipate any fiscal impacts on businesses as a result of amending this rule.

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

Ann Williamson, Executive Director

**Citation Information**

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

Section 62A-5-102	Section 62A-5-103	
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**Incorporations by Reference Information**

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

	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	Department of Human Services Policy and Procedures, Provider Code of Conduct 05-03
<b>Publisher</b>	Department of Human Services
<b>Date Issued</b>	June 15, 2020

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	11/16/2020
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<b>11. This rule change MAY become effective on:</b>	11/23/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 11, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mark Brasher, Deputy Director	<b>Date:</b>	09/17/2020
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**R539. Human Services, Services for People with Disabilities.****R539-5. Self-Administered Services.****R539-5-1. Purpose.**

(1) The purpose of this rule is to establish a procedure and a standard for a person and their family receiving self-administered services.

**R539-5-2. Authority.**

(1) This rule establishes a procedure and a standard for self-administered services as required by Subsection 62A-5-103(8).

**R539-5-3. Definitions.**

(1) Terms used in this rule are defined in Sections 62A-5-101 and R539-1-2.

(2) "Direct Services" means any service delivered by an employee in the physical presence of the person.

(3) "Employee" means any individual hired to provide services to a person receiving self-administered services.

(4) "Fiscal Agent" means an individual or entity contracted by the division to perform fiscal, legal, and management duties.

(5) "Grant" means a budget allocated by the division to the person through which self-administered services are purchased.

(6) "Grant Agreement" means a written agreement between the person and the division that outlines each requirement the person must follow while receiving self-administered services.

(7) "Self-Administered Services" means a structure for a person or representative to administer a service paid by the division. This program allows the person to hire, train, and supervise an employee who will provide a direct service from a service selection as outlined in the 1915c Medicaid home and community-based services waiver that the person is enrolled in. After the person is allocated a budget, a grant is issued for the purpose of purchasing a specific service. Grant funds are only disbursed to pay for a service rendered. Each payment is made through a contracted fiscal agent directly to the employee who provided the service.

**R539-5-4. Participant Requirements.**

(1) A person receiving self-administered services must adhere to the terms of their grant agreement.

(2) The division may require the person to use a contracted provider if the person fails to meet a requirement described in rule or the grant agreement.

(3) The person shall ensure that each employee completes each requirement outlined in Section R539-5-5.

(4) The person shall provide the fiscal agent with documentation for each employee hired to provide a service:

- (a) original form W-4;
- (b) original form I-9;
- (c) original background screening application;
- (d) copy of the signed employment agreement; and
- (e) each original signed timesheet in order to verify that the time worked is true and accurate.

(5) The person or representative shall complete a monthly summary of service for each month that a service is rendered.

(a) The person must submit the monthly summary to the support coordinator by the 15th of the month following the month of services.

(b) If the person fails to provide a monthly summary to the support coordinator for a three month period, then the fourth month's payment shall be withheld until each monthly summary is submitted.

(c) If the person submits each required monthly summary during the fourth month then payment will be reinstated.

(d) If a monthly summary is not provided for the fifth month, then at the sixth month, the division will require the person to use a contracted provider and not participate in self-administered services.

(6) The division may require the person to use generally available technical assistance including:

- (a) a behaviorist;
- (b) an accountant; or
- (c) a division supervisor.

(7) The person or representative shall notify the support coordinator if any of the following occurs:

- (a) the person moves to another residence;
- (b) the person is admitted to a hospital or a nursing facility;

or

- (c) the death of the person.

**R539-5-5. Employee Requirements.**

(1) An employee hired by the person must be 16 years of age or older.

(a) An employee younger than age 18 must have the employee agreement co-signed by their parent or guardian.

(2) Except as provided in Subsection (2)(a) and (2)(b), a parent, guardian, step-parent, or spouse shall not be paid to provide a service to the person.

(a) In a non-Medicaid funded program the following apply.

(i) A spouse approved by the division before May 17, 2005, to provide paid support for a person in a non-Medicaid funded program may continue to be reimbursed.

(ii) Payment to an approved spouse shall not exceed \$15,000 in a fiscal year.

(iii) The exception terminates at the time of divorce or the death of one spouse.

(b) During a state of emergency declared by the state or federal government the following apply.

(i) A parent, step-parent, guardian, or spouse may be paid to provide services to a person when necessary to maintain access to support and no other provider is available.

(A) An approved Appendix K must authorize payment to a legally responsible caregiver and guardian.

(B) Additional state and federal funding must be available.

(ii) Any service provided must conform to the person's service plan.

(iii) A parent, step-parent, guardian, or spouse must obtain approval from the support coordinator before providing a service.

(3) An employee must complete each employment requirement in order to get authorization to work with the person and to receive payment from the fiscal agent.

(a) Complete and sign a form W-4.

(b) Complete and sign a form I-9.;

(c) Complete a background check.

(d) Complete and sign the employee agreement.

(e) Read and sign the Department of Human Services Policy and Procedure, Provider Code of Conduct, 05-03 (June 2010)~~Code of~~

## NOTICES OF CHANGES IN PROPOSED RULES

~~Ethics, 02-03 (January 2013)]~~ and the Division of Services for People with Disabilities Directive, Code of Conduct, 1.20 (January 2000), both incorporated by reference.

(f) Review the approved and prohibited behavior support as described in Section R539-3-10. Behavior support shall not violate Sections R495-876, R512-202, 62A-3-301 through 62A-3-321, and 62A-4a-402 through 62A-4-412.

(g) Review the person's support book.

(h) Review any other best practice material recommended by the division.

(i) Complete any screening and training necessary to provide for the health and safety of the person.

(j) Complete training on the person's behavior support plan.

(k) Complete and sign the application for certification form.

### **R539-5-6. Incident Reports.**

(1) The person or representative shall notify their support coordinator by phone, email, or fax within 24 hours of any reportable incident that occurs while the person is in the care of an employee.

(2) The support coordinator shall notify the division by phone, email, or fax within 24 hours of any reportable incident that occurs while the person is in the care of an employee.

(3) Within five business days of an incident, the support coordinator shall complete a Form 1-8 Incident Report and file it with the division.

(4) Reportable incidents include:

(a) actual or suspected incident of abuse, neglect, exploitation, or maltreatment as described in the Division of Services for People with Disabilities Directive 1.20 incorporated by reference in Subsection R539-5-5(3)(e), Sections 62A-3-301 through 62A-3-321 for adults, and Sections 62A-4a-401 through 62A-4a-412 for children;

(b) drug or alcohol abuse;

(c) medication overdose or error that requires medical intervention;

(d) missing person;

(e) evidence of seizure in a person with no seizure diagnosis;

(f) property destruction totaling \$500 or more in damage;

(g) physical injury that requires medical intervention;

(h) law enforcement involvement;

(i) use of mechanical restraint, time-out room, or highly noxious stimuli that is not outlined in the behavior support plan as defined in Section R539-4; and

(j) any other instance that the person or representative determine should be reported.

### **R539-5-7. Service Delivery Methods.**

(1) A person authorized to receive self-administered services may also use the provider agency service delivery method in order to obtain a service that best meets the person's needs.

### **R539-5-8. Limitation.**

(1) The direct service portion of a self-administered services budget shall not exceed \$63,400 in a fiscal year.

(a) Fiscal management service is not a direct service.

(2) If a person's self-administered direct service budget exceeds \$63,400 in a fiscal year, the service delivery method must change to either:

(a) the provider agency service delivery method; or

(b) a combination of the self-administered services method and provider agency method.

(3) The division director may waive the person's self-administered services budget limitation, if use of the provider agency method is not possible.

### **KEY: disabilities, self administered services**

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

**Notice of Continuation: July 15, 2019**

**Authorizing, and Implemented or Interpreted Law: 62A-5-102; 62A-5-103**

## **End of the Notices of Changes in Proposed Rules Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text (~~example~~). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R414-60-4	Filing No. 53087

### Agency Information

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

### General Information

<b>2. Rule or section catchline:</b>
R414-60-4. Program Coverage

<b>3. Effective Date:</b>
09/23/2020
<b>4. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to allow Medicaid members easier access to medications during the Coronavirus (COVID-19) Pandemic.
<b>5. Summary of the new rule or change:</b>
This amendment waives the proof of delivery requirement for pharmacies that distribute Non-CII medications, to allow Medicaid members easier access to prescriptions during the COVID-19 Pandemic. The amendment, however, also maintains the proof of delivery requirement for Controlled Schedule 2 (CII) medications, and further clarifies documentation requirements for pharmacies. (EDITOR'S NOTE: A corresponding proposed amendment is under Filing No. 53090 in this issue, October 15, 2020, of the Bulletin.)
<b>6. Regular rulemaking would:</b>
<input checked="" type="checkbox"/> cause an imminent peril to the public health, safety, or welfare;
<input type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or
<input type="checkbox"/> place the agency in violation of federal or state law.

<b>Specific reason and justification:</b>
This emergency amendment is necessary to provide Medicaid members easier access to medications during the COVID-19 Pandemic.

**Fiscal Information**

<b>7. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated impact to the state budget as there are no additional costs associated with the temporary flexibility surrounding proof of delivery of Non-CII medications.
<b>B) Local governments:</b>
There is no impact to local governments as there are no additional costs associated with the temporary flexibility surrounding proof of delivery of Non-CII medications.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
There is no anticipated impact to small businesses as there are no additional costs associated with the temporary flexibility surrounding proof of delivery of Non-CII medications.
<b>D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>
There is no anticipated impact to pharmacies and other service providers, as there are no additional costs associated with the temporary flexibility surrounding proof of delivery of Non-CII medications.
<b>8. Compliance costs for affected persons:</b>
There is no anticipated impact to a single pharmacy or other service providers, as there are no additional costs associated with the temporary flexibility surrounding proof of delivery of Non-CII medications.
<b>9. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>
Businesses will neither see cost nor revenue through waiver of the proof of delivery requirement.
<b>B) Name and title of department head commenting on the fiscal impacts:</b>
Richard G. Saunders, Interim Executive Director

**Citation Information**

<b>10. This rule change is authorized or mandated by state law, and implements or interprets the following</b>
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<b>state and federal laws. State code or constitution citations (required):</b>		
Section 26-1-5	Section 26-18-3	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Richard G. Saunders, Interim Executive Director	<b>Date:</b>	09/23/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-60. Medicaid Policy for Pharmacy Program.**

**R414-60-4. Program Coverage.**

(1) Covered outpatient drugs eligible for Federal Medical Assistance Percentages funds are included in the pharmacy benefit; however, covered outpatient drugs may be subject to limitations and restrictions.

(2) In accordance with Subsection 58-17b-606(4), when a multi-source A-rated legend drug is available in the generic form, Medicaid will only reimburse for the generic form of the drug unless:

(a) reimbursing for the non-generic brand-name legend drug will result in a financial benefit to the State; or

(b) the treating physician demonstrates a medical necessity for dispensing the non-generic, brand-name legend drug.

(3) Prescriptions that are not executed electronically must be written on tamper-resistant prescription forms. Tamper-resistant prescription forms must include all of the following:

(a) One or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form;

(b) One or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription by the prescriber; and

(c) One or more industry-recognized features designed to prevent the use of counterfeit prescription forms.

(d) Documentation by the pharmacy of verbal confirmation of a prescription not written on a tamper resistant prescription form by the prescriber or the prescriber's agent satisfies the tamper-resistant requirement. Documentation of the verbal confirmation must include the date, time, and name of the individual who verified the validity of the prescription.

~~(e) [Pharmacies must maintain documentation of receipt of a prescription by a Medicaid client or the client's authorized representative. The documentation must clearly identify the covered outpatient drug received by the client, the date the covered outpatient drug was received, and who received the covered outpatient drug.]~~  
A pharmacy must maintain documentation that a Medicaid member or authorized representative has received a prescription for a covered outpatient drug. The documentation must clearly identify the covered outpatient drug and the date it was received.

(i) The Division of Medicaid and Health Financing (DMHF) shall waive the proof of delivery requirement during the Coronavirus (COVID-19) emergency period for Non-Controlled Schedule 2 (Non-CII) prescriptions.

(ii) In accordance with Subsection R414-60-4(3)(e), the proof of delivery requirement remains for Controlled Schedule 2 (CII) medications that includes a signature or other documentation. The pharmacy shall document member receipt as stated in Subsection R414-60-4(3)(e).

(f) Claims for covered outpatient drugs not dispensed to a Medicaid client or the client's authorized representative within 14 days must be reversed and any payment from Medicaid must be returned.

**KEY: Medicaid**

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

**Notice of Continuation: April 28, 2017**

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

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R671-302	Filing No. 53089

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	300	
<b>Street address:</b>	448 E Winchester St	
<b>City, state, zip:</b>	Murray, UT 84107	
<b>Mailing address:</b>	448 E Winchester St, #300	
<b>City, state, zip:</b>	Murry, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Brett Varoz	801-261-6464	bopinfo@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R671-302. News Media and Public Access to Hearings
<b>3. Effective Date:</b>
09/25/2020
<b>4. Purpose of the new rule or reason for the change:</b>
The Board of Pardons (Board) hearings are open to the public. However, due to the current health emergency, public access to Board hearings will be provided primarily through live streaming on the internet.
<b>5. Summary of the new rule or change:</b>
The Board may suspend in-person access to hearings in a declared emergency or under extraordinary circumstances. Public access will be maintained through live streaming of hearings.
<b>6. Regular rulemaking would:</b>

X	cause an imminent peril to the public health, safety, or welfare;
	cause an imminent budget reduction because of budget restraints or federal requirements; or
X	place the agency in violation of federal or state law.
<b>Specific reason and justification:</b>	
Current health and safety requirements limit or preclude in-person attendance at the facilities where hearings are conducted. Authorizing the Board to live stream hearings will allow the Board to meet its statutory obligation to provide public access while preserving the health and safety of people in prison and members of the public.	

**Fiscal Information**

<b>7. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
No costs or savings are anticipated as a result of this emergency rule. The Board can perform the live internet stream access to hearings without additional funding at this time.
<b>B) Local governments:</b>
No costs are imposed on local governments for pardon or parole hearings.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
Small businesses are not directly involved in pardon or parole proceedings and will not be affected.
<b>D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>
In spite of restrictions on in-person access to prison facilities, Board hearings must still be accessible to victims, family, news media, and other interested observers. Live streaming increases the public's access to Board hearings and preserves public health.
<b>8. Compliance costs for affected persons:</b>
No costs for live streaming are imposed on people who are incarcerated, victims, or public observers.
<b>9. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>
This emergency rule provides expanded access to Board hearings without fiscally impacting businesses and is necessary during this public health emergency when in-person access may be limited.

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

Carrie Cochran, Board Chair

**Citation Information**

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

Subsection 63G-3-201(3)	Section 77-27-1 et seq.	Subsection 77-27-9(4)
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**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Carrie Cochran, Chair	<b>Date:</b>	09/24/2020
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**R671. Pardons (Board of), Administration.**

**R671-302. ~~News Media and~~ Public Access to Hearings.**

**R671-302-1. Open Hearings.**

(a) According to state law, and subject to fairness, health, and security requirements, Board hearings ~~shall be~~ are open ~~to the~~ public ~~including representatives of the news media~~ hearings.

(b) Public access to Board hearings is primarily available through live internet streaming of hearings due to the current public health emergency.

(c) When health, safety, and security procedures and protocols of the Board and the Utah Department of Corrections (UDC) allow, victims and members of the public may attend Board hearings in person.

(d) ~~However, t~~The Board shall only accept testimony or comments from the offender and specific individuals as provided in R671-203 and R671-308.

(e) The Board may suspend in-person public access to hearings in cases of national, state, county, or municipal declared emergency; natural catastrophe; or other unforeseen and extraordinary circumstances.

**R671-302-2. Limited Seating.**

When a Board hearing is available for in-person attendance pursuant to Section R671-302-1, if the number of people wishing to attend a hearing exceeds the seating capacity of the room in which the hearing will be conducted, priority for admission and seating shall be given to:

1. Individuals involved in the hearing
2. Victim(s) of record.
3. Up to five people selected by the victim(s) of record.
4. Up to five people selected by the offender.
5. Officials designated or approved by the Board.
6. Up to five members of the news media as allocated by the Board or its designee.
7. Members of the public and media on a first come basis.

**R671-302-3. Security and Conduct.**

(a) All persons attending a Board hearing~~attendees~~ are subject to prison security requirements and must conduct themselves in a manner which does not interfere with the orderly conduct of the hearing.

(b) Any individual causing a disturbance or engaging in behavior deemed by the ~~Board~~ hearing official to be disruptive of the proceeding may be ordered to leave and security personnel may be requested to escort the individual from the premises.

(c) When conditions allow in-person attendance at hearings, ~~A~~ all persons granted admission to a hearing must have ~~a~~ picture identification and subject themselves to the security regulations of the custodial facility.

**R671-302-4. Executive Session.**

Board executive sessions are closed sessions with no access. No filming, recording or transmitting of executive session portions of any hearing will be allowed.

**R671-302-5. News Media ~~Equipment~~ Procedures.**

When a Board hearing is available for in-person attendance pursuant to Section R671-302-1:

(a) ~~Subject to prior approval by the Board or its designee,~~ News agency representatives ~~will~~ may be permitted to operate photographic, recording or transmitting equipment during the public portion[s] of any hearing, subject to prior approval by the Board or its designee and the safety or security requirements of UDC.

(b) ~~When~~ If more than one news agency requests permission to use photographic, recording or transmitting equipment, the Board may require a pooling arrangement~~may be required~~.

~~(b)(c)~~ ~~If~~ When it is determined by the Board or its designee, a hearing official determines that any such equipment or operators of that equipment are causing a disturbance, are interfering with, or have the potential to cause a disturbance or interfere with an orderly, fair and impartial hearing, restrictions may be imposed to eliminate those problems.

~~(e)~~ ~~(d)~~ Any instant uploading of images recorded at the site of a hearing, or while a hearing is in progress, must be approved by the Board or its designee in advance of the hearing.

(e) Photographing, recording and/or transmitting the image of a victim testifying before the Board is prohibited unless approved by the victim and the ~~individual presiding over the~~ hearing official prior to the hearing.

**R671-302-6. Prior Approval.**

News media representatives wishing to use photographic, recording or transmitting equipment or to be considered for one of the five reserved media seat[s] shall submit a request in writing to the Board or its designee. Such requests must be submitted in compliance with the policy and procedures of the Department of Corrections. If requesting the use of equipment, the request must specify by type, all the pieces of equipment to be used.

**R671-302-7. Approving Equipment.**

(a) Requests to use photographic, recording or transmitting equipment, must be made at least forty-eight (48) hours prior to a regularly scheduled hearing and ninety-six (96) hours prior to a Commutation Hearing.

(b) It is the responsibility of the news agency, or their representative, making the request to contact and confer with the Board's designee in order to work out logistical, access and all other details of such use.

(c) If the Board's designee is unfamiliar with the equipment proposed to be used, he or she may require that a demonstration be performed to determine if it is likely to ~~be~~ intrude, disturb or inhibit the orderly, fair and impartial hearing in any way. Any equipment

causing a disturbance or distraction will be removed from the premises.

(d) Digital cameras and recording equipment are approved equipment.

(e) If equipment is approved for use at a hearing, its location and mode of operation shall be approved in advance by the ~~Board's designee~~ hearing official. Any approved equipment will remain in a stationary position during the entire hearing and will be operated as unobtrusively as possible.

(f) No artificial lighting may be used during a hearing, or in the hearing room, in conjunction with the use of any photographic, recording or transmitting equipment.

(g) If there are multiple requests for the same type of equipment, news agencies will be required to make pool arrangements, as no more than one piece of the same type of equipment will be allowed. If no agreement can be reached regarding pooling arrangements, the Board, or its designee, will make the determination and assignment. Any news agency or representative so designated and assigned as the pool representative shall promptly provide all photographs, recordings or footage to all other media agencies and personnel who are deemed a part of the pool.

**R671-302-8. Reserved Media Seating.**

(a) ~~[If five or fewer requests for media seating are received prior to the deadline, all requests will be approved.]~~ If more than five requests for media seating at a hearing are received, the Board's designee will allocate the seating based on a pool arrangement.

(b) Each media category will select its own representative(s). If no agreement can be reached regarding pool representative(s), the Board's designee will make the determination and assignment. Any person wishing to be a pool representative must agree in advance to fully cooperate with all pool arrangements.

~~(b)~~(c) One seat will be allocated to each of the following media categories:

1. Local daily newspapers with statewide circulation;
2. Major wire services with local bureaus;
3. Local television stations with regularly scheduled daily newscasts;
4. Local radio stations with regularly scheduled daily newscasts;
5. Web-based media.
6. If the requests submitted do not fill all of the above categories, a seat will be allocated to a representative of a major wire service with no local bureau or a national publication (in that order).
7. If seats remain unfilled, one additional seat will be allocated to the categories in the above order until all seats are filled. No news agency will have more than one individual assigned to reserved media seating unless all other requests have been satisfied.

**R671-302-9. Violations.**

Any ~~[news agency found to be in violation of this policy]~~ person or organization that violates this rule may have its representatives restricted in or banned from covering future Board hearings.

**KEY: public hearings, news agencies**

**Date of Enactment or Last Substantive Amendment: September 25, 2020**

**Notice of Continuation: January 30, 2017**

**Authorizing, and Implemented or Interpreted Law: 63G-3-201(3); 77-27-1 et seq.; 77-27-9(4)(a)**

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R850-80	Filing No. 53098

**Agency Information**

<b>1. Department:</b>	School and Institutional Trust Lands	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	Suite 500	
<b>Street address:</b>	675 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84102-2818	
<b>Mailing address:</b>	675 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84102-2818	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Michelle McConkie	801-538-5183	meastmconkie@utah.gov
Lisa Wells	801-538-5154	lisawells@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>	R850-80. Sale of Trust Lands
<b>3. Effective Date:</b>	11/01/2020
<b>4. Purpose of the new rule or reason for the change:</b>	Due to the COVID-19 epidemic, restrictions for a public gathering at a land sale auction are limited.
<b>5. Summary of the new rule or change:</b>	This rule change allows the sale procedure to be conducted electronically, as well as orally, limiting a public gathering due to COVID-19 epidemic's restrictions.
<b>6. Regular rulemaking would:</b>	<input checked="" type="checkbox"/> cause an imminent peril to the public health, safety, or welfare; <input type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or <input checked="" type="checkbox"/> place the agency in violation of federal or state law.
<b>Specific reason and justification:</b>	Due to the COVID-19 epidemic and subsequent restrictions on the size of public gatherings, an in-person public land sale auction would cause peril to public health and would violate local requirements. The agency

therefore desires for the public auction to be held electronically.

**Fiscal Information**

**7. Aggregate anticipated cost or savings to:**

**A) State budget:**

The purpose of this rule amendment is to establish an electronic bidding process for public land sales. The contractor the agency will use for the online auction charges 3% of the sales price for their services. The agency has increased the minimum sales prices for the auction parcels to account for the 3%. Since the price for these services will be included in the final purchase price of each parcel and will therefore be passed on to the successful bidder of the parcel, it is not anticipated that any additional costs will be incurred by the state due to this rule amendment.

**B) Local governments:**

The purpose of this rule amendment is to establish an electronic bidding process for public lands sales. It is not anticipated that local governments will be affected as a result of this rule amendment because local governments typically do not participate in land sale auctions.

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

The purpose of this rule amendment is to establish an electronic bidding process for public land sales. If a small business is the successful bidder for a parcel, then the 3% contractor charge would be passed along to that bidder. These costs are unknown since the final purchase price of a parcel will not be determined until the close of the auction.

Potential bidders (including small businesses) may save money as a result of this rule amendment if they would have ordinarily paid to travel to an in-person public auction held by the agency since these expenses would no longer be required for online bidding.

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

The purpose of this rule amendment is to establish an electronic bidding process for public land sales. If a person is the successful bidder for a parcel, then the 3% contractor charge would be passed along to that bidder. These costs are unknown since the final purchase price of a parcel will not be determined until the close of the auction.

Potential bidders may save money as a result of this rule amendment if they would have ordinarily paid to travel to an in-person public auction held by the agency since these expenses would no longer be required for online bidding.

**8. Compliance costs for affected persons:**

The purpose of this rule amendment is to establish an electronic bidding process for public land sales. No compliance costs will be charged by the contractor providing this service or incurred by the agency.

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

The intent of this rule is to provide another mechanism for offering trust lands for sale to the private sector. As such, no adverse fiscal impact for business is anticipated.

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

David Ure, Director

**Citation Information**

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

28 Stat. 107-112, Utah Enabling Act of 1894, Sections 6, 8, 10, and 12	Subsection 53C-2-201(1)(a)	Subsection 53C-1-302(1)(a)(ii)
Articles X and XX	Subsection 53C-4-101(1)	Subsection 53C-4-102

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	David Ure, Director	<b>Date:</b>	09/28/2020
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**R850. School and Institutional Trust Lands, Administration.**

**R850-80. Sale of Trust Lands.**

**R850-80-100. Authorities.**

This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1) which authorize the director to prescribe the terms and conditions for the sale of trust land.

**R850-80-150. Planning.**

In addition to those other planning responsibilities described herein, the agency shall:

1. Submit proposals for the sale of trust lands to the Resource Development Coordinating Committee (RDCC) unless the proposal is exempt from such review;

2. Evaluate and respond to comments received through the RDCC process; and

3. Evaluate any comments received through the notice and advertising processes conducted pursuant to R850-80-600 and R850-80-615.

#### **R850-80-200. Sale of Trust Lands.**

The agency may sell trust land if the agency determines that the sale of the land would be in the best interest of the trust beneficiaries and provided that the land is sold for no less than fair market value.

#### **R850-80-250. Evaluation of Temporary Easements, Rights-of-Entry and Existing Rights of Record.**

Prior to the sale of any trust land, the agency shall undertake the notification process set forth in R850-40-250(2) to evaluate whether any temporary easement or right-of-entry exists on the subject property. The agency shall also evaluate the presence and impact of other valid existing rights of record on the subject property prior to sale, and take any appropriate steps to mitigate adverse impacts resulting from such rights.

#### **R850-80-300. Sales Initiation Process.**

The sales process shall be initiated by an agency determination to evaluate the appropriateness of the sale of a particular parcel of trust land. The evaluation shall be undertaken in accordance with R850-80-500. In determining the appropriateness of a parcel of trust land for sale, the agency may consider nominations by interested parties.

#### **R850-80-400. Sales Deposits.**

If the agency evaluates a parcel of trust land for sale due to a nomination by an interested party, the person making such nomination may be required to deposit funds in an amount determined by the agency to be used to offset costs incurred in preparing the parcel for sale. In the event the person making the deposit is the successful purchaser of such land, the deposit shall be a credit against any fees charged by the agency to the purchaser for preparing the land for sale. In the event the person making the deposit is not the successful purchaser of such land or the land is not offered for sale, the deposit shall be refunded.

#### **R850-80-500. Sale Determination Procedures.**

##### 1. Preliminary Analysis

(a) The director shall not offer trust land for sale when:

- i) the subject property is appreciating in value at a rate in excess of the anticipated return from the investment of the principle;
- ii) there is no evidence of competitive market interest, unless the purpose of the sale is to test the market in a particular area;
- iii) the sale would create obstacles to future mineral development on trust lands; or
- iv) in the sole discretion of the director, it has been determined that the sale would foreclose future development or management options which would likely result in greater long term economic benefit.

##### 2. Market Analysis

(a) The agency shall conduct a market analysis of a proposed sale of trust land which shall include an estimate of value. If the estimate of value is determined by an appraisal, the cost of the appraisal shall be borne by the successful purchaser.

(b) The market analysis may also include the evaluation of:

- i) real estate trends;
- ii) market demand;
- iii) opportunity costs including potential for appreciation; and
- iv) associated management costs of retention.

##### 3. Sale Determination

(a) The director may take into account any factor and circumstances deemed relevant, as well as any applicable policy adopted by the board, when making a determination as to whether to sell trust land. Prior to the sale of trust land, the agency shall take prudent and cost-effective actions to increase the value of the land.

(b) If a sale is determined to be appropriate, the agency shall determine the minimum acceptable selling price of the subject property, which minimum acceptable selling price shall not be less than fair market value. This determination may include information from any of the following:

- i) the appraisal;
- ii) the data gathered pursuant to R850-80-500(2); and
- iii) any other information which the agency considers relevant.

(c) The minimum acceptable selling price shall be provided protected records status until the sale is consummated, unless otherwise ordered by the director.

#### **R850-80-550. Methods of Sale.**

The agency may sell land or assets using one of the methods described below:

1. A public sale pursuant to R850-80-610, or
2. A negotiated sale pursuant to R850-80-620.

#### **R850-80-600. Public Sale Notice and Advertising.**

1. At least 30 days prior to a public sale, notice shall be sent by certified mail to:

(a) the appropriate county authority in which the subject property is located with a request to have the notice posted in the governmental administrative building or courthouse and other appropriate locations;

(b) lessees/permittees of record on the subject property; and

(c) adjoining landowners as shown on county records.

2. The notice of sale shall include:

(a) the date and[,] time [~~and location where~~] for the sale [~~will be held~~];

(b) a general description of the subject property including township, range, and section and a brief description of the location of the subject property; [~~and~~]

(c) information on the electronic means whereby the lands will be offered for sale or the location where the lands will be offered for sale, as applicable; and

(d) contact information of the agency office where interested parties can obtain more information.

3. The agency may advertise public sales using any other methods the director has determined may increase the potential for additional competition at the sale.

#### **R850-80-610. Public Sale Auctions.**

Public sale auctions shall be conducted as follows:

1. Public sale auctions may be conducted orally or electronically, at the discretion of the director.

2. If the public auction is conducted orally:

(a) Sealed bids shall be accepted until the day prior to the auction by the agency, or on the day of the auction by the officer conducting the auction.

[2-](b) A sealed bid shall contain funds in an amount equal to at least 10% of the total bid amount offered to purchase the subject property and may be required to consist of certified funds. Bids and bid deposits shall be a specified dollar amount. The agency reserves the right to reject any bid however submitted.

NOTICES OF 120-DAY (EMERGENCY) RULES

[3-](c) Purchasers who have defaulted on certificates of sale may be required to make larger down-payments or submit sealed bids in the form of certified funds even if such a requirement is not contained in the notice of sale.

[4-](d) The persons submitting the three highest bids shall be allowed to enter into oral bidding, which shall begin at the amount of the highest sealed bid, subject to those terms and conditions of R850-80-610([5]2)(e). Those persons who submit a sealed bid that is within 20% of the third highest sealed bid shall also be allowed to participate in oral bidding, subject to those terms and conditions of R850-80-610([5]2)(e).

[5-](e) In the event the minimum selling price of a property is disclosed prior to the auction, persons who bid less than the disclosed minimum selling price shall be disqualified and shall not be eligible for oral bidding, even if such bids would otherwise meet those requirements in R850-80-610([4]2)(d) or ([6]f).

[6-](f) Only current grazing permittees, materials permittees and special use lessees on the subject property who submit sealed bids shall automatically qualify to enter into oral bidding, subject to those terms and conditions of R850-80-610([5]2)(e).

[7-](g) ~~[All bids, whether sealed or oral, constitute a valid offer to purchase.]~~ An attempt to withdraw a sealed bid after the first sealed bid has been read, or an attempt to withdraw or amend an oral bid may result in the forfeiture of the bid deposit and any other remedy afforded the agency at law or equity.

[8-](h) If, after the first round of oral bidding, no bid is submitted which equals or exceeds the agency's minimum selling price, then the sale shall not be made except as provided below.

[~~(a)~~]i. At the discretion of the officer conducting the sale, qualified bidders may enter into additional rounds of oral bidding, starting at the high bid reached in the previous round.

[~~(b)~~]ii. To facilitate the sale of the parcel, the officer conducting the sale may divulge the minimum selling price.

[9-](i) At the conclusion of the auction, the agency shall collect from the successful bidder:

[~~(a)~~]i. a down payment in the amount required by the sale notice;

[~~(b)~~]ii. interest on the unpaid balance from the date of sale to the first day of the following month; and

[~~(c)~~]iii. reimbursement of costs incurred in preparing the parcel for sale, which may include costs incurred for advertising, appraisal, cultural resource investigations, environmental assessments, and a sale processing charge.

3. Bidding procedures and other sales notices for an electronic auction will be published on the agency's website prior to the electronic auction.

4. All bids in either an oral or electronic auction will constitute a valid offer to purchase.

[~~10-~~]5. The first payment shall be due one year from the first day of the month following the sale; subsequent payments shall be due on the first day of the same month each year thereafter until the balance is paid in full.

[~~11-~~]6. Amounts paid in excess of the current obligations shall be applied to principal. The unpaid balance, plus interest to date, may be paid in full at any time without penalty.

[~~12-~~]7. If the successful bidder defaults on the down payment or otherwise fails to meet the requirements of R850-80-610([9]4), the property may, upon approval by the director, be offered for sale to the person whose bid was second highest at the auction provided that the terms of the sale shall meet or exceed the minimum acceptable selling price established for the subject property. The second highest bidder

shall have 30 days from the date of the agency's offer to submit the amounts required under R850-80-610([9]4).

[~~13-~~]8. The interest rate which shall be charged against any unpaid balance at the conclusion of the auction shall be the prime rate, as determined by the agency on the date the public sale is approved by the director, plus 2 1/2% (Prime Rate + 2 1/2%). Interest shall be calculated on a 365-day basis. Every year thereafter, the interest rate which shall be charged against the unpaid balance shall be the prime rate, as determined by the agency on the date of billing, plus 2 1/2% (Prime Rate + 2 1/2%).

[~~14-~~]9. Third parties owning authorized improvements on the parcel at the time of the sale shall be allowed 90 days from the date of the sale to remove the improvements. This provision is not applicable when such improvements are permitted under a valid existing right of record when such right survives the sale of the parcel.

**R850-80-615. Negotiated Sale Notice and Advertising.**

1. Prior to an agency decision to initiate a negotiated sale, notice of such shall be sent by certified mail to:

(a) the appropriate county authority in which the subject property is located with a request to have the notice posted in the governmental administrative building or courthouse and other appropriate locations;

(b) lessees/permittees of record on the subject property; and

(c) adjoining landowners as shown on county records.

2. The notice of sale shall include:

(a) a general description of the subject property including township, range, and section and a brief description of the location of the subject property; and

(b) contact information of the agency office where interested parties can obtain more information.

3. The agency may advertise negotiated sales using any other methods the director has determined may increase the potential for additional interest in the subject property.

**R850-80-620. Negotiated Sale Procedures.**

1. Negotiated sales shall be advertised in the manner set forth in R850-80-615. In the event a competing offer(s) is received, the agency shall evaluate the offers and determine what action is in the best interest of the beneficiaries.

2. The board and affected beneficiary institution(s) shall be provided notice 30 days prior to the sale describing the terms, reasons, and other pertinent facts of the proposed negotiated sale.

3. Board approval of a negotiated sale is required if:

(a) the value of the subject property exceeds \$250,000.00;

(b) the subject property exceeds 320 acres in size; or

(c) additional interested person(s) indicate to the agency an interest in purchasing the subject property.

4. A purchaser of trust land sold at a negotiated sale may be required to reimburse the agency for costs incurred in preparing the parcel for sale, which may include costs for advertising, appraisal, cultural resource investigations, environmental assessments, and a sale processing charge.

**R850-80-700. Certificates of Sale.**

1. Following a public sale or upon concurrence of the parties in a negotiated sale, the agency shall prepare and deliver a certificate of sale to the purchaser. This certificate shall contain a legal description of the subject property, and shall include:

(a) information regarding the amount paid;

(b) the amount due;

- (c) the time when the principal and interest shall become due;
- (d) the beneficiary of the land;
- (e) provisions for remedies the agency may elect in the event of a default, as such remedies are set forth in R850-80-700(8); and
- (f) any other terms, covenants, deed restrictions, or conditions which the agency considers appropriate.

2. Certificates of sale must be executed by the purchaser and returned to the agency within 30 days from the date of the purchaser's receipt of the certificate. If the certificate is not received by the agency within the 30 day period, certified notice shall be sent to the purchaser giving notice that after 30 days the sale may be canceled with all monies received, including the down-payment, forfeited to the agency. Notification by certified mail, return receipt requested, of this forfeiture provision shall accompany the transmittal of the certificate to the purchaser.

3. A certificate of sale shall be signed by the director after it has been signed by the purchaser and returned to the agency. The certificate shall not be final and no rights shall vest in the purchaser until the certificate is executed by the director. The agency reserves the right to cancel a sale of trust land for any reason prior to execution of the certificate by the director.

4. A certificate of sale may be assigned to any person qualified to purchase trust lands, provided that the assignment is approved by the director, and that no assignment is effective until approval is given by the director in writing.

5. An assignment of a certificate of sale shall be consistent with these rules, executed by the assignee and assignor and acknowledged, and shall clearly set forth the certificate of sale number, the land involved, and the name and address of the assignee.

6. Assignment of a certificate of sale does not relieve the assignor from any obligations under the original certificate of sale.

7. Upon payment in full and surrender of the original certificate of sale for any tract of land sold, or payment in full of any amounts required under R850-80-750(3) for the partial release of property, the agency shall issue a patent to the appropriate person.

8. In the event of a purchaser's default under the certificate of sale, the agency's remedies shall include, without limitation, acceleration of the debt, forfeiture, any remedy which the agency may pursue under the certificate of sale, suit for judgment, foreclosure as provided for under Section 57-1-19 et seq. for trust deeds, and any other remedies afforded at law or equity.

#### **R850-80-750. Partial Releases.**

Partial release of property sold under a certificate of sale may be allowed at the discretion of the director. The following conditions shall be met:

1. Access to the remainder of the land must be preserved without restriction;

2. All utilities and infrastructure, including water, sewer and storm drains, electric power, and natural gas, installed on land covered by the certificate shall have the capacity and capability to service all trust land originally included in the certificate;

3. Unless the director makes a written finding that waiver of this condition would be in the best interests of the trust beneficiaries, payment shall be made to the agency in an amount equal to 125% of the original price per acre, multiplied by the number of acres to be released, plus interest on that amount to the date payment is received. The payment shall be in the form of certified funds, and shall be applied to principal. This payment shall not affect the amount or due dates of annual payments;

4. Unless the director makes a written finding that waiver of this condition would be in the best interests of the beneficiaries, the 125% payment required by paragraph 3 above shall not include the 10% down payment or any annual installment paid under the certificate of sale;

5. The buyer shall provide a survey and legal description prepared and sealed by a Utah Registered Land Surveyor of the parcel to be released and the remaining land under the certificate; and

6. The value of the remaining land shall not be reduced to an amount less than the remaining principal balance of the certificate.

#### **KEY: administrative procedures, sales**

**Date of Enactment or Last Substantive Amendment:** [~~October 9, 2007~~]**2020**

**Notice of Continuation:** June 27, 2017

**Authorizing, and Implemented or Interpreted Law:** 53C-1-302(1)(a)(ii); 53C-2-201(1)(a); 53C-4-101(1); 53C-4-102; 53C-4-202(6); 63G-2-305; 72-5-203(1)(a)(i); 72-5-203(2)(a)

### **End of the Notices of 120-Day (Emergency) Rules Section**



## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R151-4	Filing No. 50237

### Agency Information

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Administration	
<b>Building:</b>	Heber M. Wells Bldg.	
<b>Street address:</b>	160 E 300 S, Second Floor	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	Box 146701	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6701	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Masuda Medcalf	801-530-7663	mmedcalf@utah.gov
Please address questions regarding information on this notice to the agency.		

### General Information

<b>2. Rule catchline:</b>
R151-4. Department of Commerce Administrative Procedures Act Rule
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Rule R151-4 was adopted pursuant to Subsection 63G-4-102(6) and Section 13-1-6 to define, clarify, or establish the procedures governing adjudicative proceedings before the Department of Commerce (Department).

<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No comments have been received.

<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The Department and its agencies continue to conduct adjudicative proceedings governed by this rule. This rule is necessary to conduct these proceedings. Therefore, this rule should be continued.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Chris Parker, Executive Director	<b>Date:</b>	09/22/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R426-7	Filing No. 51033

### Agency Information

<b>1. Department:</b>	Health
<b>Agency:</b>	Family Health and Preparedness, Emergency Medical Services
<b>Room no.:</b>	416
<b>Building:</b>	Highland Office
<b>Street address:</b>	3760 S Highland Drive
<b>City, state, zip:</b>	Salt Lake City, UT 84114
<b>Contact person(s):</b>	

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Guy Dansie	801-560-1544	gdansie@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R426-7. Emergency Medical Services Prehospital Data System Rules
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Subsection 26-8a-203(2) states that "The department shall establish an emergency medical services data system which shall provide for the collection of information, as defined by the committee, relating to the treatment and care of patients who use or have used the emergency medical services system." Rule R426-7 supports the requirement, and specifies the information needed as approved by the EMS (Emergency Medical Services) Committee and the Utah Department of Health.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No official comments were received. Discussions with the State EMS Committee and stakeholders have been positive. Some amendments were made in the past five years to reflect changes in the national standards, and to clarify state data requirements.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Section 26-8a-203 still requires that pre-hospital data is collected. The value of data is extensive in providing improved patient care, early indications of health events, and overall perspective for public health, the health care system, national programs, etc. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Richard Saunders, Interim Executive Director	<b>Date:</b>	09/24/2020
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<b>FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION</b>		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R426-8</b>	<b>Filing No. 51032</b>

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Family Health and Preparedness, Emergency Medical Services	
<b>Room no.:</b>	416	
<b>Building:</b>	Highland Office	
<b>Street address:</b>	3760 S Highland Drive	
<b>City, state, zip:</b>	Salt Lake City, UT 84114	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b> <b>Email:</b>	
Guy Dansie	801-560-1544	gdansie@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R426-8. Emergency Medical Services Ground Ambulance Rates and Charges
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Subsection 26-8a-403(1) requires that the Department of Health (Department) establishment of maximum rates for licensed ground ambulance providers. It says the following, "(1) The department shall, after receiving recommendations under Subsection (2) establish maximum rates for ground ambulance providers and paramedic providers that are just and reasonable." Rule R426-8 contains the information about the current allowable rates.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No official comments received. Discussions with the State EMS (Emergency Medical Services) Committee and stakeholders have been positive. Amendments were made in all of the past five years to reflect rate increases as indicated by financial reports for licensed ground ambulance providers.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Section 26-8a-403 still requires that the Department and EMS Committee work together to set maximum ground ambulance rates and charges. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Richard Saunders, Interim Executive Director	<b>Date:</b>	09/24/2020
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**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Colleen Eggett, State Librarian	<b>Date:</b>	09/24/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	R458-2	<b>Filing No. 51135</b>

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	R628-4	<b>Filing No. 51526</b>

**Agency Information**

<b>1. Department:</b>	Heritage and Arts	
<b>Agency:</b>	Library	
<b>Street address:</b>	250 N 1950 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	250 N 1950 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84116	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Josh Loftin	801-245-7205	jloftin@utah.gov
Please address questions regarding information on this notice to the agency.		

**Agency Information**

<b>1. Department:</b>	Money Management Council	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	180	
<b>Building:</b>	Utah State Capitol Complex	
<b>Street address:</b>	350 N State Street	
<b>City, state, zip:</b>	Salt Lake City, UT 84114	
<b>Mailing address:</b>	PO Box 142315	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-2315	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ann Pedroza	801-538-1883	apedroza@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R458-2. Public Library Online Access for Eligibility to Receive Public Funds
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
A public library that offers public access to the Internet must adhere to this rule to qualify and retain eligibility to receive state funds. This rule is enacted under Section 9-7-216.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No comments have been received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
It requires public libraries to create policies for internet access to qualify for public money. Without this rule, the Library Division would not be able to enforce guidelines for access and safety. Therefore, this rule should be continued.

**General Information**

<b>2. Rule catchline:</b>
R628-4. Bonding of Public Treasurers
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The Utah Money Management Act (Title 51, Chapter 7) in Section 51-7-15 states that any public treasurer the council designates in rule shall be bonded or may procure crime or theft insurance in an amount established by council rule. This section also states that the bond or crime or theft insurance will be based on the amount of public funds held or in control of the public treasurer. These amounts are described in Rule R628-4.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There have been no written comments received since the last five-year review either supporting or opposing this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with</b>

**comments in opposition to this rule, if any:**  
 The Money Management Council reviewed this rule in their August 2020 meeting and noted that this rule is necessary to provide criteria for the amount a public treasurer may either bond or obtain crime or theft insurance for to protect public funds from loss in the event of malfeasance by a treasurer or treasurer's staff. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Doug DeFries, Council Chair	<b>Date:</b>	09/18/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R628-11</b>	<b>Filing No. 51520</b>

**Agency Information**

<b>1. Department:</b>	Money Management Council	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	180	
<b>Building:</b>	Utah State Capitol Complex	
<b>Street address:</b>	350 North State St	
<b>City, state, zip:</b>	Salt Lake City, UT 84114	
<b>Mailing address:</b>	PO Box 142315	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-2315	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ann Pedroza	801-538-1883	apedroza@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R628-11. Maximum Amount of Uninsured Public Funds Allowed to be Held by Any Qualified Depository
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 51-7-18.1 of the Utah Money Management states that the Council shall determine by rule the amount of uninsured public funds a qualified depository may hold above the federal insured amount. This section states that the Council shall base the amount on the depository's capital and the amount may not be more than two times the depository's capital as defined in council rule.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

There have been no written comments regarding this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Rule R628-11 provides the formula for the Department of Financial institutions to determine the maximum uninsured funds a qualified depository may accept. Without this rule, public entities could not deposit public funds in financial institutions. Council reviewed this rule in their last meeting and confirmed that it needs to be continued so that they may continue to monitor the condition of financial institutions that hold public funds and to protect public funds deposited in these institutions. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Douglas DeFries, Council Chair	<b>Date:</b>	09/30/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R710-6</b>	<b>Filing No. 51909</b>

**Agency Information**

<b>1. Department:</b>	Public Safety	
<b>Agency:</b>	Fire Marshal	
<b>Street address:</b>	410 W 9800 S, Suite 372	
<b>City, state, zip:</b>	Sandy, UT 84070	
<b>Mailing address:</b>	410 W 9800 S, Suite 372	
<b>City, state, zip:</b>	Sandy, UT 84070	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kim Gibb	801-556-8198	kgibb@utah.gov
Coy Porter	801-256-2383	coyporter@utah.gov
Ted Black	801-256-2380	tblack@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>	
R710-6. Liquefied Petroleum Gas Rules	
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>	
<p>This rule is authorized by Section 53-7-305, which states the Utah Fire Prevention Board (Board) shall make rules as reasonably necessary for the protection of the health, welfare, and safety of the public and persons using liquefied petroleum gas (LPG). It is required that the rules shall be in substantial conformity with the generally accepted standards of safety concerning LPG, and shall include rules relating to safety in the storage, distribution, dispensing, transporting, and use of LPG in this state and in the manufacture, fabrication, assembly, sale, installation, and use of LPG systems, containers, apparatus, or appliances. It is also required that the rules conform as nearly as possible to the standards of the National Fire Protection Association, relating to the design, construction, installation, and use of systems, containers, apparatus, appliances, and pertinent equipment for the storage, transportation, dispensation, and use of LPG.</p>	
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
There have been no written comments received during and since the last five-year review of this rule.	
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>	
<p>This rule is required under Section 53-7-305, and is necessary in order to outline licensing and certification requirements for individuals who distribute, transfer, dispense, or install LPG and/or its appliances in the , including adjudicative procedures for those who are licensed or certified. This rule also outlies rules relating to safety in the storage, distribution, dispensing, transporting, and use of LPG in this state and in the manufacture, fabrication, assembly, sale, installation, and use of LPG systems, containers, apparatus, or appliances, as required under Section 53-7-305. Therefore, this rule should be continued.</p>	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Coy Porter, State Fire Marshal	<b>Date:</b>	09/23/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R710-10</b>	<b>Filing No. 51908</b>

**Agency Information**

<b>1. Department:</b>	Public Safety	
<b>Agency:</b>	Fire Marshal	
<b>Street address:</b>	410 W 9800 S, Suite 372	
<b>City, state, zip:</b>	Sandy, UT 84070	
<b>Mailing address:</b>	410 W 9800 S, Suite 372	
<b>City, state, zip:</b>	Sandy, UT 84070	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kim Gibb	801-556-8198	kgibb@utah.gov
Coy Porter	801-256-2383	coyporter@utah.gov
Ted Black	801-256-2380	tblack@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>	
R710-10. Rules Pursuant to Fire Service Training, Education, and Certification	
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>	
<p>The authorizing statutory language for this rule was removed from the Utah Code as a result of the passage of S.B. 209 during the 2020 General Session. The language that was previously found under Subsections 53-7-204(1)(g) and (i), which authorized this rule, was stricken and replaced. The responsibility and oversight of the fire and rescue training program has been moved from Title 53, Chapter 7, to a newly created statute under Title 53B, Chapter 29, Utah Valley University.</p>	
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
There have been no written comments received during and since the last five-year review of this rule.	

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The Fire Marshal Division is in the process of repealing this rule and needs it to be in place until the repeal can be made effective. Therefore, this rule should be continued. (EDITOR'S NOTE: The filing to repeal Rule R710-10 is under Filing No. 53085 in this issue, October 15, 2020, of the Bulletin.)

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Coy Porter, State Fire Marshal	<b>Date:</b>	09/23/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R746-407</b>	<b>Filing No. 51985</b>

**Agency Information**

<b>1. Department:</b>	Public Service Commission	
<b>Agency:</b>	Administration	
<b>Building:</b>	Heber M. Wells Building	
<b>Street address:</b>	160 E 300 S, Fourth Floor	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 4558	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4558	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Hammer	801-530-6729	michaelhammer@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R746-407. Annualization of Test-year Data

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

This rule pertains to Subsection 54-4-4(3) which describes the Public Service Commission's (PSC) use of test year data to set just and reasonable utility rates. This rule provides direction on how test year data may be adjusted to reflect partial period effects of test year events.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The PSC has received no written comments since the last five-year review in 2015.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule will enable the PSC to more accurately coordinate a utility's rates with the utility's anticipated revenues and costs by recognizing that some of the conditions which arise during a test period are ongoing and must be spread over the entire period. Because of the use of test period operations as a measure of future operations to establish future rates, the need to focus on the quality of the test period data continues to be necessary. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Thad LeVar, PSC Chair	<b>Date:</b>	10/01/2020
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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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### Agriculture and Food

#### Plant Industry

No. 52992 (Amendment): R68-31. Cannabis Licensing Process

Published: 08/15/2020

Effective: 09/25/2020

#### Regulatory Services

No. 52987 (Amendment): R70-530. Food Protection

Published: 08/15/2020

Effective: 09/25/2020

### Commerce

#### Occupational and Professional Licensing

No. 52921 (Amendment): R156-55a. Utah Construction Trades Licensing Act Rule

Published: 08/15/2020

Effective: 09/22/2020

### Education

#### Administration

No. 52960 (New Rule): R277-310. International Guest Teachers

Published: 08/01/2020

Effective: 09/24/2020

No. 52961 (Repeal): R277-418. Distance, Blended, Online, or Competency Based Learning Program

Published: 08/01/2020

Effective: 09/24/2020

No. 52988 (Amendment): R277-419. Pupil Accounting

Published: 08/15/2020

Effective: 09/25/2020

No. 52962 (Amendment): R277-488. Dual Language Immersion Program

Published: 08/01/2020

Effective: 09/24/2020

No. 52963 (Repeal): R277-527. International Guest Teachers

Published: 08/01/2020

Effective: 09/24/2020

No. 52973 (Amendment): R277-606. Dropout Prevention and Recovery Program

Published: 08/15/2020

Effective: 09/24/2020

No. 52966 (New Rule): R277-701. Early College Programs

Published: 08/01/2020

Effective: 09/24/2020

No. 52967 (Amendment): R277-707. Enhancement for Accelerated Students Programs

Published: 08/01/2020

Effective: 09/24/2020

No. 52968 (Repeal): R277-713. Concurrent Enrollment of Students in College Courses

Published: 08/01/2020

Effective: 09/24/2020

No. 52969 (New Rule): R277-723. Start Smart Utah Program

Published: 08/01/2020

Effective: 09/24/2020

No. 52989 (Amendment): R277-752. Special Education Intensive Services Fund

Published: 08/15/2020

Effective: 09/25/2020

NOTICES OF RULE EFFECTIVE DATES

No. 52970 (Amendment): R277-912. Law Enforcement  
Related Incident Reporting  
Published: 08/01/2020  
Effective: 09/24/2020

Health

Children's Health Insurance Program  
No. 52938 (Amendment): R382-10. Public Health  
Emergency Provisions  
Published: 08/01/2020  
Effective: 09/16/2020

Disease Control and Prevention, Epidemiology  
No. 52995 (Amendment): R386-800. Immunization  
Coordination  
Published: 08/15/2020  
Effective: 09/23/2020

Disease Control and Prevention, Environmental Services  
No. 52875 (Amendment): R392-101. Food Safety Manager  
Certification  
Published: 07/15/2020  
Effective: 09/15/2020

No. 52876 (Amendment): R392-103. Food Handler  
Training and Certificate  
Published: 07/15/2020  
Effective: 09/15/2020

Health Care Financing, Coverage and Reimbursement Policy  
No. 52948 (Amendment): R414-1. Utilization Review  
Published: 08/01/2020  
Effective: 10/01/2020

No. 52949 (Amendment): R414-2a. Limitations  
Published: 08/01/2020  
Effective: 10/01/2020

No. 52990 (Amendment): R414-42. Telemedicine  
Published: 08/15/2020  
Effective: 09/22/2020

No. 52939 (Amendment): R414-303. Coronavirus (COVID-  
19) Testing Coverage  
Published: 08/01/2020  
Effective: 09/16/2020

No. 52940 (Amendment): R414-304. Public Health  
Emergency Income Provisions  
Published: 08/01/2020  
Effective: 09/16/2020

No. 52941 (Amendment): R414-308. Public Health  
Emergency Provisions  
Published: 08/01/2020  
Effective: 09/16/2020

No. 52942 (Amendment): R414-311. Public Health  
Emergency Provisions  
Published: 08/01/2020  
Effective: 09/16/2020

No. 52943 (Amendment): R414-312. Public Health  
Emergency Provisions  
Published: 08/01/2020  
Effective: 09/16/2020

No. 52981 (Amendment): R414-312. Definitions  
Published: 08/15/2020  
Effective: 09/22/2020

No. 52944 (Amendment): R414-320. Public Health  
Emergency Provisions  
Published: 08/01/2020  
Effective: 09/16/2020

No. 52945 (Amendment): R414-502. Approval of Level of  
Care  
Published: 08/01/2020  
Effective: 09/22/2020

No. 52991 (Amendment): R414-504. Nursing Facility  
Payments  
Published: 08/15/2020  
Effective: 10/01/2020

No. 52946 (Amendment): R414-510. Definitions  
Published: 08/01/2020  
Effective: 09/22/2020

No. 52947 (New Rule): R414-525. Interpretive Services  
Invoice Requirements  
Published: 08/01/2020  
Effective: 10/01/2020

Family Health and Preparedness, Licensing  
No. 52937 (Amendment): R432-270. Assisted Living  
Facilities  
Published: 08/01/2020  
Effective: 09/15/2020

Family Health and Preparedness, Primary Care and Rural  
Health  
No. 52997 (New Rule): R434-20. Behavioral Health  
Workforce Reinvestment Initiative  
Published: 08/15/2020  
Effective: 09/22/2020

Disease Control and Prevention, Laboratory Services  
No. 52786 (Amendment): R438-15. Newborn Screening  
Published: 06/01/2020  
Effective: 09/15/2020

Heritage and Arts

Administration  
No. 52959 (New Rule): R450-4. Multicultural Commission  
Published: 08/01/2020  
Effective: 09/24/2020

Human Services

Substance Abuse and Mental Health  
No. 52768 (New Rule): R523-21. Behavioral Health  
Receiving Centers Standards  
Published: 08/01/2020  
Effective: 09/29/2020

No. 52985 (New Rule): R523-23. Assisted Outpatient  
Treatment Court Orders  
Published: 08/15/2020  
Effective: 09/29/2020

Insurance

Administration  
No. 52980 (Amendment): R590-225. Documents  
Incorporated by Reference  
Published: 08/15/2020  
Effective: 09/22/2020

No. 52982 (Amendment): R590-237. Rural Health  
Notification  
Published: 08/15/2020  
Effective: 09/22/2020

**End of the Notices of Rule Effective Dates Section**

