

UTAH STATE BULLETIN

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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EXECUTIVE DOCUMENTS

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

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

EXECUTIVE ORDER 2021-8

Expanding Return to Work and Returnship Opportunities in Utah

WHEREAS, diversity and life experience are valuable to the state of Utah and should be relevant to pay and opportunity in the workplace;

WHEREAS, Utah has the strongest economy in the country, and state leaders are interested in helping all Utahns have economic opportunity in professions;

WHEREAS, the state of Utah is working to optimize resources to assist and connect Utah citizens to meaningful skills, training, employment, and work-based learning opportunities (returnships);

WHEREAS, the state of Utah believes it is in the public benefit to assist those individuals who have left the labor force and now desire to return to work;

WHEREAS, a high number of individuals seeking to return to work throughout the state are seeking training and educational opportunities;

WHEREAS, the COVID-19 pandemic has contributed to the loss of more than 122,000 jobs and continues to disproportionately impact specific demographics of workers;

WHEREAS, all employers in Utah, both private and public, can provide opportunities, including returnships, to help those looking to return to work;

NOW, THEREFORE, I, Spencer J. Cox, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the laws of the State of Utah, do hereby order that:

1. As used in this order, "agency":
 - a. means a department, division, office, bureau, or other organization within the state executive branch, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole; and
 - b. does not include:
 - i. an institution of higher education;
 - ii. the Utah Board of Higher Education;
 - iii. the State Board of Education;
 - iv. an independent entity as defined in Utah Code § 63E-1-102;
 - v. the Attorney General's Office;
 - vi. the State Auditor's Office; or
 - vii. the State Treasurer's Office.

2. No later than June 30, 2021, each agency shall review all procedures, policies, and rules to:
 - a. identify new ways to provide meaningful returnship opportunities to those individuals returning to the labor force;
 - b. remove any impediments that would currently exist to providing these opportunities; and
 - c. start providing return to work and returnship opportunities whenever appropriate.

3. Beginning October 1, 2021, each agency shall report to the Governor's Office and the Governor's Office of Planning and Budget on a semi-annual basis how many returnships have been filled.

4. The Utah Board of Higher Education shall direct all public institutions of higher education in Utah to consider what accommodations and assistance can be provided and marketed to those individuals looking to return to work.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed to the Great Seal of the state of Utah. Done in Roy, Utah, on this, the 1st day of April, 2021.

(State Seal)

Spencer J. Cox
Governor

ATTEST:

Deidre M. Henderson
Lieutenant Governor

2021/08/EO

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

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

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least May 17, 2021. 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 August 13, 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.

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R70-590	Filing No. 53379

Agency Information

1. Department:	Agriculture and Food	
Agency:	Regulatory Services	
Street address:	350 N Redwood Road	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
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

2. Rule or section catchline:
R70-590. Utah Domesticated Game Slaughter and Processing
3. Purpose of the new rule or reason for the change:
Currently, producers of domestic game animals are required to transport their live animals to a state or United States Department of Agriculture (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.
4. Summary of the new rule or change:
This new rule provides guidelines to allow domestic game producers to slaughter animals in the field, including requirements for registration, 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

5. Aggregate anticipated cost or savings to:
A) State budget:
This is a new program that will cost the state budget approximately \$65,000 per year to pay for inspections and administer the program. The current inspection fee of \$100 per hour set in the fee schedule, as well as a registration fee of for the program of \$50 per participant will pay for the cost. 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 \$66,100. Given that this is a new program, these are only estimates regarding participation and Department costs. As the program gets up and running, the Department will closely monitor the participation and costs to ensure fees are appropriate.
B) Local governments:
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.
C) Small businesses ("small business" means a business employing 1-49 persons):
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 \$33,050 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.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
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 \$33,050 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.
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>):
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 \$50 facility registration 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.)			
Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$65,000	\$65,000	\$65,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$33,050	\$33,050	\$33,050
Non-Small Businesses	\$33,050	\$33,050	\$33,050
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$131,100	\$131,100	\$131,100
Fiscal Benefits			
State Government	\$66,100	\$66,100	\$66,100
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$66,100	\$66,100	\$66,100
Net Fiscal Benefits	\$(65,000)	\$(65,000)	\$(65,000)
H) Department head approval of regulatory impact analysis:			
The Commissioner of the Department of Agriculture and Food, Craig W. Buttars, 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:
Craig W. Buttars, 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

Incorporations by Reference Information

8. A) This rule adds, updates, or removes the following title of materials incorporated by references:	
	First Incorporation
Official Title of Materials Incorporated (from title page)	9 CFR Section 310 Post-Mortem Inspection
Publisher	US Federal Government
Date Issued	January 1, 2012

	Second Incorporation
Official Title of Materials Incorporated (from title page)	9 CFR Section 352.10 Ante-Mortem Inspection
Publisher	US Federal Government
Issue, or version	January 1, 2003

	Third Incorporation
Official Title of Materials Incorporated (from title page)	9 CFR 313.2 Handling of Livestock
Publisher	US Federal Government
Issue, or version	January 1, 2011

	Fourth Incorporation
Official Title of Materials Incorporated (from title page)	9 CFR 314, Handling and Disposal of Condemned or Other Inedible Products at Official Establishments
Publisher	US Federal Government

Issue, or version	January 1, 2012
	Fifth Incorporation
Official Title of Materials Incorporated (from title page)	9 CFR 317.2 Labels; definition; required features
Publisher	US Federal Government
Issue, or version	January 1, 2011

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:	5/17/2021

10. This rule change MAY become effective on:	05/24/2021
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:	Craig W. Buttars, Commissioner	Date:	03/22/2021
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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) "Custom exempt processing" means the same as found in Section 4-32-105.
- 4) "Department" means the Utah Department of Agriculture and Food.
- 5) "Establishment" means a plant or fixed premises used to slaughter or process domesticated game for human consumption.
- 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 and Registration 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 registration 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 Registration.
 - a) Any person desiring to perform domesticated game slaughter or processing shall apply to the department for a domesticated game slaughter and processing registration 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 registration 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 registration.
 - c) A registration is valid for the calendar year, January 1 to December 31. A registrant's desiring to continue performing domesticated game slaughter and processing services shall re-apply for a registration 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 registration application.
- 4) Any custom exempt processing establishment that processes domesticated game slaughtered pursuant to this rule shall be:
 - a) registered with the department's Regulatory Services Division;

- b) issued a domesticated game slaughter establishment number; and
- c) issued a unique stamp for labeling purposes.

R70-590-4. Sanitation Requirements.

1) Each registrant 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 shall be operated and maintained in a manner sufficient to prevent the creation of unsanitary conditions and to ensure that product is not adulterated.

a) Grounds and pest control. The grounds about an establishment shall be maintained to prevent conditions that could lead to unsanitary conditions, adulteration of product, or interfere with inspection by department employees. Each establishment shall 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 shall 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 unsanitary conditions.

b) Construction.

i) Establishment buildings, including their structures, rooms, and compartments, shall 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 unsanitary conditions.

ii) Each wall, floor, and ceiling within an establishment shall be built of durable materials impervious to moisture and be cleaned and sanitized as necessary to prevent adulteration of product or the creation of unsanitary conditions.

iii) Each wall, floor, ceiling, door, window, and other outside opening shall be constructed and maintained to prevent the entrance of vermin, such as flies, rats, and mice.

iv) Each room or compartment in which edible product is processed, handled, or stored shall 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 unsanitary conditions.

c) Light. Lighting of good quality and sufficient intensity to ensure that sanitary conditions are maintained and that product is not adulterated, shall 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.

d) Ventilation. Ventilation adequate to control odors, vapors, and condensation to the extent necessary to prevent adulteration of product and the creation of unsanitary conditions shall be provided.

e) Plumbing. Plumbing systems shall be installed and maintained to:

i) carry sufficient quantities of water to required locations throughout the establishment;

ii) properly convey sewage and liquid disposable waste from the establishment;

iii) prevent adulteration of product, water supplies, equipment, and utensils, and prevent the creation of unsanitary conditions throughout the establishment;

iv) 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;

v) 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

vi) prevent the backup of sewer gases.

f) Sewage disposal. Sewage shall 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.

g) 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 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, and for employee sanitary facilities. 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.

h) Dressing rooms, lavatories, and toilets.

i) 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 shall be separate from each room and compartment in which products are processed, stored, or handled.

ii) 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.

iii) Refuse receptacles shall be constructed and maintained in a manner that protects against the creation of unsanitary 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 unsanitary 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.

NOTICES OF PROPOSED RULES

iii) Receptacles used for storing inedible material shall be of material and construction that their use will not result in the adulteration of any edible product or in the creation of unsanitary 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 unsanitary 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 unsanitary 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 shall be used, handled, and stored in a manner that will not adulterate product or create unsanitary 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 unsanitary 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 unsanitary 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 unsanitary 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 352.10, Ante-Mortem Inspection, as of January 1, 2003, which is 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, as of January 1, 2011, 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 onto adjacent property, or contaminating water sources.

c) Hides, viscera, blood, paunch material, and tissues shall be removed and disposed of 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 the 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 the hide should be carefully rolled or reflected away from the carcass during skinning. When carcass is moved from the 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) Unless otherwise specified in this rule, the postmortem inspection shall be conducted according to the applicable processes and practices described in 9 CFR 310, Post-Mortem Inspection, as of January 1, 2012, which is incorporated herein by reference.

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 registrant 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 registrant 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 314, as of January 1, 2012, which is 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.

NOTICES OF PROPOSED RULES

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 registrant;

v) registration 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 registrant.

2) Mandatory Label Requirements. Processed domesticated game meat shall be labeled according to the applicable requirements in 9 CFR 317.2, as of January 1, 2011, 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) unsanitary 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.

2) If a withholding action or suspension is taken, the department program employee will immediately notify the registrant 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 registration;

o) uses fraud or misrepresentation in making application for a registration, license, permit, or certification, or 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 or registration 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: 2021
Authorizing, and Implemented or Interpreted Law: 4-32a-208

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R151-2	Filing No. 53373

Agency Information

1. Department:	Commerce	
Agency:	Administration	
Street address:	160 E 300 S, 2nd FL	
City, state, zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Masuda Medcalf	801-530-7663	mmedcalf@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R151-2. Government Records Access and Management Act Rule
3. Purpose of the new rule or reason for the change:
The purpose of this rule change is to update and clarify procedures for records requests.
4. Summary of the new rule or change:
Section R151-2-3 is amended to clarify language used and to update statutory references.
Subsection R151-2-4(1) is amended to remove references to specific forms as not all Department of Commerce (Department) agencies use these forms in light of other methods available to the public, such as online requests through the Open Records Portal.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule does not amend fees or any revenue generation for the state and will not affect the state budget.
B) Local government:
Local governments are typically not involved in records requests before the Department and are not impacted by this amendment.

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

This rule is procedural in nature and has no discernable impact on the costs required for a small business to make a records request to the agency.

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

This rule is procedural in nature and has no discernable impact on the costs required for a non-small business to make a records request to the agency.

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

This rule is procedural in nature and has no discernable impact on the costs required for persons other than small businesses to make a records request to the agency.

F) Compliance costs for affected persons:

This rule is procedural in nature and has no discernable impact on compliance costs to make a records request to the agency.

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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Commerce, Margaret W. Busse, 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 will be no fiscal impact on businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
Margaret W. Busse, 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 63G-2-204	Section 63G-2-603	

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:	05/17/2021

10. This rule change MAY become effective on:	05/24/2021
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:	Margaret W. Busse, Executive Director	Date:	03/17/2021
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R151. Commerce, Administration.

R151-2. Government Records Access and Management Act Rule.

R151-2-1. Purpose and Authority.

This rule is made pursuant to Section 63G-2-204, which allows agencies to specify where and to whom requests for access to records shall be directed; Subsection 63A-12-104 (2), which allows an agency to specify at which levels certain requirements shall be undertaken; and Section 63G-2-603, concerning requests to amend a record.

R151-2-2. Duties of Divisions within the Department.

Each division director shall comply with Section 63A-12-103 and shall appoint a records officer to perform, or to assist in performing, the following functions:

- (1) the duties set forth in Section 63A-12-103; and
- (2) responding to requests for access to division records.

R151-2-3. Requests for Access.

(1) Waiver of Written Requests: Regardless of [Notwithstanding] Subsection 63G-2-204 (1) requiring written requests for records, a division may at its discretion waive the requirement for a written request if the records requested are public, the records are readily accessible, and the request is filled promptly by allowing access or copying at the time the request is made.

(2) To whom directed: ~~[All-]~~ Requests for access to records shall be directed to the records officer of the particular division which the requester believes generated or possesses the records.

(3) Fees: A fee shall be charged for copies of records provided. That fee shall be established pursuant to Title 63J, Chapter 1, the Budgetary Procedures Act, and Subsection 63G-2-203 (1). Fees must be paid at the time of the request or before the records are provided to the requester.

R151-2-4. Forms.

(1) A person requesting records may use a form or any [The forms described as follows, or a] written document containing [substantially similar information to that requested in the forms, shall be completed by requesters in connection with records requests, unless a division waives written requests.

~~_____ (a) Form 2-204(1), "Request for Records", is intended to assist persons who request records to comply with the requirements of Subsection 63G-2-204 (1) regarding the contents of a request. The form requires] the following information:~~ the requester's name, address, telephone, organization, if any, a description of the records requested, and information regarding the requester's status, for records which are not public.

~~[_____ (b) Form 2-206(5), "Disclosure and Agreement", is to be used when another governmental entity requests controlled, private or protected records, pursuant to Subsection 63G-2-206 (5). This form discloses to the governmental entity certain information regarding restrictions on access and obtains the written agreement of the governmental entity to abide with those restrictions.]~~

(2) The department or its divisions may use forms to respond to requests for records.

R151-2-5. Designation of Authorized Officers.

(1) The determinations or weighing of interests permitted or required under the following sections by a "governmental entity" or the "head of a governmental entity" shall be made by the division director which has custody or control of the records, or his designee:

(a) Subsection 63G-2-201 (5) (b), which governs disclosure of certain private or protected records;

(b) Section 63G-2-309, which governs business confidentiality claims;

(c) Subsection 63G-2-202 (8), which governs disclosure for research purposes; and

(d) Subsection 63G-2-201 (10) (a), which governs intellectual property rights.

(2) The "chief administrative officer of the governmental entity" for purposes of appeals under Sections 63G-2-401 and 63G-2-603 shall be the Executive Director of the Department of Commerce or the Executive Director's designee.

R151-2-6. Designation of Requests to Amend Record.

Requests to amend a record under Section 63G-2-603 are hereby designated as informal proceedings.

KEY: government documents, freedom of information, public records

Date of Enactment or Last Substantive Amendment: 2021~~July 8, 2008~~

Notice of Continuation: February 11, 2021

Authorizing, and Implemented or Interpreted Law: ~~63G-2-204;~~
~~63G-2-201(5)(b); 63G-2-201(10)(a); 63G-2-202(8); 63G-2-308; 63G-2-401;~~ 63G-2-603

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Utah Admin. Code Ref (R no.):	R174-1	Filing No. 53362

Agency Information

1. Department:	Communications Authority Board (Utah)	
Agency:	Administration	
Street address:	5215 Wiley Post Way, Suite 550	
City, state:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Quinton Stephens	801-641-0547	qstephens@uca911.org
David Edmunds	435-640-8117	dedmunds@uca911.org
Nathan Marigoni	801-840-4200	marigonin@ballardspahr.com
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R174-1. Utah 911 Advisory Committee
3. Purpose of the new rule or reason for the change:
Significant legislation has been passed since the current version of the rule was promulgated. This legislation renders the existing rule moot and requires updates and revisions which are proposed through this submission.
4. Summary of the new rule or change:
The proposed rule addresses the methods and means for providing access and/or equipment to both the statewide public safety radio network and the statewide NG911 system. This rule also includes procedures for the distribution of statutorily provided funds in accordance with the Utah Communications Authority Act, Title 63H, Chapter 7a.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This proposed rule is not expected to have any fiscal impact on state government revenues or expenditures because this rule addresses participation by state entities in statewide emergency communications services that have already been procured and budgeted by the Utah Communications Authority (UCA). All of UCA's funding comes from restricted accounts and service fees dedicated for these emergency communications services. Those portions of this rule addressing distributions from UCA's restricted accounts to participating entities only set forth the procedure for distributions already required by statute, i.e., Section 63H-7a-304.5. The proposed rule itself will have <u>no effect on any state budget.</u>
B) Local governments:
This proposed rule is not expected to have any fiscal impact on local governments' revenues or expenditures because this rule addresses participation by local government entities in statewide emergency communications services that have already been procured and budgeted by UCA. All of UCA's funding comes from restricted accounts and service fees dedicated for these emergency communications services. Those portions of the rule addressing distributions from UCA's restricted accounts to participating entities only set forth the procedure for distributions already required by statute, i.e., Section 63H-7a-304.5. The proposed rule itself will have <u>no effect on any local government.</u>
C) Small businesses ("small business" means a business employing 1-49 persons):

This proposed rule is not expected to have any fiscal impact on small businesses' revenues or expenditures because this rule addresses participation by state and local government entities in statewide emergency communications services maintained by UCA. UCA provides no services to businesses and businesses are not permitted to participate in these emergency communications services.

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

This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because the rule addresses participation by state and local government entities in statewide emergency communications services maintained by UCA. UCA provides no services to businesses and businesses are not permitted to participate in these emergency communications services.

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 is not expected to have any fiscal impact on other persons because this rule addresses participation by state and local government entities in statewide emergency communications services maintained by UCA. UCA provides no services to entities other than state and local government entities and no entities other than state and local government entities are permitted to participate in these emergency communications services.

F) Compliance costs for affected persons:

This proposed rule is not expected to have any compliance costs because the rule addresses participation by state and local government entities in statewide emergency communications services maintained by UCA. This rule establishes only a procedure for UCA to manage participation in the system and participating entities and it is not anticipated that such entities will incur any compliance costs as a result of this rule.

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

Regulatory 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Utah Communications Authority, David Edmunds, has reviewed and approved this fiscal analysis.

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

As an independent state entity, I, David Edmunds, UCA's Executive Director, am the Department Head. I concur with the above statements and indicate that this rule, in and of itself, will have no direct fiscal impact.

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

David A. Edmunds, 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):

Title 63H, Chapter 7a	Section 63H-7a-304.5	Section 63H-7a-304
Section 63H-7a-303		

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:	05/17/2021
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10. This rule change MAY become effective on:	05/24/2021
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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

Agency head or designee, and title:	David Edmunds, Executive Director	Date:	04/06/2021
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R174. Communications Authority Board (Utah), Administration.

[R174-1. Utah 911 Advisory Committee.

R174-1-1. Purpose.

The purpose of this rule is to outline the operation of the committee and procedures whereby the committee shall award funds to Public Safety Answering Points (PSAPs) and Dispatch Centers throughout the State of Utah for the establishment and maintenance of a statewide unified E-911 emergency system, and to establish the framework to provide grants from the Computer Aided Dispatch (CAD) Restricted Account.

R174-1-2. Authority.

This rule is authorized by Section 63H-7a-302(5), and Section 63H-7a-204(11).

R174-1-3. Definitions.

- (1) Definitions used in the rule are defined in Section 69-2-2.
- (2) In addition:
 - (a) "applicant" means a Public Safety Answering Point (PSAP) submitting a grant application;
 - (b) "Authority" means the Utah Communications Authority established in Section 67H-7a-201;
 - (c) "Board" means the Utah Communications Authority Board established in Section 67H-7a-203;
 - (d) "CAD2CAD Interface" means a component to share CAD data between disparate CAD systems on a statewide or regional basis;
 - (e) "committee" means the 911 Advisory Committee established in Section 63H-7a-307.

~~(f) "grant" means an appropriation of funds from the restricted Unified Statewide Emergency Service Account created in Section 63H-7a-304 or the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303;~~

~~(g) "PSAP" means a public safety answering point as defined in Section 69-2-2(7).~~

~~(h) "Program" means the defined activities funded by the Unified Statewide 911 Emergency Service Account in Section 63H-7a-304(2) or the defined activities funded by the Computer Aided Dispatch Restricted Account in Section 63H-7a-303(2); and~~

~~(i) "State" means the state of Utah.~~

R174-1-4. Operation of the Committee.

~~(1)(a) A chairperson shall be elected as provided in Section 63H-7a-307(3)(a) at the first meeting of each calendar year.~~

~~(b) The committee shall also elect a vice chairperson at that time to assist the chairperson with administrative duties.~~

~~(2)(a) The committee shall meet monthly unless circumstances otherwise dictate.~~

~~(b) Members of the committee may participate in the meeting by electronic means such as internet connection or a phone bridge.~~

R174-1-5. Grant Process.

~~(1)(a) A PSAP seeking a grant from the Unified Statewide 911 Emergency Service Account or the Computer Aided Dispatch Restricted Account shall make application to the committee using the Utah 911 Committee Grant Application forms.~~

~~(b) The application must include:~~

~~(i) a description of all equipment or services that may be purchased with the grant;~~

~~(ii) a list of vendors and contractors who may be used to provide equipment or services;~~

~~(iii) evidence that the PSAP has used a competitive process when procuring equipment or services;~~

~~(iv) a complete narrative justifying the need for the grant;~~

~~(v) if applying for a grant from the Computer Aided Dispatch Restricted Account, a description of how the project fulfills the purposes outlined in 63H-7a-303;~~

~~(vi) a description of any other funding sources that may be used to pay for the acquisition of equipment, construction of facilities or services;~~

~~(vii) additional information as requested by the committee; and~~

~~(viii) the signature of the authorized agency official.~~

~~(2)(a) Any PSAP intending to apply for a grant shall submit a notice of intent to Agency staff prior to the beginning of the calendar year for consideration in the next budget cycle.~~

~~(b) PSAPs that submit a notice of intent may receive priority over PSAPs that do not submit a notice of intent prior to making a grant application.~~

~~(3)(a) The committee requires a 30 day review period to consider grant application submissions.~~

~~(i) In cases of extenuating circumstances, a PSAP may request that the committee shorten the 30 day review period and consider the application at its next regularly scheduled meeting.~~

~~(ii) The request for a shorter review period shall be made in writing, and explain the extenuating circumstances that justify the expedited consideration of the grant application.~~

~~(b) Following the 30 day review period, a representative from the PSAP making the application shall be present, in person or by electronic means, at the next regularly scheduled committee meeting to present the grant application.~~

~~(4) PSAPs in the third through sixth class counties may apply for grants that enhance 911 emergency services. The committee shall consider these applications on a case by case basis.~~

R174-1-6. Criteria for Determining Grant Eligibility.

~~(1) In order to be eligible for a grant, a PSAP shall comply with all of the requirements found in Title 63H Chapter 7a Part 3; Title 53, Chapter 10, Part 6; and Title 69, Chapter 2.~~

~~(2)(a) When determining which PSAPs may receive grants, the committee shall give priority to 911 projects that:~~

~~(b) enhance public safety by providing a statewide, unified 911 emergency system;~~

~~(c) include a maintenance package that extends the life of the 911 system;~~

~~(d) increase the value of the 911 system by ensuring compatibility with emerging technology;~~

~~(e) replace equipment which is no longer reliable or functioning; and~~

~~(f) include a local share of funding according to the following formula:~~

~~(i) PSAPs in a county of the first class that pay at least 30% of the total cost of the project;~~

~~(ii) PSAPs in a county of the second class that pay at least 20% of the total cost of the project; and~~

~~(iii) PSAPs in a county of the third through sixth class that pay up to 10% of the total cost of the project.~~

~~(3) Eligible CAD functional elements—Refer to Section R174-1-8, Attachment A—Eligible CAD Functional Elements.~~

~~(a) In the case of an award from the Computer Aided Dispatch Restricted Account, PSAPs shall pay a grant match of 20% regardless of class.~~

~~(4) If a grant application includes equipment that utilizes geographical information systems or geo-positioning systems, the PSAP shall consult with the State Automated Geographic Reference Center (AGRC) in the Division of Integrated Technology of the Department of Technology Services.~~

~~(5) When economically feasible and advantageous to the individual PSAPs, the committee may negotiate with vendors on behalf of the PSAPs as a group.~~

~~(6) Where applicable, PSAPs shall provide evidence from the Bureau of Emergency Medical Services (BEMS) that they are a Designated Emergency Medical Dispatch Center.~~

R174-1-7. Awarding a Grant.

~~(1) The recommendation to award a grant shall be made by a majority vote of the committee.~~

~~(2) The committee may only recommend grants for the purchase of equipment or the delivery of services in an amount which is equal to, or less than, the amount that would be paid to a State vendor or contractor.~~

~~(3)(a) All grant awards shall be memorialized in a contract between the Authority and the grant recipient.~~

~~(b) Each contract shall include the following conditions:~~

~~(i) the state or local entity shall agree to participate in the statewide 911 data management system sponsored by the committee;~~

~~(ii) the grant may be used only for the purposes specified in the application; and~~

~~(iii) the grant shall be de-obligated if the state or local entity breaches the terms of the contract.~~

~~(4)(a) Unspent grant funds shall be automatically de-obligated within one year from the approval of the original grant.~~

~~(b) A PSAP may request a time extension to spend grant funds in extenuating circumstances.~~

~~(i) The request shall be made in writing and explain the extenuating circumstances that justify additional time to spend the grant funds.~~

~~(ii) The committee shall recommend the approval or denial of the request by a majority vote.~~

R174-1-8. Attachment A—Eligible CAD Functional Elements.

~~(i) Hardware: Servers and other hardware are eligible for full reimbursement when the equipment is required to support the core CAD functionality. New CAD required hardware that also supports associated functions such as Records Management Systems is eligible for reimbursement at the apportioned rate of documented use.~~

~~(ii) Software: CAD software fulfilling the core missions of call entry, address verification, unit recommendation, dispatching and tracking of units, and mapping. Eligible items include:~~

~~(a) Core System to support CAD (apportioned to actual cost of modules to support CAD)~~

~~(b) CAD application~~

~~(c) Geo-base address verification~~

~~(d) Mapping~~

~~(e) Automatic Vehicle Location~~

~~(f) Unit Recommendations or Response Plans~~

~~(g) E911 copy-over~~

~~(h) Interfaces to closely related 3rd party applications (medical/fire/police card system, fire department paging system, or UCJIS)~~

~~(i) Premise (apportioned at 50%)~~

~~(iii) Professional Services: (installation, configuration, etc.) apportioned for eligible items.~~

~~(iv) Maintenance: Ineligible other than CAD2CAD interface.~~

~~(v) Database Merging/Conversion: Eligible for CAD data merging/conversion, apportioned at 50% if RMS data is also included in the merge/conversion.~~

~~(vi) Ineligible software items include, but are not limited to:~~

~~(a) RMS-related modules~~

~~(b) System dashboards or monitoring~~

~~(c) Aerial photography~~

~~(d) Equipment tracking~~

~~(e) Personnel tracking~~

~~(f) Imaging~~

~~(g) Pin mapping or statistics packages]~~

R174-1. Utah Communications Authority Board.

R174-1-101. Purpose.

The purpose of this rule is to provide for the management and administration of the public safety communications network, defined by Subsection 63H-7a-103(15) to include regional and statewide public safety governmental communications networks and 911 emergency services, including radio communications, connectivity, and 911 call processing equipment; to provide standards and procedures for participation in the public safety communications network consistent with the Authority's statutory duties; and to provide standards and procedures for administering restricted accounts to provide administrative and financial support for statewide 911 emergency services.

R174-1-102. Definitions.

Terms used in this rule shall have the meaning set forth in Section 63H-7a-103. In addition:

(1) "NG911 Contract" means the contract between the Authority and Vesta Solutions, Inc. dated June 19, 2020, procured by the Authority pursuant to RFP Solicitation #CO20022;

(2) "Call-taking Position" means the services and equipment furnished under the NG911 Contract, necessary for a single 911 operator at a PSAP or Dispatch Center to receive and respond to a 911 call. This includes customer premises equipment, ESINet connection, and access to NG911 services but excludes optional equipment and services.

(3) "ESINet" means the emergency services IP network maintained by the Authority;

(4) "Executive Director" means the Authority's Executive Director described in Section 63H-7a-205.

(5) "Legacy Call-taking Position" means the services and equipment necessary for a single 911 operator in a PSAP or dispatch center to receive and respond to a 911 call and currently in use by the PSAP or dispatch center and connected to the Authority's Legacy RFAI ESINet or Selective Router prior to the implementation of the NG911 system;

(6) "Legacy Radio Console" means the services and equipment necessary for a single dispatcher or telecommunicator in a PSAP or dispatch center to connect to and send and receive communications on the public safety radio network and in use by the PSAP or dispatch center and registered with the public safety radio network prior to the implementation of the P25 upgrade to the public safety radio network;

(7) "NG911" means the next-generation 911 core services and call handling solution procured by the Authority pursuant to RFP Solicitation #CO20022 and all associated equipment, network connections, and services;

(8) "P25" means the Project 25 suite of standards for digital mobile radio communications adopted and published by the Association of Public-Safety Communications Officials (APCO) and any revisions or modification of those standards adopted by APCO;

(9) "P25 Contract" means the contract between the Authority and L3Harris Technologies, dated June 7, 2019, procured by the Authority pursuant to RFP Solicitation #CO19008;

(10) "PSAP Advisory Committee" means the PSAP advisory committee created by Section 63H-7a-208;

(11) "Public safety radio network" means the statewide radio network operated and maintained by the Authority pursuant to Section 63H-7a-402;

(12) "Radio Console" means the Symphony Dispatch Consoles and associated software and licenses furnished under the P25 Contract;

(13) "RFAI ESINet" means the transitional ESINet provided and maintained by the Authority as of July 1, 2020.

(14) "Selective Router" means the legacy 911 routing network maintained pursuant to State of Utah Contract #136401 between the Authority and CenturyLink.

(15) "Shared CAD System" means a shared computer aided dispatch system as defined in Subsection 63H-7a-303(2)(b).

(16) "State" means the State of Utah; and

(17) "Stage agency" means any department, division, agency, commission, board, council, committee, authority, or any other institution of the State.

R174-1-103. Authority.

This rule is authorized by Subsection 63H-7a-204(12).

R174-1-201. Board Compensation Prohibited; Permissible Reimbursement.

(1) Pursuant to Subsection 63H-7a-203(11), a member of the Board shall not receive compensation for the member's service on the Board. Notwithstanding the foregoing, in discharging any duties as a Board member or official business of the Authority that require travel, a Board member may receive from the Authority:

(a) a per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

(2) A Board member seeking such per diem and travel expenses shall submit to the Authority documentation showing the dates and purpose of any travel for any per diem sought and dates, purpose of travel, and actual travel expenses incurred for reimbursement of travel expenses. The Executive Director may approve such requests or present such requests for consideration and approval by the Board at its next public meeting.

R174-1-301. Participation in NG911 System.

A PSAP or Dispatch Center established pursuant to Section 69-2-201 may, upon approval of the Executive Director, participate in the NG911 system implemented and maintained by the Authority.

R174-1-302. Participation by PSAP.

(1) All PSAPs connected to and participating in the Authority's legacy RFAI ESINet or Selective Router as of July 1, 2020, shall be deemed a participating PSAP under this Section.

(2) Any non-participating PSAP that seeks to participate and connect to the Authority's NG911 system shall submit a written request to the Executive Director. Upon the Executive Director's approval, the PSAP shall become a participating PSAP under this Section.

R174-1-303. Application for Participation by Dispatch Centers.

(1) A Dispatch Center that seeks to participate in and connect to the Authority's NG911 system shall submit the application described herein to the Executive Director.

(2) UCA shall maintain and publish an application form, approved by the Executive Director, that requires the following information from each applicant:

(a) The name of the entity that operates the Dispatch Center;

(b) Contact information for the Dispatch Center, including a single point of contact during emergencies;

(c) The geographic area served by the Dispatch Center;

(d) A copy of any agreements between the Dispatch Center and any other party relating to the provision of 911 services;

(e) The estimated number of 911 calls transferred to the Dispatch Center on an annual basis;

(f) The number of Legacy Call-taking Positions currently operated by the Dispatch Center and the number of Call-taking Positions the Dispatch Center anticipates purchasing;

(g) The source of funding for the anticipated Call-taking Positions;

(h) Any other information required by the Executive Director.

(3) The Executive Director shall approve an application under this Section if the Executive Director determines:

(a) participation by the applicant will serve a public safety purpose; and

(b) participation by the applicant is not inconsistent with the Authority's duties under Title 63H, Chapter 7a.

(4) If the Executive Director rejects an application under this Section, the Executive Director shall make a written determination of the reasons for the rejection and provide that determination to the applicant.

R174-1-304. NG911 Service Model and Cooperative Purchase.

The Authority has procured NG911 Core Services, ESINet, and customer premises equipment and call handling positions through a managed service model under the NG911 Contract. Services and equipment shall be furnished to a PSAP or dispatch center under the NG911 Contract only at the direction of or with the approval of the Authority.

R174-1-305. Initial Allocation of Call-taking Positions.

The Authority will allocate Call-taking Positions to each participating PSAP identified in Subsection R174-1-302(1) on a one-to-one basis with Legacy Call-taking Positions deployed and in active use at the PSAP, based upon the documentation on file with the Authority as of June 5, 2020. That allocation shall constitute the "Baseline" Call-taking Position count for the PSAP for purposes of this rule.

R174-1-306. Change in Allocation of Call-taking Positions to Participating PSAPs.

(1) The Authority will allocate to a participating PSAP or remove from a participating PSAP Call-taking Positions based on a formula adopted by the Board through the following process:

(a) On or before January 15, 2022, the Board will schedule a meeting to consider adoption of a formula recommended by the Executive Director. The meeting may be a regular meeting or a special meeting convened for this purpose. The Board will give the Executive Director and the PSAP Advisory Committee not less than 120 days notice of the date of the proposed meeting. The meeting shall be publicly noticed as required by Title 52, Chapter 4.

(b) Not less than 90 days prior to the Board meeting, the PSAP Advisory Committee will make a recommendation to the 911 Division of a proposed formula.

(c) Not less than 60 days prior to the Board meeting, after considering the proposal from the PSAP Advisory Committee, the 911 Division will make a recommendation to the Executive Director of a proposed formula.

(d) Not less than 30 days prior to the Board meeting, after considering the proposal from the PSAP Advisory Committee, 911 Division, and any other person or persons the Executive Director deems necessary or desirable, the Executive Director will make a recommendation to the Board of a proposed formula.

(e) At the meeting, the Board will consider the formula recommended by the Executive Director and may adopt the formula, adopt the formula with modifications, or reject the formula.

(f) If the Board adopts the formula recommended by the Executive Director, or adopts the formula with modifications:

(i) the formula shall remain in place for three years unless modified by the Board;

(ii) prior to the expiration of the three-year period, the Board shall schedule a meeting to consider adoption of a formula recommended by the Executive Director pursuant to the procedure set forth in subsection (1)(a) to (e); and

(iii) the Board may, upon a determination that exigent circumstances exist which require a modification to the formula during this three-year period, in which case it may:

(A) direct the Executive Director to review the formula and recommend changes on a schedule and terms specified by the Board; and

(B) adopt the changes recommended by the Executive Director, with or without modifications.

(g) If the Board rejects the formula recommended by the Executive Director, the Board shall direct the Executive Director to prepare a revised recommendation on a schedule and terms specified by the Board.

(2) If the Board determines it is in the interest of public safety, the Board may increase or decrease the number of Call-taking positions allocated to a PSAP.

(3) In the event a PSAP removes a Call-taking Position from service, the PSAP shall notify the Authority to allow the Authority to recover the Call-taking Position.

R174-1-307. Payment for Allocated Call-taking Positions.

The Authority shall be responsible for payment of non-recurring and recurring costs for all Call-taking Positions allocated under Section R174-1-305.

R174-1-308. Purchase of Call-taking Positions or Optional Equipment.

Upon the Authority's written approval, a participating PSAP or Dispatch Center may purchase Call-taking Positions or optional equipment authorized by the NG911 Contract at its own expense. Any such purchase shall be pursuant to the cooperative purchase provision of the NG911 Contract. The Authority shall not be responsible for payment of non-recurring or recurring costs for any such Call-taking Positions or optional equipment authorized by the NG911 Contract.

R174-1-401. Restricted Account Funding Procedures.

Sections R174-1-401 through R174-1-404 apply to all requests for payment or reimbursement from restricted accounts maintained by the Authority pursuant to Sections 63H-7a-303, -304.

R174-1-402. Authority.

This rule is authorized by Subsection 63H-7a-302(5).

R174-1-403. Disbursements from Computer Aided Dispatch Restricted Account.

(1) The Authority shall make available to participating PSAPs funds from the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 as reimbursement for costs incurred for the creation of a Shared CAD System.

(2) Upon the approval by the Executive Director of a PSAP's application for reimbursement under this section, the Authority shall reimburse the applicant from the Computer Aided Dispatch Restricted Account for 80% of the costs actually incurred by the applicant in purchasing and implementing an eligible Shared CAD System.

(3) To be eligible for reimbursement under this Section, a Shared CAD System must be purchased and implemented for the purpose of attaining performance benchmarks for reduction of 911 call transfers set forth in statute, administrative rule, or the Authority's strategic plan, as applicable.

(4) The following shall be ineligible for reimbursement under this Section:

(a) Any expenses that are inconsistent with the Authority's strategic plan;

(b) A Shared CAD System that was implemented or became operational prior to January 1, 2020;

(c) Ongoing maintenance of any Shared CAD System or CAD Software;

(d) Hardware, software, services, or equipment other than that necessary for implementation of an eligible Shared CAD System;

(e) Security system and key costs;

(f) Costs of non-emergency or administrative phone lines;
or

(g) Any other costs or systems that do not comply with this section or Section 63H-7a-303.

(5) Any PSAP intending to apply for funds from the Computer Aided Dispatch Restricted Account under this section shall provide written notice to the 911 Division prior to the beginning of the fiscal year in which reimbursement will be sought to allow the reimbursement request to be considered in the budget cycle.

(6) The Authority shall maintain and publish an application form, approved by the Executive Director, that requires the following information from any applicant for reimbursement under this section:

(a) The name of the entity or entities applying for reimbursement;

(b) The geographic areas served by the Shared CAD System;

(c) The date upon which the eligible Shared CAD System became or will become operational, such as a substantial completion, commissioning, or cutover date;

(d) A proposal, scope of work, or itemized invoice sufficient to show all hardware, equipment, services, or other costs incurred in the purchase of the eligible Shared CAD System;

(e) Bills of sale, receipts, cancelled checks, wire transfer records, or other documents sufficient to demonstrate the amounts actually paid by the applicant(s) for the eligible Shared CAD System;

(f) A description of the anticipated effect of the eligible Shared CAD System on the 911 call transfer rate for the applicant(s), including whether the anticipated 911 call transfer rate will meet any applicable benchmarks, and a narrative setting forth the basis of any anticipated effect on 911 call transfer rates; and

(g) Any other information required by the Executive Director.

(7) After consultation with the 911 Division, the Executive Director shall recommend to the Board that the Board approve an application under this Section unless the Executive Director determines:

(a) the application is incomplete or inaccurate;

(b) the applications seeks reimbursement for ineligible costs;

(c) reimbursement would not be consistent with the Authority's duties under Title 63H, Chapter 7a;

(d) there are insufficient funds in the Computer Aided Dispatch Restricted Account to reimburse the amounts sought; or

(e) the application or proposal violates this rule or any other applicable rule or statute.

(8) If the Executive Director determines that insufficient funds in the Computer Aided Dispatch Restricted Account to reimburse the amounts requested in an application under this Section, the Executive Director may:

(a) approve the application for a lesser amount, conditional upon sufficient funds being available in the Computer Aided Dispatch Restricted Account; or

(b) deny the application without prejudice to a future application for reimbursement of the eligible Shared CAD System.

(9) If the Executive Director rejects an application under this Section, the Executive Director shall make a written determination of the reasons for the rejection and provide that determination to the applicant.

(10) If the Executive Director determines that funds were disbursed to an applicant for a Shared CAD System that does not meet the criteria set forth in subsection (3), or that an applicant was reimbursed for ineligible costs under subsection (4), upon written demand by the Executive Director, the applicant shall return the funds to the Authority for deposit in the Computer Aided Dispatch Restricted Account.

R174-1-404. Disbursements from Unified Statewide 911 Emergency Service Account.

(1) Beginning in its Fiscal Year 2022, the Authority shall make available annually to participating PSAPs funds from the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304 in accordance with the requirements of Section 63H-7a-304.5.

(2) The funds available for distribution shall be those funds described in Subsection 63H-7a-304(1), less:

(a) funds expended or disbursed pursuant to Subsection 63H-7a-304(2)(a), (3), or (4);

(b) funds otherwise expended or disbursed by the Authority consistent with its strategic plan, including:

(i) implementing, maintaining, or upgrading the public safety communications network or statewide 911 phone system, including implementation of NG911; or

(ii) overhead of the Authority for management of the 911 portion of the public safety communications network; and

(c) funds the Board determines should remain in the Unified Statewide 911 Emergency Service Account for future use.

(3) To be eligible for a distribution under Section 63H-7a-304.5, a PSAP must be a Qualifying PSAP as defined in Subsection 63H-7a-304.5(d) for the fiscal year in which a distribution is sought.

(4) A Qualifying PSAP that seeks a proportionate share of available funds shall submit the certified statement defined in Subsection 63H-7a-304.5(1)(a) to the Executive Director no later than July 31 following the end of the fiscal year for which the distribution is sought.

(5) If the Authority determines that a certified statement submitted by a PSAP is untimely, does not comply with the requirements of Subsection 63H-7a-304.5(1)(a), or does not demonstrate that the PSAP is a Qualifying PSAP, the Executive Director shall make a written determination of the reasons for the deficiency in the certified statement and provide that determination to the PSAP.

(6) For each fiscal year, the Authority shall distribute a proportionate share of available funds to each Qualifying PSAPs that timely submitted a certified statement. The proportionate share for a PSAP shall be calculated in accordance with Subsection 63H-7a-305.5(1)(c) and (3)(b).

(a) In the event that Subsection 63H-7a-305.5(3)(b) does not permit distribution of all available funds to Qualifying PSAPs, any remaining funds shall remain in the Unified Statewide 911 Emergency Service Account for use by the Authority or distribution in a subsequent fiscal year.

(7) If the Executive Director determines that funds were disbursed to a PSAP that was not a Qualifying PSAP, upon written demand by the Executive Director, the PSAP shall return the funds to the Authority for use by the Authority or distribution in a subsequent fiscal year.

R174-1-501. Participation in Public Safety Radio Network; Eligibility.

The following persons or entities are eligible for participation in the public safety radio network pursuant to an application approved by the executive director:

- (a) a state agency;
- (b) a public safety agency;
- (c) a public safety answering point;
- (d) a political subdivision of the state or agency thereof that is:

- (i) not a public safety agency or public safety answering point;
- (ii) sponsored by an entity defined in subsections (a), (b), or (c) that is an approved participant in the public safety communications network; and
- (iii) approved to participate for a specified public safety purpose; or

- (e) any other person or entity with the express approval of the Executive Director.

R174-1-502. Service Tiers.

(1) To ensure reliability and high availability of the public safety radio network for first responders, the Authority shall implement network-management policies and procedures that prioritize network traffic and access to the public safety radio network by establishing service tiers.

(2) Approved participants in the public safety radio network shall be assigned to the following service tiers for purposes of the Authority's network-management policies and procedures:

- (a) each participant under Section R174-1-501(a), (b), or (c) shall be assigned to Tier One;

- (b) each participant under Section R174-1-501(d) shall be assigned to Tier Two;

- (c) each participant under Section R174-1-501(e) shall be assigned to Tier One or Tier Two at the Executive Director's discretion.

(3) The Executive Director may limit access to the public safety radio network for Tier Two participants as may be necessary to ensure network availability for Tier One participants in the Executive Director's judgment.

R174-1-503. Application.

(1) Each entity described in Section R174-1-501 that seeks to participate in the public safety radio network shall submit the application described herein to the Executive Director.

(2) UCA shall maintain and publish an application form, approved by the Executive Director, that requires the following information from each applicant:

- (a) The name of the entity applying;
- (b) The basis for eligibility to participate in the public safety communications network under Section R174-1-501;
- (c) For an entity seeking participation under Subsection R174-1-501(d):

- (i) the name of the sponsoring entity;
- (ii) approval signed by an authorized representative of the sponsoring entity; and

- (iii) the public safety purpose for which admission is requested;

(d) For an entity seeking participation under Subsection R174-1-501(e):

- (i) a copy of the written agreement allowing participation;
- (e) The estimated number of users for the period running for five years from July 1 following the date of the application.

(f) Any other information required by the Executive Director.

(3) For an application pursuant to Subsection R174-1-501(a), (b), (c), or (e), the Executive Director shall approve the application unless permitting access would not be consistent with the Authority's duties under Title 63H, Chapter 7a.

(4) For an application pursuant to Subsection R174-1-501(d), the Executive Director shall approve the application if the Executive Director determines:

(a) participation by the applicant will serve a public safety purpose; and

(b) participation by the applicant is not inconsistent with the Authority's duties under Title 63H, Chapter 7a.

(5) If the Executive Director rejects an application under this Section, the Executive Director shall make a written determination of the reasons for the rejection and provide that determination to the applicant and its sponsoring entity, if any.

R174-1-504. Recertification.

(1) Each participant in the public safety communications network shall submit to the Authority an application to participate in the form prescribed by Section R174-1-503 no later than July 1 in the year that is five years from the date of its original application or its last recertification application, whichever is later.

(2) Each eligible entity that is a participant in the public safety communications network on January 1, 2020 shall submit to the Authority a recertification application in the form prescribed by Section R174-1-503 no later than:

- (a) for a state agency, June 30 2022;

- (b) for a county of the first or second class, December 31, 2021;

- (c) for all other entities, June 30, 2021.

(3) A PSAP recertifying under this Section shall provide to the Authority, together with its recertification application, a copy of any PSAP interlocal agreement.

(4) The Authority shall notify any participating entity of its failure to submit a timely recertification application under this section.

(5) The Executive Director shall review each recertification application under this section in the manner set forth in Section R174-1-503.

(6) If an application is rejected, or if an entity fails to timely submit an application and such failure is not cured by the entity or excused by the Executive Director, the entity shall be removed as a participant in the public safety radio network on the later of either December 31 of the year in which the recertification application was required or six months from the due date.

R174-1-505. Initial Allocation of Radio Consoles to Participating PSAPs.

The Authority will allocate Radio Consoles to each participating PSAP identified in Subsection R174-1-302(1) on a one-to-one basis with Legacy Radio Consoles deployed and connected to the Authority's legacy public safety radio system based upon the documentation on file with the Authority as of June 5, 2020. That

allocation shall constitute the "Baseline" Dispatch Position count for the PSAP for purposes of this rule.

R174-1-506. Change in Allocation of Radio Consoles to Participating PSAPs.

(1) The Authority will allocate to a PSAP or remove from a PSAP Radio Consoles based on a formula adopted by the Board through the following process:

(a) On or before January 15, 2022, the Board will schedule a meeting to consider adoption of a formula recommended by the Executive Director. The meeting may be a regular meeting or a special meeting convened for this purpose. The Board will give the Executive Director and the PSAP Advisory Committee not less than 120 days notice of the date of the proposed meeting. The meeting shall be publicly noticed as required by Title 52, Chapter 4.

(b) Not less than 90 days prior to the Board meeting, the PSAP Advisory Committee will make a recommendation to the 911 Division and Radio Division of a proposed formula.

(c) Not less than 60 days prior to the Board meeting, after considering the recommendation from the PSAP Advisory Committee, the 911 Division and Radio Division will make a joint recommendation to the Executive Director of a proposed formula.

(d) Not less than 30 days prior to the Board meeting, after considering the recommendation from the PSAP Advisory Committee and the joint recommendation of the 911 Division and Radio Division, the Executive Director will make a recommendation to the Board of a proposed formula.

(e) At the meeting, the Board will consider the formula recommended by the Executive Director and may adopt the formula, adopt the formula with modifications, or reject the formula.

(f) If the Board adopts the formula recommended by the Executive Director, or adopts the formula with modifications:

(i) the formula shall remain in place for three years unless modified by the Board;

(ii) prior to the expiration of the three-year period, the Board shall schedule a meeting to consider adoption of a formula recommended by the Executive Director pursuant to the procedure set forth in subsection (1)(a) to (e); and

(iii) the Board may, upon a determination that exigent circumstances exist which require a modification to the formula during this three-year period, in which case it may:

(A) direct the Executive Director to review the formula and recommend changes on a schedule and terms specified by the Board; and

(B) adopt the changes recommended by the Executive Director, with or without modifications.

(g) If the Board rejects the formula recommended by the Executive Director, the Board shall direct the Executive Director to prepare a revised recommendation on a schedule and terms specified by the Board.

(2) If the Board determines it is in the interest of public safety, the Board may increase or decrease the number of Call-taking positions allocated to a PSAP.

(3) In the event a PSAP removes a Call-taking Position from service, the PSAP shall notify the Authority to allow the Authority to recover the Call-taking Position.

R174-1-507. Payment for Allocated Radio Consoles.

The Authority shall be responsible for purchase and maintenance costs for all Radio Consoles allocated under Section R174-1-505. All such Radio Consoles shall remain the sole property of the Authority.

R174-1-508. Purchase of Radio Consoles.

Upon the Executive Director's written approval, a participating PSAP or Dispatch Center may purchase Radio Consoles at its own expense. Any such purchase shall be pursuant to the cooperative purchase provision of the Authority's P25 Contract. The Authority shall not be responsible for purchase or maintenance costs for any such Radio Consoles and may charge the PSAP or Dispatch Center a programming or maintenance fee for any service the Authority performs on such Radio Consoles at the request of the PSAP or Dispatch Center.

R174-1-509. Radio Console Connection Fee.

The Authority may charge a person or entity other than a PSAP a fee for connecting a Radio Console to the public safety communications network as permitted by Subsection 63H-7a-404(3)(c).

R174-1-601. Approved Devices.

To ensure network reliability and availability and to maintain an appropriate level of expertise and efficiency of UCA personnel in supporting end-user radio devices, users of the public safety radio network may not connect a radio device to the public safety radio network unless the radio device is one approved under this Rule.

R174-1-602. Approved Radio List.

The Authority shall develop and maintain a list, approved by the Executive Director, of radio devices authorized and approved to operate on the public safety radio network. The approved radio list shall initially include all P25-compliant radios that are connected to and operational on the Authority's legacy radio system. Additional radio devices shall be added to the approved radio list from time to time at the Executive Director's discretion or upon the request of an authorized user and a showing that the radio complies with the requirements of Section R174-1-603.

R174-1-603. Radio Compatibility Requirements.

(1) To be authorized for operation on the public safety radio network or for inclusion on the approved radio list, a radio device must meet the following requirements:

(a) The radio device must be P25 Compliance Assessment Program (CAP) certified with the Harris MSTR V 900 Trunked Radio for both Phase 1 and Phase 2 and the summary test report must be posted on the Department of Homeland Security website;

(b) The CAP testing facility or facilities must have a Scope of Recognition that meets all of the P25 CAP test requirements; and

(c) The radio must be tested by Authority personnel for compatibility with the public safety radio network after radio personalities and fleet maps are developed by Authority personnel.

(2) An authorized user requesting a radio device be authorized for use or added to the approved radio list shall provide to the Executive Director satisfactory evidence that the radio device meets each of the foregoing criteria. If the Executive Director concludes the radio device meets the required criteria, the Executive Director may direct the radio device be added to the approved radio list or provide a written authorization for the requesting user to operate the radio device on the public safety radio network. A device that does not appear on the approved radio list shall not be operated on the public safety radio network without written authorization from the Executive Director.

R174-1-701. Appeals.

Any person aggrieved by a decision of the Executive Director under this Rule may appeal to the Board by submitting a written request for review of the Executive Director's decision, setting forth all factual and legal grounds for the appeal and attaching all supporting evidence, to the Board and the Executive Director. To be timely, an appeal must be received by the Board within seven days after the aggrieved person's receipt of the Executive Director's decision. A timely appeal shall be heard and decided at a meeting of the Board held within 90 days of the Board's receipt of the appeal. Any decision not timely appealed shall be deemed final and not subject to appeal under this Rule.

KEY: Utah Communications Authority, [~~Utah 911 Advisory Committee~~Administration
Date of Enactment or Last Substantive Amendment: 2021[~~September 29, 2015~~]
Notice of Continuation: May 2, 2016
Authorizing, and Implemented or Interpreted Law: 63H-7a-303; 63H-7a-304; 63H-7a-304.5

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R305-11	Filing No. 53378

Agency Information

1. Department:	Environmental Quality	
Agency:	Administration	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144910	
City, state, zip:	Salt Lake City, UT 84114-4910	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R305-11. Clean Air Support Restricted Account Grant Program
3. Purpose of the new rule or reason for the change:
H.B. 339 from the 2020 General Session created the Clean Air Support Restricted Account. H.B. 339 gives authority to the Department of Environmental Quality to make rules specifying the requirements and procedures for the grant program. This proposed new rule, R305-11, is the rule that would do this.

4. Summary of the new rule or change:
As authorized by Section 19-1-109, this rule establishes the requirements and procedures for providing grants to 501(c)(3) organizations, as defined by the Internal Revenue Code. This rule establishes eligibility requirements, procedures for distributing funds from the account, and limitations.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
Section 19-1-109 establishes that the account shall be funded by: "contributions deposited into the account in accordance with Section 41-1a-422; private contributions; and donations or grants from public or private entities." The legislature has outlined how the account shall be funded, and there are no additional costs to the state budget for administering the account or funding the account.
B) Local governments:
There are no anticipated cost or savings to local governments because this rule is not applicable to them.
C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses because this rule is not applicable to them.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no anticipated costs or savings to non-small businesses because this rule is not applicable to them.
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>):
The only aggregate savings would be to 501(c)(3) organizations, as defined by the Internal Revenue Code, who apply for the grant monies and then receive them. The savings would come from receiving grant monies to expend that would otherwise come from the organization's possessive funds.
F) Compliance costs for affected persons:
There are no compliance costs for affected persons, as the only affected persons would be those who apply for the grant.
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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kimberly D. Shelley, 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 anticipated fiscal impact on businesses as a result of this rule. This new rule will only be applicable to 501(c)(3) organizations who apply for the grant monies.

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

Kimberly D. Shelley, 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):

Sections 19-1-109

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: 05/17/2021

10. This rule change MAY become effective on: 05/24/2021

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:	Kimberly D. Shelley, Executive Director	Date:	03/22/2021
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R305. Environmental Quality, Administration.

R305-11. Clean Air Support Restricted Account Grant Program.

R305-11-1. Authorization and Purpose.

(1) As authorized by Section 19-1-109, this rule establishes procedures for providing grants to organizations that:

(a) are tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

(b) have as part of the organization's mission:

(i) to encourage and educate the public about simple changes to improve air quality in the state;

(ii) to provide grants to organizations or individuals with innovative ideas to reduce emissions; and

(iii) to partner with other organizations to strengthen efforts to improve air quality.

(2) As authorized by Section 19-1-109, this rule establishes criteria and conditions for awarding grant monies and procedures for an organization to apply to receive money from the account.

R305-11-2. Definitions.

"Account" means the Clean Air Support Restricted Account as established by Section 19-1-109.

"Applicant" means the organization applying to receive grant monies from the account administered by the Department.

"Department" means the Utah Department of Environmental Quality.

NOTICES OF PROPOSED RULES

"Grant" means monies awarded to an applicant from the account that do not have to be repaid.

R305-11-3. Grant Eligibility.

Eligibility for grants from the account is limited to tax exempt organizations under Section 501(c)(3), Internal Revenue Code, that meet the eligibility requirements set forth in Subsection 19-1-109(4)(b).

R305-11-4. Preliminary Approval Application Procedure.

(1) Each applicant must apply for grants from the account on forms provided by the Department and must provide additional project information as requested by the Department.

(2) Each applicant must sign a written statement acknowledging that:

(a) an applicant is a tax-exempt organization under Section 501(c)(3), Internal Revenue Code; and

(b) an applicant meets at least one of the eligibility requirements in Subsection 19-1-109(4)(b).

(3) The Department will evaluate each applicant's eligibility according to the criteria provided in Section 19-1-109.

(4) The Department will evaluate each grant application according to the criteria in Subsections R305-11-6 and R305-11-7.

(5) When considering a grant application, the Department may modify the dollar amount or project scope for which a grant is awarded.

(6) Submission of an application under this program and this rule constitutes the applicant's acceptance of the criteria and procedures in this rule.

R305-11-5. Final Approval Procedure and Payment Process.

(1) Once an applicant has obtained final approval to receive a grant, including signed contract documents, monies from the account will be disbursed to the applicant.

(2) The approved applicant must continue to comply with the provisions of this rule.

R305-11-6. Prioritization of Awards for Grant Applications.

(1) The Department will consider the following criteria in prioritizing and awarding grants:

(a) the financial need of the applicant including its financial condition and the availability of other grants, rebates, or low-interest loans for the project; and

(b) the environmental and other benefits to the state and local community attributable to the project.

(2) When determining the environmental and other benefits to the state and local community attributable to the project, the Department may include the following criteria:

(a) the pollution reduction benefits attributable to the project;

(b) the location of the program or project; and

(c) the ratio of the total project cost to the environmental and other benefits attributable to the project and program.

R305-11-7. Grant Program Limitations.

(1) The Department may not approve a grant application if:

(a) awarding a grant to an applicant would result in the Department's inability to fulfill its obligations under this program or this rule;

(b) the applicant does not meet the eligibility requirements of Section R305-11-3;

(c) the project does not meet the requirements in Section R305-11-6; or

(d) awarding a grant to an applicant would result in the account balance being less than zero.

(2) The Department may award a partial grant to an applicant in accordance with Subsection R305-11-4(5) to keep the account balance at zero or above if an applicant meets each eligibility and project requirement of this rule.

R305-11-8. Review.

The Department reserves the right to request supplemental information it may deem necessary, including updates on the eligibility criteria in Section R305-11-3, from an applicant to effectively administer the program and this rule.

KEY: air pollution, grants, tax-exempt

Date of Enactment or Last Substantive Amendment: 2021

Authorizing, and Implemented or Interpreted Law: 19-1-109

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Utah Admin. Code Ref (R no.):	R436-2	Filing No. 53374

Agency Information

1. Department:	Health	
Agency:	Center for Health Data, Vital Records and Statistics	
Room no.:	140	
Building:	Cannon Health	
Street address:	288 N 1460 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 141012	
City, state, zip:	Salt Lake City, UT 84114-1012	
Contact person(s):		
Name:	Phone:	Email:
Linda Wininger	801-538-6262	lindaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R436-2. Infants of Unknown Parentage; Foundling Registration
3. Purpose of the new rule or reason for the change:
Changes in the Section 26-2-7 were made during 2020 General Session under H.B. 97, Newborn Safe Haven Amendments. These changes included giving the Office of Vital Records and Statistics the ability to reconcile the birth certificate and foundling certificate should there be a previous registration of birth. This rule also clarifies some

points that were ambiguous previously regarding the naming of the foundling and how a determination of a Safe Haven relinquishment is made.

4. Summary of the new rule or change:

The new enacted rule establishes the process for naming a foundling for the purposes of recording the birth, instructs the hospital that receives the relinquished newborn to file a certificate of live birth or a foundling certificate of live birth with Vital Records, and requests that the Division of Child and Family Services establish whether the newborn child was safely relinquished as required in Section 62A-4a-802. The new rule also provides a process for reconciliation of certificates if there is already a birth registered for the foundling and a foundling certificate is created. No substantive provisions existed in the old rule that do not exist in the new rule.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

The fiscal impact for the state budget is inestimable because there is no way to estimate the number of foundling birth certificates or the number of duplicated birth certificates that will need to be resolved. The law made a change to the window of time for a mother to relinquish her newborn using the safe haven law increasing it from 72 hours to 30 days. Therefore, there is no history of relinquishments to use for an estimate.

B) Local governments:

This proposed repeal and reenactment is not expected to have any fiscal impact on local governments because they do not register foundling births and will not be resolving conflicts between birth and foundling certificates.

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

This proposed repeal and reenactment is not expected to have any fiscal impact on small businesses because they are not involved in the process of providing birth certificates or foundling certificates and will not be resolving conflicts between birth and foundling certificates.

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

This proposed repeal and reenactment is not expected to have any fiscal impact on non-small businesses because they are not involved in the process of providing birth certificates or foundling certificates and will not be resolving conflicts between birth and foundling certificates.

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 repeal and reenactment is not expected to have any fiscal impact on other persons because they are not involved in the process of providing birth certificates or foundling certificates and will not be resolving conflicts between birth and foundling certificates.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons because they are not involved in the process of providing birth certificates or foundling certificates and will not be resolving conflicts between birth and foundling certificates.

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

H) Department head approval of regulatory impact analysis:

The Interim Executive Director of the Department of Health, Richard Sanders, 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 updates the rule to comply with recent legislation.

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 26-2-6	Section 26-2-7	
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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: 05/17/2021

10. This rule change MAY become effective on: 05/24/2021

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:	Linda S. Wininger, Director	Date:	03/22/2021
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R436. Health, Center for Health Data, Vital Records and Statistics.

R436-2. Infants of Unknown Parentage; Foundling Registration.

~~**R436-2-1. Infants of Unknown Parentage; Foundling Registration.**~~

~~The report for an infant of unknown parentage shall be registered on a foundling certificate of live birth and shall, unless more definitive information is available:~~

- ~~(a) Show the date and place of finding;~~
- ~~(b) Show the signature and title of the custodian in lieu of the attendant during delivery.~~

~~If the child is identified and a certificate of birth is found or obtained, the foundling certificate shall be placed in a sealed file and shall not be open to inspection, except on the order of a court.]~~

R436-2-1. Authority and Purpose.

(1) This rule is authorized under Sections 26-2-6, 26-2-7, and 62A-4a-802.

(2) This rule establishes the procedures and standards that govern:

- (a) foundling certificates;
- (b) certificates for a child of unknown parentage; and
- (c) certificates for a newborn child relinquished under Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child.

R436-2-2. Definitions.

Terms used in this rule are defined as:

(1) "Foundling" means a deserted or abandoned infant whose parents are unknown that is found and cared for by people other than its parents.

(2) "Hospital" as defined in Subsection 62A-4a-801(1).

(3) "Infant of unknown parentage" means a newborn child who has been relinquished by a parent or parents who have not identified themselves.

(4) "Newborn child" as defined in Subsection 62a-4a-801(2). "Relinquished newborn child" means a newborn child that has been relinquished in compliance with the requirements of Utah's Safe Relinquishment of a Newborn Child at Section 62A-4a-802.

R436-2-3. Foundling Certificates.

(1) The Office shall include the following information on the foundling certificate form provided by the Office:

(a) Information from the hospital that receives an infant of unknown parentage found in the state, including:

(i) the date and address of the place of finding, which will be used as the place of birth;

(ii) the sex, approximate live birth date, and race of the infant if known;

(iii) the name and address of the person or institution submitting the report, and;

(iv) other medical information, if available.

(b) The name for the infant will be obtained from the Division of Child and Family Services.

(2) Information submitted under this section shall constitute the basis for the report of live birth for the infant.

R436-2-4. Relinquished Newborn Child Certificates.

(1) In accordance with Subsection 62A-4a-802(2)(d), the hospital that receives a relinquished newborn child shall prepare and file a certificate of live birth or a foundling certificate of live birth with the Office.

(2) Determination that the infant was safely relinquished in compliance with the Safe Relinquishment of a Newborn Child requirements at Section 62A-4a-802 rests with the Division of Child and Family Services.

R436-2-5. Reconciliation of Certificates.

(1) If the infant of unknown parentage or the relinquished newborn child is identified and a certificate of live birth is found or obtained, the foundling certificate submitted under this rule shall be voided and placed in a sealed file and shall not be open to inspection except as otherwise provided for in this rule or Title 26, Chapter 2, Utah Vital Statistics Act.

(2) A sealed file under Subsection (1) may only be open to inspection:

(a) as provided in Sections 26-2-22, 78B-6-141, and 78B-6-144 and Rule R436-18;

(b) upon the order of a court with competent jurisdiction; and

(c) by the state registrar to properly administer the state vital records and statistics system.

(3) As authorized in Section 26-2-7, the Office shall determine which certificate under Subsection (1) should be sealed and which should be given to the guardian of the child or the child based on completeness and accuracy of information.

(4) As authorized in Section 26-2-7 and Rule R436-3, the Office may resolve conflicting birth and foundling certificates. This includes duplicate certificates for an individual and determining which is the most appropriate for the individual to use.

KEY: vital statistics, custody of children

Date of Enactment or Last Substantive Amendment: 2021~~1989~~

Notice of Continuation: March 20, 2018

Authorizing, and Implemented or Interpreted Law: 26-2-6; 26-2-7; 62A-4a-801

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R527-250	Filing No. 53388

Agency Information

1. Department:	Human Services	
Agency:	Recovery Services	
Street address:	515 E 100 S	
City, state:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state, zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Scott Weight	801-741-7435	sweigh2@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov

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

General Information

2. Rule or section catchline:
R527-250. Emancipation
3. Purpose of the new rule or reason for the change:
This rule is being amended to define a child's age of majority as 18 years of age, as opposed to defining age of majority at a child's emancipation date. This age of majority definition will be used by Office of Recovery Services (ORS) when determining the duration of a judgment for past due support.
4. Summary of the new rule or change:
The catchline is being changed from "Emancipation" to "Emancipation and a Child's Age of Majority". A section is being added to this rule, Section R527-250-6 Age of Majority, which defines a child's age of majority as 18 years of age and clarifies the duration of judgment timeframe for enforcement of past due support.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule is being amended to define a child's age of majority for purposes of determining the duration of a judgment for past due support. Therefore, there is no anticipated cost or savings to the state budget due to the amendments to this rule.
B) Local governments:
Administrative rules of the Office of Recovery Services do not apply to local governments. This rule concerns emancipation and age of majority. Therefore, there are no anticipated costs or savings for local government due to this amendment.
C) Small businesses ("small business" means a business employing 1-49 persons):
The amendment to this rule does not change ORS processes or procedures regarding sending income withholdings or the volume of income withholdings sent. Therefore, there are no anticipated costs or savings to small businesses due to the amendment to this rule.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The amendment to this rule does not change ORS processes or procedures regarding sending income withholdings or the volume of income withholdings sent. Therefore, there are no anticipated costs or savings to non-small businesses due to the amendment to this rule.

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

The amendment to this rule does not change ORS processes or procedures regarding sending income withholdings or the volume of income withholdings sent. Therefore, there are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities due to the amendment to this rule.

F) Compliance costs for affected persons:

The amendments to this rule do not change ORS processes or procedures regarding sending income withholdings or the volume of income withholdings sent. Therefore, there are no anticipated costs or savings to any affected persons due to the amendment to this rule.

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

Regulatory 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0

Net Benefits	Fiscal	\$0	\$0	\$0
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H) Department head approval of regulatory impact analysis:

The Interim Executive Director of the Department of Human Services, Tracy Gruber, 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 Department does not anticipate any fiscal impact on businesses as a result of language changes throughout this rule.

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

Tracy Gruber, 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 62A-11-107	Section 62A-11-303	Section 62A-11-401
Section 72B-5-202	Section 72B-12-102	Section 78B-12-219

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: 05/17/2021

10. This rule change MAY become effective on: 05/24/2021

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:	Liesa Stockdale, ORS Director	Date:	03/01/2021
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R527. Human Services, Recovery Services.**R527-250. Emancipation and a Child's Age of Majority.****R527-250-1. Purpose and Authority.**

(1) Section 62A-11-107 authorizes the Office of Recovery Services [Child Support Services] (ORS [CSS]) to adopt, amend and enforce rules.

(2) The purpose of this rule is to ~~outline~~ establish how ORS [CSS will apply Utah statute when] determin[ing]es the appropriate emancipation date for IV-D child support cases, particularly when determining the [child's normal and expected year of graduation] referenced in Section [U.C.A.] 78B-12-219 for [Utah] child support orders issued on or after July 1, 1994. This rule also establishes a child's age of majority as described in section 78B-5-202 to be used when ORS determines the duration of a judgment for past due support.

R527-250-2. Normal and Expected Year of Graduation.

~~(1) For a child attending school in Utah, the normal and expected year of graduation is based on kindergarten plus twelve years of school, unless [an] one of the following exceptions [as listed below] applies.~~

(1) For a child attending school in Utah, ORS [CSS] will presume that the normal and expected month of graduation is May of the expected graduation [g] year, unless the parents provide documentation of a specific graduation date for their child.

(2) If a deviation to the [kindergarten plus twelve years] standard is known at the time of entry of the child support order, the expected year of graduation is altered accordingly. If a child has been held back a grade or experienced another delay in education before the child support order is entered, the [expected] year of graduation will be changed to extend the support obligation based on the known facts about the delay in education. If the child has been advanced a grade or experienced some other acceleration in education before the child support order is entered, the [expected] year of graduation will be changed to potentially shorten the support obligation based on the facts about the acceleration in education.

(3) If a deviation to the [kindergarten plus twelve years] standard is not known until after the entry of the child support order, the [expected] year of graduation is not altered based on the new facts unless the child receives an early high school diploma, a high school equivalency diploma, or documentation is provided of early completion of high school course requirements.

R527-250-3. Early Graduation, High School Equivalency Diploma, and General Educational Development (GED).

ORS may cease collection of child support the month following in which the child is no longer enrolled in school, is 18 years old, and:

(1) the child receives a high school diploma at the time of early graduation;

(2) documentation is provided of the child's early completion of high school course requirements; or

(3) the child receives a high school equivalency diploma.

R527-250-4. Dropping Out of School.

A child who no longer attends school is not considered emancipated until becoming 18 years old or the graduation of [his/her]the child's normal and expected graduating class has occurred, whichever occurs later.

R527-250-5. Burden of Proof.

(1) ORS [CSS] will enforce child support based on the [kindergarten plus twelve years] standard until a parent or guardian has provided appropriate documentation to support an emancipation date other than that standard.

(2) A parent or guardian requesting the deviation from the standard is responsible for gathering the appropriate documentation and providing the information to ORS [CSS].

(3) Changes to the child support amount due will not be effective until the month following the emancipation date.

(4) Changes to the child support amount which are based on a date other than the 18th birthday or the [kindergarten plus twelve year] standard will not be effective until the month following the determined date of emancipation or the month following in which the parent or guardian provides sufficient documentation to support the new emancipation date, whichever occurs later. If an over collection occurs due to the parent not providing documentation, the parent will be responsible for recovering any overpaid amounts without involving ORS [CSS].

R527-250-6. Age of Majority.

(1) A child reaches the age of majority when the child reaches 18 years old.

(2) As outlined in section 78B-5-202, a child support order or a sum certain judgment for past due support may be enforced within four years after the date that the youngest child reaches the age of majority, or eight years from the date of the entry of the sum certain judgment entered by a tribunal, whichever period of duration is longer.

KEY: child support, emancipation, age of majority

Date of Enactment or Last Substantive Amendment: ~~2021 April 14, 2017~~

Notice of Continuation: December 14, 2020

Authorizing, and Implemented or Interpreted Law: 62A-11-107; 62A-11-303; 62A-11-401; 78B-5-202; 78B-12-102; 78B-12-219

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R592-6	Filing No.	53375
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Agency Information

1. Department:	Insurance
Agency:	Title and Escrow Commission
Room no.:	Suite 2300
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W
City, state:	Taylorville, UT 84129
Mailing address:	PO Box 146901
City, state, zip:	Salt Lake City, UT 84114-6901

Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R592-6. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business
3. Purpose of the new rule or reason for the change:
The current provisions prohibit and authorize certain conduct but do so in a confusing and inconsistent way. The amendment eliminates those problems. The Title and Escrow Commission voted at its March 8 meeting to amend this rule by a margin of 5 to 0.
4. Summary of the new rule or change:
The current rule contains a list of prohibited conduct, with exceptions, and list of authorized conduct, with exceptions. It then states that those lists of prohibitions and authorizations serve as exceptions to each other. This created confusion for the Department of Insurance and for the title insurance industry. In fact, the language of this rule made it logically impossible in some situations to determine whether a prohibition or an authorization applied. The amendments: 1) eliminate the statement that the prohibitions and authorizations are exceptions to each other; 2) plainly state what is prohibited conduct; 3) plainly state what is authorized conduct; and 4) state that in the event of a conflict between the prohibitions and the authorizations, the authorizations are controlling.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The changes merely clarify existing regulations and do not make or remove any requirements.
B) Local governments:
There is no anticipated cost or savings to local governments. The changes merely clarify existing regulations and do not make or remove any requirements.
C) Small businesses ("small business" means a business employing 1-49 persons):

There is no anticipated cost or savings to small businesses. The changes merely clarify existing regulations and do not make or remove any requirements.

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

There is no anticipated cost or savings to non-small businesses. The changes merely clarify existing regulations and do not make or remove any requirements.

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

There is no anticipated cost or savings to any other persons. The changes merely clarify existing regulations and do not make or remove any requirements.

F) Compliance costs for affected persons:

There are no compliance costs for any affected persons. The changes merely clarify existing regulations and do not make or remove any requirements.

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

Regulatory Impact Table			
Fiscal Cost	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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Commissioner of the Insurance Department, Jonathan T. Pike, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
Jonathan T. Pike, 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 31A-2-404

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:	05/17/2021
10. This rule change MAY become effective on:	05/24/2021
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:	Steve Gooch, Public Information Officer	Date:	03/22/2021
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R592. Insurance, Title and Escrow Commission.

R592-6. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business.

R592-6-1. Authority.

This rule is promulgated pursuant to Section 31A-2-404(2), which authorizes the Title and Escrow Commission ("the Commission") to make rules for the administration of the Insurance Code related to title insurance, including rules related to standards of conduct for a title insurer, agency title insurance producer, or individual title insurance producer.

R592-6-2. Purpose and Scope.

(1) ~~The purpose of this rule is to identify certain practices, which the Commission finds creates unfair inducements for the placement of title insurance business and as such constitute unfair methods of competition. These practices include the payment of expenses that are considered normal, customary, reasonable and recurring in the operation of a client of a title producer.~~ This rule identifies practices that constitute unfair methods of competition because the practices create unfair inducements for the placement of title insurance business.

(2) This rule applies to ~~all title producers and all employees, representatives and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor.~~ any person identified in 31A-23a-402(2)(a).

R592-6-3. Definitions.

~~For the purpose of this rule the Commission adopts~~ This rule incorporates the definitions ~~as~~ set forth in Sections 31A-1-301 and 31A-2-402, and adopts the following:

- (1) "Bona fide real estate transaction" means:
 - (a) a preliminary title report is issued to a seller or listing agent in conjunction with the listing of a property; or
 - (b) a commitment for title insurance is ordered, issued, or distributed in a purchase and sale transaction showing the name of the proposed buyer and the sales price, or in a loan transaction showing the proposed lender and loan amount.
- (2)(a) "Business ~~A~~activities" ~~shall~~ include sporting events, sporting activities, musical events, and art events.
- (b) "Business activities" do not include ~~In no case shall such business activities rise to the level of ceremonies, for example,~~ awards banquets, recognition events, or similar activities sponsored by or for clients, or ~~include commercial travel by air, or other commercial transportation.~~
- (3)(a) "Business meals" ~~shall~~ include breakfast, brunch, lunch, dinner, cocktails, and tips.
- (b) "Business meals" do not include ~~In no case shall such business meals raise to the level of ceremonies, for example,~~ awards banquets, recognition events, or similar activities sponsored by or for clients.
- (4)(a) "Client" means any person, or group, who influences, or who may influence, the placement of title insurance business or who is engaged in a business, profession, or occupation of:
 - (i) buying or selling interests in real property; and
 - (ii) making loans secured by interests in real property.

NOTICES OF PROPOSED RULES

(b) "Client" includes real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, developers, subdividers, attorneys, consumers, escrow companies, and the employees, agents, representatives, solicitors, and groups or associations of any of the foregoing.

(5) "Discount" means the furnishing or offering to furnish title insurance, services constituting the business of title insurance, or escrow services for a total charge less than the amounts set forth in the applicable rate schedules filed pursuant to Section 31A-19a-203 or 31A-19a-209.

(6) "Official trade association publication" means:

(a) a membership directory, provided its exclusive purpose is that of providing the distribution of an annual roster of the association's members to the membership and other interested parties; or

(b) an annual, semiannual, quarterly, or monthly publication containing information and topical material for the benefit of the members of the association.

(7) "Title insurance business" means the business of title insurance and the conducting of escrow.

(8) "Title producer" means a title insurer, agency title insurance producer, or individual title insurance producer.

(9) "Trade [A]ssociation" means a recognized association of persons, a majority of whom are clients or persons whose primary activity involves real property.

R592-6-4. Prohibited Unfair Methods of Competition[~~Acts and Practices~~].

~~[In addition to the acts prohibited under Section 31A-23a-402, the Commission finds that providing or offering to provide any of the following benefits by parties—]A person identified in Subsection R592-6-2 who provides or offers to provide, directly or indirectly, any of the following benefits to any client[~~, either directly or indirectly, except as allowed in Section R592-6-5 below, is a] has violated Sections 31A-23a-402 and 31A-23a-402.5 [material and unfair inducement to obtaining title insurance business and constitutes.]and has engaged in an unfair method of competition.~~~~

(1) ~~[The furnishing of—]Furnishing~~ a title insurance commitment when the title producer is aware that no policy is intended to be issued without one of the following:

(a) sufficient evidence in the file of the title producer that a bona fide real estate transaction or listing agreement exists; or

(b) a request from a proposed insured to issue a title insurance commitment together with a payment of a minimum cancellation fee of \$200.

(2) ~~[The paying of—]Paying~~ any charges for the cancellation of an existing title insurance commitment issued by a competing organization, unless that commitment discloses a defect ~~[which—]that~~ gives rise to a claim on an existing policy.

(3) Furnishing escrow services pursuant to Section 31A-23a-406:

(a) for a charge less than the charge filed pursuant to Section 31A-19a-209(5); or

(b) ~~[the furnishing of escrow services,]for a charge[~~, which are] less than the actual cost of providing the services.~~~~

(4) Waiving all or any part of established fees or charges for services ~~[which—]that~~ are not the subject of rates or escrow charges filed with the commissioner.

(5) Deferring or waiving any payment for insurance or services otherwise due and payable, including a series of real estate transactions for the same parcel of property.

(6) Furnishing services not reasonably related to a bona fide title insurance, escrow, settlement, or closing transaction, including non-related delivery services, accounting assistance, or legal counseling.

(7) ~~[The p]Paying~~ for, furnishing, or waiving all or any part of the rental or lease charge for space ~~[which—]that~~ is occupied by any client.

(8) Renting or leasing space from any client, regardless of the purpose, at a rate ~~[which—]that~~ is excessive or inadequate when compared with rental or lease charges for comparable space in the same geographic area, or paying rental or lease charges based in whole or in part on the volume of business generated by any client.

(9) Furnishing any part of a title producer's facilities, ~~[for example,]including~~ conference rooms or meeting rooms, to a client or its trade association, for anything other than ~~[the—]providing [of]escrow or title services, or related meetings[~~related to such~~],~~ without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.

(10) ~~[The co-habitation or sharing of—]Co-habiting or sharing~~ office space with a client of a title producer.

(11) Furnishing all or any part of the time or productive effort of any employee of the title producer, ~~[for example,]including~~ a secretary, clerk, messenger, or escrow officer, to any client.

(12) Paying for all or any part of the salary of a client or an employee of any client.

(13) Paying, or offering to pay, either directly or indirectly, salary, commissions, or any other consideration to any employee who is at the same time licensed as a real estate agent or real estate broker, or as a mortgage lender or mortgage company subject to Section 31A-2-405 and Section R592-5.

(14)(a) ~~[Paying for the—]Payment or prepayment of the following:~~

(i) fees or charges of a professional, ~~[for example,]including~~ an appraiser, surveyor, engineer, or attorney, whose services are required by any party or client to structure or complete a particular transaction; ~~or [or for the pre-payment of]~~

(ii) fees ~~[and]or~~ charges of a client or party to the transaction, for example, subordination, loan, or HOA payoff request fees, ~~[whose services—]that~~ are required by any party or client to structure or complete a particular transaction. ~~[This subsection—]~~

(b) Subsection (a) does not ~~[include the—]prohibit~~ prepayment of overnight ~~[delivery/mail]mail and delivery~~ fees that will be recovered through closing ~~[of]a~~ transaction.

(15) Sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food, or otherwise providing anything of value for an activity of a client, except as allowed under Subsection R592-6-5. Activities include open houses at homes or property for sale, meetings, breakfasts, luncheons, dinners, conventions, installation ceremonies, celebrations, outings, cocktail parties, hospitality room functions, open house celebrations, dances, fishing trips, gambling trips, sporting events of all kinds, hunting trips or outings, golf or ski tournaments, artistic performances, and outings in recreation areas or entertainment areas.

(16) Sponsoring, cosponsoring, subsidizing, supplying prizes or labor, except as allowed under Subsection R592-6-5, or otherwise providing things of value for promotional activities of a client. Title producers may attend activities of a client if there is no additional cost to the title producer, other than their own entry fees, registration fees, and meals[-]; the fees may not be [and provided that these fees are no]greater than those charged to clients or others attending the function.

(17) Providing gifts or anything of value to a client in connection with social events such as birthdays or job promotions. A letter or card in these instances will not be interpreted as ~~[providing—]a~~ thing of value.

(18) Furnishing or providing access to the following, even for a cost:

- (a) building plans;
- (b) construction critical path timelines;
- (c) "For Sale by Owner" lists;
- (d) surveys;
- (e) appraisals;
- (f) credit reports;
- (g) mortgage leads for loans;
- (h) rental or apartment lists; or
- (i) printed labels.

(19) ~~Newsletters cannot be~~ Issuing a newsletter that is property specific or ~~cannot~~ that highlights specific customers.

(20) ~~A title producer cannot provide a client~~ Providing access to ~~any~~ real property information that the title producer pays to produce, develop, or maintain, except ~~as otherwise permitted by R592-6-5~~;

(a) providing to a client, through any means including copies, a property profile that includes only the following:

- (i) the last vesting deed of public record;
- (ii) a plat map reproduction, locator map, or both;
- (iii) tax and property characteristics information from the Treasurer's and Assessor's offices; and
- (iv) covenants, conditions, and restrictions; and

(b) Providing a client access to closing software that is related to a specific transaction identified in the title commitment.

(21)(a) ~~A title producer cannot provide~~ Providing title or escrow services on real property where an existing or anticipated investment loan or financing has been or will be provided by ~~said~~ the title producer ~~including~~ or its owners or employees.

(b) Subsection (21)(a) does not apply to ~~such~~ transactions involving seller financing.

(22)(a) Engaging in the following advertising activity:

- (i) [P]paying for any advertising on behalf of a client[-];
- (23)ii) [A]advertising jointly with a client on signs for subdivision or condominium projects ~~signs, or signs~~ or for the sale of a lot or lots in a subdivision or units in a condominium project[-];
- (iii) placing an advertisement in a publication, including an internet web page and its links, that is hosted, published, produced for, or distributed by or on behalf of a client;

(iv) placing an advertisement that fails to comply with Section 31A-23a-402 and Section R590-130;

(v) placing an advertisement that:

- (A) is not purely self-promotional; or
- (B) is in an official trade association publication that does not offer any title producer an equal opportunity to advertise in the publication and at the standard rates other advertisers in the publication are charged;

(vi) advertising with free or paid social media services that are not open and available to the general public; or

(vii) paying a fee to share, like, respond to, comment on, or increase the visibility, ranking, or distribution of any social media involving a client or a client's social media page.

(b) Nothing in Subsection 22(a) prohibits the following:

(i) [A title producer may advertise]advertising independently that ~~it~~ the title producer has provided title insurance for a particular subdivision or condominium project, but the title producer may not indicate that all future title insurance will be written by that title producer[-]; or

(ii)(A) writing or posting on social media services about an event that directly involves the title producer and a client; and

(B) referencing or linking to the event on the client's social media page or the client company's social media page.

~~(24) Advertisements may not be placed in a publication, including an internet web page and its links, that is hosted, published, produced for, distributed by or on behalf of a client.~~

~~(25) A donation may not be made to a charitable organization created, controlled or managed by a client.~~

~~(26) A direct or indirect benefit, provided to a client which is not specified in Section R592-6-5 below, will be investigated by the department for the purpose of determining whether it should be defined by the Commission as an unfair inducement under Section 31A-23a-402(8).~~

~~(27)23) [Title producers who have ownership in, or control of,]Using interests in other business entities, including I.R.C. Section 1031 qualified intermediaries and escrow companies~~may not use those other business entities~~ to enter into any agreement, arrangement, or understanding, or to pursue any course of conduct[-] designed to avoid the provisions of this rule.~~

(24) For self-promotional open houses:

(a) holding more than two self-promotional open houses per calendar year for each owned or occupied facility, including branch offices;

(b) spending more than \$15 per guest per self-promotional open house;

(c) making guest expenditures on items in the form of a gift, gift certificate, or coupon; or

(d) holding a self-promotional open house on a client's premises.

(25) Making a donation to a charitable organization created, controlled, or managed by a client.

(26) Making a charitable donation that:

(a) is paid in cash;

(b) is paid by negotiable instrument to a payee other than the charitable organization;

(c) is distributed to anyone other than the charitable organization; or

(d) provides a benefit to a client.

(27) Distributing outside the regular course of business to clients, consumers, and members of the general public, self-promotional items that:

(a) have a value of more than \$10, including taxes, setup fees, and shipping;

(b) are edible;

(c) are personalized in the donee's name; or

(d) are given to clients or trade associations for redistribution.

(28) Making expenditures for business meals or business activities on behalf of any person, whether a client or not, as a method of advertising if:

(a) the person representing the title producer is not present during the business meal or business activity;

(b) a substantial title insurance business discussion does not occur directly before, during, or after the business meal or business activity;

(c) the total cost of the business meal, the business activity, or both exceeds \$50 per person, per day;

(d) more than three individuals from an office of a client are provided a business meal or business activity in a single day; or

(e) the entire business meal or business activity takes place on a client's premises.

(29) Conducting a continuing education program that:

NOTICES OF PROPOSED RULES

- ~~_____ (a) is not approved by the appropriate regulatory agency;~~
- ~~_____ (b) addresses matters other than title insurance, escrow, or related subjects;~~
- ~~_____ (c) is less than one hour in duration;~~
- ~~_____ (d) involves expenditure of more than \$15 per person including the cost of meals and refreshments; or~~
- ~~_____ (e) is conducted at more than one individual, physical office location of a client per calendar quarter.~~
- ~~_____ (30) Acknowledging a wedding, birth, or adoption of a child, or a funeral of a client or a member of the client's immediate family with flowers or gifts exceeding \$75.~~

R592-6-5. Permitted [Advertising, Business Entertainment, and] Methods of Competition.

~~The following are permitted methods of competition. In the event of a conflict between Subsections R592-6-4 and R592-6-5, Subsection R592-6-5 is controlling.[Except as specifically prohibited in Section R592-6-4 above, the following are permitted:~~

- ~~_____ (1) In addition to complying with the provisions of 31A-23a-402 and R590-130, Rules Governing Advertisements of Insurance, advertisement by title producers must comply with the following:~~
 - ~~_____ (a) the advertisement must be purely self promotional; and~~
 - ~~_____ (b) advertisement in official trade association publications are permissible as long as any title producer has an equal opportunity to advertise in the publication and at the standard rates other advertisers in the publication are charged.~~
- ~~_____ (2) A title producer may use free or paid social media services to promote its own business as long as such social media services are open and available to the general public. Additionally, the following shall be permitted and are not in violation of R592-6-4(22) and (24):~~
 - ~~_____ (a) a title producer may write or post on social media services about an event that directly involves the title producer and a client, and it may reference or link to the client's social media page or the client company's social media page; and~~
 - ~~_____ (b) a title producer may share, like, respond to, or comment on a client's social media page, post, or event as long as such action is free of charge. Paying a fee to share, like, respond, or comment on any social media service that involves a client or to increase visibility, ranking, or distribution of any social media involving a client is not an allowed exception to R592-6-4(22) and (24).]~~
- ~~_____ ([3]1) A title producer may donate time to serve on a trade association committee and may also serve as an officer for the trade association.~~
- ~~_____ ([4] A title producer may have two self-promotional open houses per calendar year for each of its owned or occupied facilities, including branch offices. The title producer may not expend more than \$15 per guest per open house. The expenditures per guest may not be in the form of a gift, gift certificate, or coupons. The open house may take place on or off the title producer's premises but may not take place on a client's premises.~~
 - ~~_____ (5) A donation to a charitable organization must:~~
 - ~~_____ (a) not be paid in cash;~~
 - ~~_____ (b) if paid by a negotiable instrument, be made payable only to the charitable organization;~~
 - ~~_____ (c) be distributed directly to the charitable organization; and~~
 - ~~_____ (d) not provide any benefit to a client.~~
 - ~~_____ (6) A title producer may distribute self-promotional items having a value of \$10 or less, including taxes, setup fees, shipping, and the like, to clients, consumers and members of the general public. These self-promotional items shall be novelty items which are non-edible and may not be personalized or bear the name of the donee. Self-promotional items may only be distributed in the regular course of~~

~~business. Self-promotional items may not be given to clients or trade associations for redistribution by these entities.~~

- ~~_____ (7) A title producer may make expenditures for business meals or business activities on behalf of any person, whether a client or not, as a method of advertising, if the expenditure meets all the following criteria:~~
 - ~~_____ (a) the person representing the title producer must be present during the business meal or business activity;~~
 - ~~_____ (b) there is a substantial title insurance business discussion directly before, during or after the business meal or business activity;~~
 - ~~_____ (c) the total cost of the business meal, the business activity, or both is not more than \$50 per person, per day;~~
 - ~~_____ (d) no more than three individuals from an office of a client may be provided a business meal or business activity by a title producer in a single day; and~~
 - ~~_____ (e) the entire business meal or business activity may take place on or off the title producer's premises, but may not take place on a client's premises.~~
- ~~_____ (8) A title producer may conduct continuing education programs that are approved by the appropriate regulatory agency, under the following conditions:~~
 - ~~_____ (a) the continuing education program shall address only title insurance, escrow or other topics related thereto;~~
 - ~~_____ (b) the continuing education program must be of at least one hour in duration;~~
 - ~~_____ (c) for each hour of continuing education, \$15 or less per person may be expended, including the cost of meals and refreshments; and~~
 - ~~_____ (d) no more than one such continuing education program may be conducted at each individual, physical office location of a client per calendar quarter.~~
- ~~_____ (9) A title producer may acknowledge a wedding, birth or adoption of a child, or funeral of a client or members of the client's immediate family with flowers or gifts not to exceed \$75.~~
- ~~_____ (10) A title producer may provide a property profile to a client through any means, including copies thereof. The property profile may include not more than the following:~~
 - ~~_____ (a) the last vesting deed of public record;~~
 - ~~_____ (b) a plat map reproduction and/or locator map;~~
 - ~~_____ (c) tax and property characteristics information from the Treasurer's and Assessor's offices; and~~
 - ~~_____ (d) Covenants, Conditions and Restrictions.~~
- ~~_____ ([1]2) A title producer may provide clients access to water, beverages, and edible treats at the title producer's premises.~~
- ~~_____ ([12]3) A title producer may provide to a client the documents used to produce a title commitment and may provide access to them[-. The title producer may provide access to the documents used to produce the title commitment] through any means[-.~~
 - ~~_____ (13) A title producer may provide a client access to closing software as long as the access is related to a specific transaction identified in the title commitment.~~

R592-6-6. Enforcement Date.

~~_____ The commissioner will begin enforcing the provisions of this rule 45 days from the effective date of the rule].~~

R592-6-[7]6. Severability.

~~_____ If any provision of this rule, Rule R592-6, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.[If any~~

~~provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may 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.]~~

KEY: title insurance

Date of Enactment or Last Substantive Amendment: ~~2021~~**[August 11, 2015]**

Notice of Continuation: June 10, 2019

Authorizing, and Implemented or Interpreted Law: 31A-2-404

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R708-18	Filing No. 53384

Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Room no.:	3rd Floor	
Building:	Calvin Rampton Complex	
Street address:	4501 S 2700 W	
City, state:	Taylorsville, UT 84129	
Mailing address:	PO Box 1445001	
City, state, zip:	Salt Lake City, UT 84114-5001	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-965-4018	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R708-18. Regulatory and Administrative Fees
3. Purpose of the new rule or reason for the change:
Upon conducting a five-year review of this rule, it was determined that the language which previously authorized this rule under Subsection 53-3-104(2) was removed from the Utah Code upon passage of S.B. 174 during the 2000 General Session. This rule is no longer authorized by statute.
4. Summary of the new rule or change:
In addition to the authority for the rule being removed from statute, the information currently outlined in the rule is

unnecessary because: 1) Section R708-18-3 references fees that are required by statute under Sections 53-3-105, 53-3-808, and 53-3-905; and 2) Section R708-18-4 references language previously found in Subsection 53-3-105(33)(b), which has been renumbered to Subsection 53-3-105(28)(b); however, the language is codified in statute, and is therefore not needed in this rule. Nothing will change as a result of the repeal of this rule because the topics originally addressed in this rule are now codified in statute. This rule is repealed in its entirety.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is not an anticipated cost or savings to the state budget as a result of the repeal of this rule because: 1) the language contained in this rule under Section R708-18-3 regarding the required fees and authority to collect the fees is codified under Sections 53-3-105, 53-3-808, and 53-3-905; and 2) the language clarifying the exemption for a municipal, county, state or federal agency to pay a fee under Section R708-18-4 is codified under Subsection 53-3-105(28)(b).
B) Local governments:
There is not an anticipated cost or savings to local governments as a result of the repeal of this rule because: 1) the language contained in this rule under Section R708-18-3 regarding the required fees and authority to collect the fees is codified under Sections 53-3-105, 53-3-808, and 53-3-905; and 2) the language clarifying the exemption for a municipal, county, state or federal agency to pay a fee under Subsection R708-18-4 is codified under Section 53-3-105(28)(b).
C) Small businesses ("small business" means a business employing 1-49 persons):
There is not an anticipated cost or savings to small businesses as a result of the repeal of this rule because: 1) the language contained in this rule under Section R708-18-3 regarding the required fees and authority to collect the fees is codified under Sections 53-3-105, 53-3-808, and 53-3-905; and 2) the language clarifying the exemption for a municipal, county, state or federal agency to pay a fee under Section R708-18-4 is codified under Subsection 53-3-105(28)(b).
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 as a result of the repeal of this rule because:

1) the language contained in this rule under Section R708-18-3 regarding the required fees and authority to collect the fees is codified under Sections 53-3-105, 53-3-808, and 53-3-905; and
 2) the language clarifying the exemption for a municipal, county, state or federal agency to pay a fee under Section R708-18-4 is codified under Subsection 53-3-105(28)(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 **agency**):

There is not an anticipated cost or savings to persons other than small businesses, non-small businesses, state or local government entities as a result of the repeal of this rule because:

1) the language contained in this rule under Section R708-18-3 regarding the required fees and authority to collect the fees is codified under Sections 53-3-105, 53-3-808, and 53-3-905; and
 2) the language clarifying the exemption for a municipal, county, state or federal agency to pay a fee under Section R708-18-4 is codified under Subsection 53-3-105(28)(b).

F) Compliance costs for affected persons:

There is not an anticipated compliance cost for affected persons as a result of the repeal of this rule because:

1) the language contained in this rule under Section R708-18-3 regarding the required fees and authority to collect the fees is codified under Sections 53-3-105, 53-3-808, and 53-3-905; and
 2) the language clarifying the exemption for a municipal, county, state or federal agency to pay a fee under Section R708-18-4 is codified under Subsection 53-3-105(28)(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.)

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
Total Fiscal Cost	\$0	\$0	\$0

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

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:

It is determined that the repeal of this rule will result in a fiscal impact on businesses. The repeal of this rule does not change the requirements outlined in this rule because they are statutorily required in the Utah Code.

The language contained in this rule under Section R708-18-3 regarding the required fees and authority to collect the fees is codified under Sections 53-3-105, 53-3-808, and 53-3-905; and the language clarifying the exemption for a municipal, county, state or federal agency to pay a fee under Section R708-18-4 is codified under Subsection 53-3-105(28)(b).

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):

Subsection 63J-1-301(2)	Section 41-6a-402	Subsection 53-3-104(2)
Section 53-3-105	Section 53-3-808	Section 53-3-905
Subsection 53-3-221(2)	Subsection 53-3-221(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.)

A) Comments will be accepted until:	05/17/2021
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10. This rule change MAY become effective on:	05/24/2021
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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

Agency head or designee, and title:	Chris Caras, Division Director	Date:	03/30/2021
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R708. Public Safety, Driver License.

~~**[R708-18. Regulatory and Administrative Fees.**~~

~~**R708-18-1. Authority.**~~

~~This rule is authorized by Section 53-3-104(2), 53-3-105, 53-3-808, 53-3-905 and Subsection 63J-1-301(2).~~

~~**R708-18-2. Definitions as Used in this Chapter.**~~

~~(1) "Accident Report" means an officer's report of an accident as described under Subsection 41-6a-402.~~

~~(2) "Accompanying data" means supplemental accident reports or addenda there to:~~

~~(3) "Driving Record", more commonly known as a Driver License Record (DLR) means a computer generated compilation of particular elements contained in the Driver License Division electronic database, consisting of:~~

- ~~(a) Driver's name;~~
- ~~(b) License certificate number;~~
- ~~(c) Driver's date of birth;~~
- ~~(d) Driver's zip code;~~
- ~~(e) Member of military;~~
- ~~(f) Reportable arrests and convictions;~~
- ~~(g) Reportable notices from courts indicating failure to comply with terms of a citation or failure to comply with terms set by the court, pursuant to UCA 53-3-221(2) and 53-3-221(3).~~
- ~~(h) Reportable department actions;~~
- ~~(i) Driving Privilege Status;~~
- ~~(j) License certificate issue/expiration dates; and~~
- ~~(k) License certificate class/type/endorsement.~~

~~(4) "Driving Record" "Certified Copy" means an authenticated Driving Record and/or accident report and/or accompanying data prepared under the seal of the division. (Other records or information may be included only under order or rule of the court.)~~

~~(5) "Photocopies" means the mechanical reproduction of an original digitized or filmed document.~~

~~(6) "Recording" means a verbatim magnetic tape or digitized recording of sworn, or unsworn testimony, or information.~~

~~**R708-18-3. Fees.**~~

~~The Driver License Division charges user fees for some services. A schedule of these fees is available for public examination at any Driver License office location. These fees are set by the legislature in Section 53-3-105, 808, and 905, and in the annual appropriations act as recorded in "The Laws of Utah" as passed at the General Session of the Legislature".~~

~~**R708-18-4. Exemptions.**~~

~~The fees established may not be charged to any municipal, county, state or federal agency as defined in Subsection 53-3-105(3)(b).~~

~~**R708-18-5. Records.**~~

~~All fees charged shall be receipted and recorded under normal accounting principles established by the Driver License Division.~~

~~**KEY: driver education, licensing, fees**~~

~~**Date of Enactment or Last Substantive Amendment: October 27, 2005**~~

~~**Notice of Continuation: January 14, 2021**~~

~~**Authorizing, and Implemented or Interpreted Law: 63J-1-301(2); 41-6a-402; 53-3-104(2); 53-3-105; 53-3-808; 53-3-905; 53-3-221(2); 53-3-221(3)**~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R884-24P-62	Filing No. 53377

Agency Information

1. Department:	Tax Commission	
Agency:	Property Tax	
Building:	Utah State Tax Commission	
Street address:	210 N 1950 W	
City, state:	Salt Lake City, UT 84134	
Contact person(s):		
Name:	Phone:	Email:
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-62. Valuation of State Assessed Unitary Properties Pursuant to Utah Code Ann. Section 59-2-201
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to clarify definitional and calculation issues related to the valuation of centrally assessed property.
4. Summary of the new rule or change:
This amendment addresses the treatment of obsolescence and intangible property for the purpose of determining the value of centrally assessed property for property taxation.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This amendment is not expected to impact the state budget because property tax revenue does not impact the state general fund.
B) Local governments:
This amendment is not expected to increase or decrease costs or revenues to local governments because any increase or decrease in property tax for a particular taxpayer as a result of this amendment will cause the certified tax rate to be recalculated to maintain funding for the local government at budgeted levels. However, it should be noted that this amendment could result in a minor shift in the source of property tax revenue from centrally assessed taxpayers to locally assessed taxpayers.
C) Small businesses ("small business" means a business employing 1-49 persons):
This amendment could result in a minor increase in property tax liability for small locally assessed business property. This amendment may result in a shift of property tax liability from centrally assessed businesses to locally assessed businesses and residences. The extent of this increase cannot be estimated but will be dependent on the mix of centrally assessed property and locally assessed property in each county and the extent to which the centrally assessed property in the county experiences a tax decrease.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This amendment could result in a minor increase in property tax liability for non-small locally assessed business property. The extent of this increase cannot be estimated but will be dependent on the mix of centrally assessed property and locally assessed property in each

county and the extent to which centrally assessed property in the county experiences a tax decrease. Alternatively, for any non-small business that is centrally assessed, there could be a minor reduction in property tax revenue subject to the type of business property that is subject to tax.

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 amendment could result in a minor increase in property tax liability for persons other than small businesses, non-small businesses, state, or local government entities. This amendment may result in a shift of property tax liability from centrally assessed businesses to locally assessed businesses and residences. The extent of this increase cannot be estimated but will be dependent on the mix of centrally assessed property and locally assessed property in each county and the extent to which the centrally assessed property in the county experience a tax decrease.

F) Compliance costs for affected persons:

This change is expected to reduce compliance costs on centrally assessed business taxpayers by clarifying issues related to the valuation of certain business property.

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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Commissioner of the Tax Commission, Rebecca L. Rockwell, 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 exact fiscal impact of this amendment cannot be estimated but depending on the type of property owned by a taxpayer and whether the taxpayer is subject to central or local assessment, this amendment could result in either a minor increase or decrease in property tax liability.

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 59-2-201

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.)

A) Comments will be accepted until: 05/17/2021

10. This rule change MAY become effective on: 05/24/2021

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:	03/24/2021
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R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-62. Valuation of State Assessed Unitary Properties Pursuant to Utah Code Ann. Section 59-2-201.

(1) Purpose. The purpose of this rule is to:

(a) specify consistent ~~mass~~ unitary appraisal methodologies to be used by the Property Tax Division (Division) in the valuation of tangible property assessable by the Commission; and

(b) identify preferred valuation methodologies to be considered by any party making an appraisal of ~~an individual~~ unitary property.

(2) Definitions:

(a) "Asset impairment" means the balance sheet adjustment amount necessary to adjust a company's tangible asset values as reported in a company's books and records kept in the regular course of business to reflect the current fair value of those assets.

~~(a)~~(b) "Cost regulated utility" means any public utility assessable by the Commission whose allowed revenues are determined by a rate of return applied to a rate base set by a state or federal regulatory commission.

~~(b)~~(c) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. Fair market value reflects the value of property at its highest and best use, subject to regulatory constraints.

(d) "Historical cost less depreciation" or "HCLD" is the net book value of operating assets as recorded on a company's books and records kept in the regular course of business, including any adjustments for asset impairment reported by the taxpayer.

(e) "Normal rate of return on assets" means the average ratio of net operating income to HCLD, excluding construction work in progress, for comparable firms within an industry.

~~(e)~~(f) "Rate base" means the aggregate account balances reported as ~~such by the~~ aggregate account balances by a cost regulated utility to ~~the~~ an applicable state or federal regulatory commission.

~~(f)~~(g)(i) "Unitary property" means operating property that is assessed by the Commission ~~pursuant to Section~~ in accordance with Subsections 59-2-201(1)(a)(i) through (iii).

~~(g)~~(ii) ~~[Unitary properties include:]~~ "Unitary property" includes:

(A) all property that operates as a unit across county lines, if the values must be apportioned among more than one county or state; and

(B) all property of public utilities as defined in Section 59-2-102.

~~(ii) These properties, some of which may be cost regulated utilities, are defined under one of the following categories.]~~

(iii) "Unitary property" includes the following categories of property:

NOTICES OF PROPOSED RULES

(A) "Telecommunication ~~[properties]~~property" ~~[include]~~includes the operating property of local exchange carriers, local access providers, long distance carriers, cellular telephone or personal communication service (PCS) providers and pagers, and other similar properties.

(B) "Energy ~~[properties]~~property" ~~[include]~~includes the operating property of natural gas pipelines, natural gas distribution companies, liquid petroleum products pipelines, and electric corporations, including electric generation, transmission, and distribution companies, and other similar entities.

(C) "Transportation ~~[properties]~~property" ~~[include]~~includes the operating property of all airlines, air charter services, and air contract services, including major and small passenger carriers and major and small air freighters, long haul and short line railroads, and other similar properties.

(3)(a) All tangible operating property owned, leased, or used by unitary companies is subject to assessment and taxation according to its fair market value as of January 1, and as provided in Utah Constitution Article XIII, Section 2. Intangible property as defined under Section 59-2-102 is not subject to assessment and taxation.

(b) The value of intangible property exempt under Section 59-2-1101 shall be deducted from unit value, consistent with the methods used to derive the unit value.

(i) Booked goodwill and other capitalized intangible value determined using accepted accounting standards and practices shall be identified and deducted from the unit value based on their proportional contribution to the unit.

(ii) Documentation shall be obtained to allow for the valuation of intangible property described in Subsection 59-2-102(19)(a), and the value of the intangible property deducted from the unit value based on its proportional contribution to the unit.

(iii) The normal rate of return on assets for guideline companies shall be calculated and then compared to the actual return on assets for the subject company for the most current three to five year period. If this comparison indicates that the subject company's property earns a rate of return on assets that exceeds the normal rate of return on assets, and the higher than normal rate of return on assets is not attributable to real property location characteristics or the identification of an improvement to real property, the proportional deduction from unit value for intangible property shall be the subject company's rate of return on assets minus the normal rate of return on assets, divided by the normal rate of return on assets.

(iv) If a subject company has more than one type of intangible property, the proportional adjustment to the unit value is equal to the larger of:

(A) the sum of Subsections (3)(b)(i) and (ii); or

(B) Subsection (3)(b)(iii).

(v) Intangible property shall be removed in the original assessment if such removal is supported by information provided by the taxpayer with its return or is otherwise obtainable by the Division.

(4) General Valuation Principles. Unitary properties shall be assessed at fair market value based on generally accepted appraisal theory as provided under this rule.

(a) The assemblage or enhanced value attributable to the tangible property should be included in the assessed value. See *Beaver County v. WilTel, Inc.*, 995 P.2d 602 (Utah 2000). The value attributable to ~~exempt~~ intangible property must, when possible, be identified and removed ~~[from value when using any valuation method and before that value is used in the reconciliation process]~~.

(b) The preferred methods to determine fair market value are the cost approach and a yield capitalization income indicator as set forth in Subsection (5).

(i) Other generally accepted appraisal methods may also be used when it can be demonstrated that such methods are necessary to more accurately estimate fair market value.

(ii) Direct capitalization and the stock and debt method typically capture the value of intangible property at higher levels than other methods. To the extent intangible property cannot be identified and removed, relatively less weight shall be given to such methods in the reconciliation process, as set forth in Subsection (5)(d).

(iii) Preferred valuation methods as set forth in this rule are, unless otherwise stated, rebuttable presumptions, established for purposes of consistency in ~~[mass appraisal]~~the valuation of unitary properties. Any party challenging a preferred valuation method must demonstrate, by a preponderance of the evidence, that the proposed alternative establishes a more accurate estimate of fair market value.

(c) Non-operating Property. Property that is not necessary to the operation of unitary properties and is assessed by a local county assessor, and property separately assessed by the Division, such as registered motor vehicles, shall be removed from the ~~reconciled~~[correlated] unit value or from the state allocated value.

(5) Appraisal Methodologies.

(a) Cost Approach. Cost is relevant to value under the principle of substitution, which states that no prudent investor would pay more for a property than the cost to construct a substitute property of equal desirability and utility without undue delay. A cost indicator may be developed under one or more of the following methods: replacement cost new less depreciation (RCNLD), reproduction cost less depreciation (reproduction cost), and ~~[historic]~~historical cost less depreciation (HCLD). Obsolescence shall be considered in any cost indicator, and adjusted for, if it exists. Obsolescence shall be adjusted for in the original assessment if the obsolescence adjustment is supported by information provided by the taxpayer with its return or is otherwise obtainable by the Division.

(i) "Depreciation" is the loss in value from any cause. Different professions recognize two distinct definitions or types of depreciation.

(A) Accounting. Accounting depreciation~~[Depreciation]~~, often called "book" or "accumulated" depreciation, is calculated according to generally accepted accounting principles or regulatory guidelines. It is the amount of capital investment written off on a firm's accounting records in order to allocate the original or ~~[historic]~~historical cost of an asset over its life. Book depreciation shall be ~~[is typically]~~ applied to ~~[historic]~~historical cost to derive HCLD.

(B) Appraisal. Appraisal depreciation~~[Depreciation]~~, sometimes referred to as "accrued" depreciation, is the difference between the market value of an improvement and its cost new. Appraisal depreciation~~[Depreciation]~~ is typically applied to replacement or reproduction cost, but should be applied to ~~[historic cost]~~HCLD if market conditions so indicate. There are three types of appraisal depreciation:

(I) Physical deterioration results from regular use and normal aging, which includes wear and tear, decay, and the impact of the elements. Measuring physical deterioration generally requires an economic life analysis or similar analysis. In the context of unitary appraisal, properties are typically valued based on the assumption that assets are replaced as they age and physical deterioration is reflected in normal depreciation schedules.

(II) Functional obsolescence is a reduction in market value or usefulness in a property due to inefficiencies or inadequacies of the property itself when compared to more efficient or less costly replacement alternatives. The preferred method for measuring functional obsolescence is the difference between net book value and RCNLD, in conjunction with a "cost to cure" analysis of any remaining

~~functional obsolescence, [caused by internal property characteristics or flaws in the structure, design, or materials that diminish the utility of an improvement.]~~

(III) External, or economic, obsolescence is an impairment of an improvement due to negative influences from outside the boundaries of the property, and is generally incurable. These influences usually cannot be controlled by the property owner or user. The preferred method for measuring economic obsolescence is a relative performance assessment among comparable firms or future cash flow analysis. The relative performance assessment shall incorporate multiple measures of both operating and financial performance in relation to comparable firms and may include historical trends. Future cash flow analysis shall be based on a firm's estimated future cash flows if available.

(ii) Replacement cost is the estimated cost to construct, at current prices, a property with utility equivalent to that being appraised, using modern materials, current technology and current standards, design, and layout. The use of replacement cost instead of reproduction cost eliminates the need to estimate some forms of functional obsolescence.

(iii) Reproduction cost is the estimated cost to construct, at current prices, an exact duplicate or replica of the property being assessed, using the same materials, construction standards, design, layout and quality of workmanship, and embodying any functional obsolescence.

(iv) ~~[Historic]~~ Historical cost is the original construction or acquisition cost as recorded on a firm's accounting records. Depending upon the industry, it may be appropriate to trend ~~[HCLD]~~ historical cost to estimate current reproduction or replacement cost. ~~[costs.]~~ Only trending indexes commonly recognized by the specific industry may be used to adjust ~~historical cost.~~ ~~[HCLD.]~~ Historical cost differs from HCLD in that HCLD has been adjusted for physical depreciation and asset impairment determined using accepted accounting standards.

(v) Replacement cost new less depreciation (RCNLD) may be impractical to implement for unitary property; therefore the preferred cost indicator of value ~~[in a mass appraisal environment]~~ for unitary property is HCLD. A party may challenge the use of HCLD by proposing a different cost indicator that establishes a more accurate cost estimate of value.

(b) Income Capitalization Approach. Under the principle of anticipation, benefits from income in the future may be capitalized into an estimate of present value.

(i) Yield Capitalization. The yield capitalization formula is $CF/(k-g)$, where "CF" is a single year's normalized cash flow, "k" is the nominal, risk adjusted discount or yield rate, and "g" is the expected long-term growth rate of the cash flow.

(A) ~~[Cash flow is restricted to the operating property in existence on the lien date, together with any replacements intended to maintain, but not expand or modify, existing capacity or function.]~~ Cash flow is calculated as net operating income (NOI) plus non-cash charges (e.g., depreciation and the change in deferred income taxes), less capital expenditures and additions to working capital necessary to achieve the expected growth "g". Information necessary for the Division to calculate the cash flow shall be summarized and submitted to the Division by March 1 on a form provided by the Division.

(I) "Net operating income" or "NOI" means one of the following as determined by the appraiser: ~~[is defined as]~~

(Aa) net income plus interest; or

(Bb) operating income less operating income tax expense.

(II) Capital expenditures should include only those expenditures necessary to replace or maintain existing plant and should not include any expenditure intended primarily for expansion or productivity and capacity enhancements.

(III) Cash flow is to be projected for the year immediately following the lien date, and may be estimated by reviewing ~~[historic]~~ historical cash flows, forecasting future cash flows, or a combination of both.

(Aa) If cash flows for a subsidiary company are not available or are not allocated on the parent company's cash flow statements, a method of allocating total cash flows must be developed based on sales, fixed assets, or other reasonable criteria. The subsidiary's total is divided by the parent's total to derive the allocation percentage to estimate the subsidiary's cash flow.

(Bb) If the subject company does not provide the Commission with its most recent cash flow statements by March 1 of the assessment year, the Division may estimate cash flow using the best information available.

(B) The discount rate (k) shall be based upon a weighted average cost of capital (WACC) considering current market debt rates and equity yields. WACC should reflect a typical capital structure for comparable companies within the industry.

(I) The cost of debt should reflect the current market rate (yield to maturity) of debt with the same credit rating as ~~[the subject company]~~ comparable companies within the subject industry.

(II) The cost of equity is estimated using standard methods such as the capital asset pricing model (CAPM), the Risk Premium and Dividend Growth models, or other recognized models.

(Aa) The CAPM is the preferred method to estimate the cost of equity. More than one method ~~[may]~~ shall be used to correlate a cost of equity, ~~[but only if the CAPM method is weighted at least 50% in the correlation].~~

(Bb) The CAPM formula is $k(e) = R(f) + (\text{Beta} \times \text{Risk Premium})$, where $k(e)$ is the cost of equity and $R(f)$ is the risk free rate.

(Cc) The risk free rate shall be the current market rate on 20-year Treasury bonds.

(Dd) The beta should reflect an average or value-weighted average of comparable companies and should be drawn consistently from Value Line or an equivalent source if Value Line is unavailable. The beta of the specific assessed property should also be considered.

(Ee) The risk premium shall be the arithmetic average of the spread between the return on stocks and the income return on long[-]-term bonds for the entire historical period beginning in 1926. Implied equity risk premium models may also be considered. ~~[contained in the Hbbotson Yearbook published immediately following the lien date.]~~

(C) The growth rate "g" is the expected future growth of the cash flow attributable to assets in place on the lien date, and any future replacement assets.

(I) If insufficient information is available to the Division, either from public sources or from the taxpayer, to determine a rate, "g" will be the difference in the yield on a 20-year Treasury bond and the yield on a 20-year Treasury Inflation Protected Security (TIPS) bond as of the lien date. ~~[expected inflationary rate in the Gross Domestic Product Price Deflator obtained in Value Line.]~~ The growth rate and the methodology used to produce it shall be disclosed in a capitalization rate study published by the Commission by ~~[February 15]~~ April 1 of the assessment year.

(ii) A discounted cash flow (DCF) method may be ~~[impractical to implement in a mass appraisal environment, but may be]~~ used when reliable cash flow estimates can be established.

(A) A DCF model should incorporate for the terminal year, and to the extent possible for the holding period, growth and discount rate assumptions that would be used in the yield capitalization method defined under Subsection (5)(b)(i).

(B) Forecasted growth may be used where unusual income patterns are attributed to;

NOTICES OF PROPOSED RULES

- (I) unused capacity;
- (II) economic conditions; or
- (III) similar circumstances.

(C) Growth may not be attributed to assets not in place as of the lien date.

(iii) Direct Capitalization is an income technique that converts an estimate of a single year's income expectancy into an indication of value in one direct step, either by dividing the normalized income estimate by a capitalization rate or by multiplying the normalized income estimate by an income ~~[factor]~~ multiplier.

(c) Market or Sales Comparison Approach. The market value of property is directly related to the prices of comparable, competitive properties. The market approach is estimated by comparing the subject property to similar properties that have recently sold.

(I) Sales of comparable property must, to the extent possible, be adjusted for elements of comparison, including market conditions, financing, location, physical characteristics, and economic characteristics. When considering the sales of stock, business enterprises, or other properties that include intangible assets, adjustments must be made for those intangibles.

(II) Because sales of unitary properties ~~[are]~~ may be infrequent, a stock and debt indicator may be viewed as a surrogate for the market approach. The stock and debt method is based on the accounting principle which holds that the market value of assets equal the market value of liabilities plus shareholder's equity.

(d) Reconciliation. When reconciling value indicators into a final estimate of value, the appraiser shall take into consideration the availability, quantity, and quality of data, as well as the strength and weaknesses of each value indicator. Weighting percentages used to correlate the value approaches will generally vary by industry, and may vary by company if evidence exists to support a different weighting. The Division must disclose in writing the weighting percentages used in the reconciliation for the final assessment. Any departure from the prior year's weighting must be explained in writing.

(6) Property Specific Considerations. Because of unique characteristics of properties and industries, modifications or alternatives to the general value indicators may be required for specific industries.

(a) Cost Regulated Utilities.

(i) Rate regulation is one form of regulation that may impact the market value of a company; however, it does not determine the market value of such a company. HCLD is the preferred cost indicator of value for cost regulated utilities because it represents an approximation of the basis upon which the investor can earn a return. HCLD is calculated by taking the ~~[historic]~~ historical cost less depreciation as reflected in the utility's net plant accounts, and then:

(A) subtracting the value of intangible property as provided in Subsection (3);

(B) subtracting any items not included in the utility's rate base (e.g., deferred income taxes and, if appropriate, acquisition adjustments); and

(C) adding any taxable items not included in the utility's net plant account or rate base.

(ii) Deferred Income Taxes, also referred to as DFIT, is an accounting entry that reflects the difference between the use of accelerated depreciation for income tax purposes and the use of straight-line depreciation for financial statements. For traditional rate base regulated companies, regulators generally exclude deferred income taxes from rate base, recognizing it as ratepayer contributed capital. Where rate base is reduced by deferred income taxes for rate base regulated companies, ~~[they]~~ deferred income taxes shall be removed from HCLD.

(iii) Items excluded from rate base under Subsections (6)(a)(i)(A) or (B) should not be subtracted from HCLD to the extent it can be shown that regulators would likely permit the rate base of a potential purchaser to include a premium over existing rate base.

(b)(i) Railroads.

(ii) The cost indicator should generally be given little or no weight because there is no observable relationship between cost and fair market value.

(c) Airlines, air charter services, and air contract services.

(i) For purposes of this Subsection (6)(c):

(A) "aircraft pricing guide" means a nationally recognized publication that assigns value estimates for individual commercial aircraft that are in average condition typical for their type and vintage, and identified by year, make and model;

(B) "airline" means an:

(I) airline under Section 59-2-102;

(II) air charter service under Section 59-2-102; and

(III) air contract service under Section 59-2-102;

(C) "airline market indicator" means an estimate of value based on an aircraft pricing guide; and

(D) "non-mobile flight equipment" means all operating property of an airline, air charter service, or air contract service that is not within the definition of mobile flight equipment under Section 59-2-102.

(ii) In situations where the use of preferred methods for determining fair market value under Subsection (5) does not produce a reasonable estimate of the fair market value of the property of an airline operating as a unit, an airline market indicator published in an aircraft pricing guide, and adjusted as provided in Subsections (6)(c)(ii)(A) and (6)(c)(ii)(B), may be used to estimate the fair market value of the airline property.

(A)(I) In order to reflect the value of a fleet of aircraft as part of an operating unit, an aircraft market indicator shall include a fleet adjustment or equivalent valuation for a fleet.

(II) If a fleet adjustment is provided in an aircraft pricing guide, the adjustment under Subsection (6)(c)(ii)(A)(I) shall follow the directions in that guide. If no fleet adjustment is provided in an aircraft pricing guide, the standard adjustment under Subsection (6)(c)(ii)(A)(I) shall be 20 percent from a wholesale value or equivalent level of value as published in the guide.

(B) Non-mobile flight equipment shall be valued using the cost approach under Subsection (5)(a) or the market or sales comparison approach under Subsection (5)(c), and added to the value of the fleet.

(iii) An income capitalization approach under Subsection (5)(b) shall incorporate the information available to make an estimate of future cash flows.

(iv)(A) When an aircraft market indicator under Subsection (6)(c)(ii) is used to estimate the fair market value of an airline, the Division shall:

(I) calculate the fair market value of the airline using the preferred methods under Subsection (5);

(II) retain the calculations under Subsection (6)(c)(iv)(A)(I) in the work files maintained by the Division; and

(III) include the amounts calculated under Subsection (6)(c)(iv)(A)(I) in any appraisal report that is produced in association with an assessment issued by the Division.

(B) When an aircraft market indicator under Subsection (6)(c)(ii) is used, the Division shall justify in any appraisal report issued with an assessment why the preferred methods under Subsection (5) were not used.

(v)(A) When the preferred methods under Subsection (5) are used to estimate the fair market value of an airline, the Division shall:

(I) calculate an aircraft market indicator under Subsection (6)(c)(ii);

(II) retain the calculations under Subsection (6)(c)(v)(A)(I) in the work files maintained by the Division; and

(III) include the amounts calculated under Subsection (6)(c)(v)(A)(I) in any appraisal report that is produced in association with an assessment issued by the Division.

(B) Value estimates from an aircraft pricing guide under Subsection (6)(c)(i)(A) along with the valuation of non-mobile flight equipment under Subsection (6)(c)(ii)(B) shall, when possible, also be included in an assessment or appraisal report for purposes of comparison.

(C) Reasons for not including a value estimate required under Subsection (6)(c)(v)(B) include:

(I) failure to file a return; or

(II) failure to identify specific aircraft.

(7) The provisions of this rule shall be implemented beginning January 1, 2022.

KEY: taxation, personal property, property tax, appraisals

Date of Enactment or Last Substantive Amendment: 2021 [November 30, 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

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends May 17, 2021.

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 August 13, 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.

The Changes in Proposed Rules Begin on the Following Page

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R58-21	Filing No. 53311

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Dr. Dean Taylor	801-982-2243	djtaylor@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:		
R58-21. Trichomoniasis		
3. Change in Proposed Rule:		
Changes FILING Name, Publication date of prior filing:	R58-21.	Trichomoniasis, published 02/15/2021
4. Reason for this change:		
Changes are made in response to public comments received on this rule regarding a need to take bison out of this rule.		
5. Summary of this change:		
The changes define the word bison in this rule and remove "and bison" from references to cattle in this rule. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the February 15, 2021, issue of the Utah State Bulletin, on page 36. 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

6. Aggregate anticipated cost or savings to:
A) State budget:
The Department of Agriculture and Food (Department) is not aware of any bison being tested in the last two years so there should not be a significant cost or savings due to the change removing bison from the testing requirement. There could be a potential revenue increase to the Department due to the addition of a \$1,000 penalty for bison escaping with a total increase of approximately \$2,000 a year given that the Department estimates that two bison may escape per year and be assessed the penalty.
B) Local government:
There are no anticipated costs or savings to local governments because they do not own animals or administer this program.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is a potential cost to small businesses due to the addition of a penalty if bison escape a facility. The Department estimates that two bison might escape per year with ownership split equally between small and non-small businesses. The penalty amount is \$1,000 for a total cost of \$2,000 per year split equally between small and non-small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is a potential cost to non-small businesses due to the addition of a penalty if bison escape a facility. The Department estimates that two or fewer bison might escape per year with ownership split equally between small and non-small businesses. The penalty amount is \$1,000 for a total cost of \$2,000 per year split equally between small and non-small businesses.
E) Persons other than small businesses, non-small businesses, or state or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
There is no impact for other persons because they do not own animals that are affected by trichomoniasis or administer the Department's trichomoniasis program.

F) Compliance costs for affected persons:			
Compliance costs will not change because fees charged by the Department and requirements for compliance will not change.			
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	\$1,000	\$1,000	\$1,000
Non-Small Businesses	\$1,000	\$1,000	\$1,000
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$2,000	\$2,000	\$2,000
Fiscal Benefits			
State Government	\$2,000	\$2,000	\$2,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$2,000	\$2,000	\$2,000
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Commissioner of the Department of Agriculture and Food, Craig W. Buttars, has reviewed and approves the regulatory impact analysis.			
7. A) Comments by the department head on the fiscal impact the rule may have on businesses:			
These additional changes should have a minimal impact on businesses in the state. The only potential cost relates			

to a penalty for non-compliance, that should be assessed on rare occasions.

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

Craig W. Buttars, 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 4-31-109

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: 05/17/2021

11. This rule change MAY become effective on: 05/24/2021

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

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	04/01/2021
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R58. Agriculture and Food, Animal Industry.

R58-21. Trichomoniasis.

R58-21-1. Authority.

- (1) Promulgated under authority of Section 4-31-109.
- (2) It is the intent of this rule to eliminate or reduce the spread of bovine trichomoniasis in Utah.

R58-21-2. Definitions.

- (1) "Acceptable media" means any Department approved media in which samples may be transferred and transported.

NOTICES OF CHANGES IN PROPOSED RULES

(2) "Approved slaughter facility" means a slaughter establishment that is either under state or federal inspection.

(3) "Approved test" means a test approved by the state of origination to diagnose trichomoniasis in bulls. If the state of origination has no approved test for the diagnosis of Trichomoniasis it shall mean one sample tested by a method approved by the department.

(4) "Bison" means a member of the species Bison. Bulls that are a cross of bison and cattle are considered cattle under this rule.

(1[4]5) "Brand" means a minimum of a 2 X 3 hot iron single character lazy V applied to the left of the tailhead of a bull, signifying that the bull is infected with the venereal disease, Trichomoniasis.

(1[5]6) "Bull" means any intact male of any of the domesticated cattle species[~~as well as bison~~].

(1[6]7) "Certified veterinarian" means a federally accredited veterinarian who has been certified by the Utah Department of Agriculture and Food to collect samples for Trichomoniasis testing.

(1[7]8) "Commuter bulls" means bulls traveling across state lines for grazing purposes while utilizing a Commuter Permit Agreement approved by both the respective State Veterinarians or bulls traveling on a Certificate of Veterinary Inspection where there is no change of ownership.

(1[8]9) "Dairy bull" means a bull of any breed used for reproductive purposes on a dairy that is confined in such a way that it does not have exposure to female cattle of other herds. The dairy shall have fencing that is impenetrable by a bull.

(1[9]10) "Department" means the Utah Department of Agriculture and Food.

(1[0]1) "Exposed to female cattle" means bulls with freedom from restraint such that breeding is a possible activity.

(1[1]2) "Feeder Bulls" means bulls not exposed to female cattle and kept in confinement for the purpose of feeding and only go to slaughter.

(1[2]3) "Negative bull" means a bull that has been tested with official test procedures and an approved laboratory has not detected Trichomonas foetus.

(1[3]4) "Official tag" means a tag authorized by the department that is placed in the right ear of a bull by a certified veterinarian after being tested for Trichomoniasis. The color of the official tag shall be changed yearly.

(1[4]5) "Official test" means a test currently approved by the department for detection of Trichomonas foetus.

(1[5]6) "Positive bull" means a bull that has been tested with official test procedures and found to be infected by Trichomonas foetus.

(1[6]7) "Positive herd" means any herd or group of cattle owned by one or more persons that shares common grazing or feeding operations and in which one or more animals has been diagnosed with Trichomoniasis.

(1[7]8) "Qualified feedlot" means a feedlot approved by the Utah Department of Agriculture and Food to handle cattle [~~or bison~~] confined to a dry lot area that is used to upgrade or finish feeding animals going only to slaughter.

(1[8]9) "Test chart" means a document which certifies that a bull has been subjected to an official test for Trichomoniasis and indicates the results of the test.

(1[9]20) "Trichomoniasis" means a venereal disease of bovidae caused by the organism Trichomonas foetus.

R58-21-3. Trichomoniasis - Sampling and Testing Procedures.

(1) Sample collection - Samples are obtained by a certified veterinarian via a vigorous scraping of the bull's prepuce using a sterile syringe and new pipette on each bull.

(2) Sample handling - Samples shall be transferred and transported in an approved transfer tube[~~such as the BioMed TF transfer tube~~]. Media should be maintained at 65 to 90 degrees Fahrenheit, 18 to 32 degrees Celsius, during sampling and transport to clinic. Samples shall be set up for incubation within 24 hours of sampling. Samples shall also be protected from direct sunlight.

(3) Polymerase Chain Reaction (PCR) testing - The inoculated media shall be incubated at 98 degrees Fahrenheit, 37 degrees Celsius, for 24 hours and then frozen. Samples may remain frozen for up to 3 weeks. Samples from herds under investigation or quarantine shall be mailed within 72 hours. The frozen sample shall be sent overnight on postal approved frozen packs to the Utah Veterinary Diagnostic Laboratory at 950 East 1400 North, Logan, Utah 84341 or a laboratory approved by the State Veterinarian for PCR testing.

(4) Pool samples- At the State Veterinarian's discretion, herds at high risk or under investigation for Trichomoniasis may be required to have individual bull tests.

(5) Test results shall be recorded on test charts provided by the department.

(6) Test charts shall have the following information:

(a) veterinarian's name and contact information;

(b) owner's name and contact information;

(c) bull's trichomoniasis tag number, RFID tag number, age, and breed;

(d) the date of collection; and

(e) the finalized test results.

(1[6]7) A copy of each test chart shall be submitted to the department within [~~ten~~seven] days of [~~collecting the sample~~receiving the results].

R58-21-4. Trichomoniasis - Rules - Resident Cattle[~~and Bison~~].

(1) Resident Bulls- [~~and~~]Bulls twelve months of age and older residing in Utah and commuter bulls shall be tested with an official test for trichomoniasis annually, between October 1 and May 15 of the following year, or prior to exposure to female cattle [~~or bison~~]according to approved sampling and testing procedures. Each bull shall be classified as a negative bull prior to exposure to females or offer for sale.

(2) Resident dairy bulls are exempt from Trichomoniasis testing requirements unless they are being offered for sale or have had exposure to female cattle [~~or bison~~]from another herd.

(1[2]3) Each bull twelve months of age and older being offered for sale or lease for reproductive purposes in the state of Utah shall be tested for Trichomoniasis with an official test prior to sale. Each bull that has had contact with female cattle [~~or bison~~]subsequent to testing must be re-tested prior to sale, lease, or transfer of ownership.

(1[3]4) It shall be the responsibility of the owner or his agent to declare to the brand inspector whether the bull has been exposed to female cattle [~~or bison~~]subsequent to testing on any bulls offered for breeding purposes regardless of whether the tag is current or not. This includes any bull offered for sale through an auction, private treaty or lease.

(a) Untested bulls, including dairy bulls, must be sold for slaughter only or for direct movement to a qualified feedlot.

~~[(b) Any female bovine over the age of twelve months will be consigned and sold for slaughter or to a qualified feedlot only unless the owner declares that the herd is not a known positive Trichomonas fetus herd.]~~

~~[(e)b] Auctions shall have a separate pen for untested bulls where they do not have exposure to female cattle [or bison] being sold for reproductive purposes.~~

~~[(4)5] Any bull that has strayed and commingles with female cattle [or bison] may be required to be tested or re-tested for Trichomoniasis. The owner of the offending bull shall bear the costs for the official test.~~

~~[(5)6] Utah bulls that are tested shall be tagged with an RFID tag and with an official Trichomoniasis tag by the certified veterinarian performing the test.~~

R58-21-5. Trichomoniasis - Rules -- Imported Cattle ~~and Bison~~.

(1) Imported Bulls- Bulls twelve months of age and older entering Utah, including dairy bulls, shall be tested with an approved test for Trichomoniasis by an accredited veterinarian approved to collect samples for Trichomoniasis by the state animal health official in the state of origin prior to entry into Utah with the following exemptions:

(a) each bull going directly to slaughter or to a qualified feedlot;

(b) each rodeo bull for the purpose of exhibition that will return immediately to the state of origin after the event; and

(c) each bull attending livestock shows for the purpose of exhibition only return immediately to the state of origin after the event.

(2) Rodeo and exhibition bulls with access to grazing, exposure to female cattle ~~[or bison]~~, remaining in the state for more than one event, or being offered for sale are required to be tested prior to entry.

(3) Each bull that has had contact with female cattle ~~[or bison]~~ subsequent to testing shall be retested prior to entry.

(4) Reproductive bovine females- No female bovine of breeding age originating from a known positive Trichomonas foetus herd will be allowed to enter Utah with the following exemptions:

(a) cattle ~~[or bison]~~ from a premises of origin with two consecutive negative official Trichomoniasis PCR tests of the entire bull population and the cattle have not been exposed to positive or unknown status bulls since parturition, are at least 120 days pregnant, or are known virgin heifers;

(b) cattle ~~[or bison]~~ who are documented to have had at least 120 days of sexual isolation; or

(c) cattle ~~[or bison]~~ consigned directly to slaughter or to a qualified feedlot.

(5) Each bull entering the state under the provisions of this rule may be tagged upon arrival by a certified veterinarian upon receipt of the Trichomoniasis test charts from the testing veterinarian.

(6) Each bull that bears a current Trichomoniasis test tag from another state that has an official Trichomoniasis testing program will be acceptable for entry into the state providing that they meet Trichomoniasis testing requirements as described above.

R58-21-6. Trichomoniasis - Rules - Positive Herd.

(1) Upon diagnosis of Trichomonas foetus in a herd, a quarantine shall be placed and a Trichomoniasis Herd Plan shall be set by the State Veterinarian. The State Veterinarian may require additional testing of bulls, pregnancy testing of females, segregation of cattle ~~[or bison]~~ within a herd, and may quarantine a herd until the owner or

manager of the herd has complied with any additional requirements set forth by the State Veterinarian and until the State Veterinarian releases the quarantine.

(2) Each bull testing positive for Trichomoniasis shall be reported by the certified veterinarian performing the test within 48 hours to the owner of the animal and the State Veterinarian.

(3) Any veterinarian that discovers an infected herd shall immediately place the herd under a hold order. Results on follow-up tests on herd bulls shall be reported within 24 hours to the State Veterinarian.

(4) A herd owner notified by a certified veterinarian of a positive bull shall, within ten days:

(a) notify the administrators of the common grazing allotment;

(b) notify any neighboring cattleman whose property shares a fence line with the property that contains the positive herd; and

(c) provide the State Veterinarian's office with a list of any neighboring cattlemen.

(5) Each bull that tests positive for Trichomoniasis shall be sent by direct movement within 14 days, to:

(a) slaughter at an approved slaughter facility;

(b) to a qualified feedlot for finish feeding and slaughter; or

(c) to an approved auction market for sale to slaughter or a qualified feedlot.

(6) An exemption to the 14[-]day requirement may be given by the State Veterinarian to owners of bulls that are required to be in a drug withdrawal period prior to slaughter.

(7) If an owner releases any cattle ~~[or bison]~~ from the herd to a slaughter channel, the owner shall provide documentation on a department Movement of Cattle from a Trichomoniasis-Positive Herd form to the State Veterinarian within 72 hours stating the animals arrived at the slaughter channel. A VS 1-27 Form shall also be completed for cattle ~~[or bison]~~ moving out of the state by a federally-accredited veterinarian. Exposed cattle ~~[or bison]~~ are to be kept separate and apart from cattle ~~[or bison]~~ of the opposite sex. The exposed cattle will remain under quarantine until moved to slaughter.

(8) Each positive bull entering a qualified feedlot or approved auction market shall be identified with a lazy V brand on the left side of the tailhead by either the livestock inspector or the contract veterinarian, indicating that the bull is infected with Trichomoniasis.

(9) Each bull from a positive herd is required to have one additional individual negative Polymerase Chain Reaction (PCR) test prior to exposure to female cattle ~~[or bison]~~. Bulls that are being sent to an approved auction for slaughter, or to a qualified feedlot without exposure to female cattle ~~[or bison]~~ are not required to be tested, but shall be branded with a lazy V brand on the left side of the tailhead.

(10) Each female over 12 months of age not known to be a virgin heifer from a positive Trichomoniasis foetus herd may be sold for slaughter or feeding or may be quarantined on the premises of origin. Each female leaving the herd shall be accompanied by a department Movement of Cattle from a Utah Trichomoniasis-Positive Herd form. ~~[Each female moving to a qualified feedlot shall be identified with a lazy V brand on the left side of the tailhead to indicate that they are moving from an infected herd.]~~

(11) Each female may be released from quarantine if the animal:

(a) has a calf at side with no exposure other than to known negative Trichomonas foetus bulls after parturition;

NOTICES OF CHANGES IN PROPOSED RULES

(b) has been in 120 days of isolation from breeding-age bulls;
or

(c) is determined by a federally accredited veterinarian to be at least 120 days pregnant.

(12) The owner of the positive herd shall assist the State Veterinarian in determining the destination of all non-virgin female cattle sold after the previous year's trichomoniasis test. The State Veterinarian shall undertake all reasonable efforts to notify the recipients of those cattle.

(13) Except as otherwise provided in this section, the owner of an infected herd shall not lease or transfer ownership of any bull, cow, or heifer that is 12 months of age or older from the herd during a period in which the herd is under quarantine.

R58-21-7. Trichomoniasis - Rules - Non-compliance.

(1) Any person who fails to satisfy the requirements of this rule or who knowingly sells animals infected with Trichomoniasis, other than to slaughter, without declaring their disease status shall be subject to citation and fines as prescribed by the department or may be called to appear before an administrative proceeding by the department.

(2) After May 15 each year, owners of untested bulls will be fined \$1,000.00 per violation.

(3) Regardless of the time of year, owners of untested bulls that have been exposed to female cattle will be fined \$1,000.00 per violation.

(4) Owners of any dairy bull or bison bull that has been exposed to female cattle [~~or bison~~] from other herds will be fined \$1,000.00 per violation.

(5) Owners receiving a citation shall test their bull and provide proof of the testing to the department within 30 days of receipt of the citation or an additional penalty or fine may be levied.

KEY: disease control, trichomoniasis, bulls, cattle
Date of Enactment or Last Substantive Amendment: 2021
Notice of Continuation: December 26, 2019
Authorizing, and Implemented or Interpreted Law: 4-31-21

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R590-102	Filing No. 53271

Agency Information

1. Department:	Insurance
Agency:	Administration
Room no.:	Suite 2300
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W
City, state, zip:	Taylorville, UT 84129
Mailing address:	PO Box 146901
City, state, zip:	Salt Lake City, UT 84114-6901
Contact person(s):	

Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule or section catchline:
R590-102. Insurance Department Fee Payment Rule

3. Change in Proposed Rule:
Changes FILING R590-102, Insurance Department Name, Publication Fee Payment Rule, published date of prior filing: 01/15/21

4. Reason for this change:
During the 2021 General Session, the Legislature declined to approve the graduated fee schedule for captive insurers and the separation of industrial insured captives from the larger class of captive insurers.

5. Summary of this change:
This change removes the proposed graduated fee schedule for captive insurers, updates the fee increases that the Legislature approved in S.B. 2 during the 2020 General Session, and removes the proposed section that specifically addressed industrial insured captives. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the January 15, 2021, issue of the Utah State Bulletin, on page 36. 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

6. Aggregate anticipated cost or savings to:

A) State budget:
The Legislature approved an annual captive license fee increase of \$1,125, or half of the originally requested amount. With 381 captive licensees currently, this will result in the Insurance Department (Department) collecting an additional \$428,625 in annual revenue.

B) Local government:
There is no anticipated cost or savings to local governments. The fee relates to captive insurers only and has no bearing on any other parties.

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

Only a very small number of captives operating in Utah have employees. Of the 381 currently licensed captives, fewer than 20 are estimated to have 1 to 49 employees. These captives will have a cost increase of \$1,125 for their annual license fees, resulting in an aggregate cost increase of less than \$22,500 annually.

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

There is no anticipated cost or savings to non-small businesses. No captives operating in Utah have more than 50 employees.

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

Most captives operating in Utah have no employees. Of the 381 currently licensed captives, an estimated 362 have no employees. These captives will have a cost increase of \$1,125 for their annual license fees, resulting in an aggregate cost increase of \$407,250 annually.

F) Compliance costs for affected persons:

The Legislature approved an increase of \$1,125 for the annual renewal cost of a captive insurer license. Any person that forms and runs a captive insurer in Utah will pay an annual license fee of \$6,125. This is the first captive license fee increase in nearly 20 years. Despite this increase, Utah remains one of the most price competitive captive domiciles in the nation.

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	\$21,375	\$22,500	\$23,625
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$407,250	\$428,625	\$450,000

Total Fiscal Cost	\$428,625	\$451,125	\$473,625
Fiscal Benefits			
State Government	\$428,625	\$451,125	\$473,625
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$428,625	\$451,125	\$473,625
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Commissioner of the Insurance Department, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

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

There will be an additional annual cost of \$1,125 to all affected parties as a result of this rule. However, insurers are required to have a minimum of \$250,000 of unimpaired capital to form and maintain a captive in Utah; the additional \$1,125 a year will not be fiscally burdensome. The Department invited existing captives in the state to comment at a rule hearing, and no captives appeared or submitted any comments. The Department has not increased the cost of a captive insurer license in 20 years, despite the increasing costs of regulating them. In S.B. 2, passed during the 2020 General Session, the Legislature approved half of the requested increase for a captive insurer license, which will help the Department in its regulatory duties. Utah will remain one of the nation's most cost competitive domiciles for captives.

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

Jonathan T. Pike, 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):

Subsection 31A-3-103(3)		
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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:	05/17/2021
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11. This rule change MAY become effective on:	05/24/2021
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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

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	04/01/2021
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R590. Insurance, Administration.

R590-102. Insurance Department Fee Payment Rule.

R590-102-1. Authority.

This rule is adopted pursuant to Subsection 31A-3-103(3), which requires the commissioner to publish the schedule of fees approved by the legislature and to establish deadlines for payment of each of the various fees.

R590-102-2. Purpose and Scope.

- (1) The purposes of this rule are to:
 - (a) publish the schedule of fees approved by the legislature;
 - (b) establish fee deadlines; and
 - (c) disclose this information to licensees and the public.
- (2) The rule applies to:
 - (a) any person engaged in the business of insurance in Utah;
 - (b) any person holding an insurance license in Utah;
 - (c) any applicant for a license, registration, certificate, or other similar filing; and
 - (d) any person requesting any service provided by the department for which a fee is required.

R590-102-3. Definitions.

In addition to the definitions in Title 31A, Insurance Code, the following definitions shall apply for the purposes of this rule:

- (1) "Admitted insurer" includes fraternal, health, health maintenance organization, life, limited health plan, motor club, non-profit health service, property and casualty, title insurer, and a prescription drug plan.
- (2) "Agency" means:
 - (a) a person, other than an individual, including a sole proprietorship by which a natural person does business under an assumed name; and
 - (b) an insurance organization required to be licensed under Sections 31A-23a-301, 31A-25-207, and 31A-26-209.
- (3) "Captive insurer" includes association captive, branch captive, ~~industrial insured captive~~, pure captive, sponsored captive, and special purpose financial captive. It does not include a captive cell ~~[or an industrial insured captive]~~.
- (4) "Deadline" means the final date or time:
 - (a) imposed by:
 - (i) statute;
 - (ii) rule; or
 - (iii) order; and
 - (b) by which:
 - (i) a payment must be received by the department without incurring a penalty for late payment or non-payment; or
 - (ii) required information must be received by the department without incurring a penalty for late receipt or non-receipt.
- (5) "Fee" means an amount set by the commissioner, by statute, or by rule, and approved by the legislature for a license, registration, certificate, or other filing or service provided by the Insurance Department.
- (6) "Full-line agency" includes a producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third-party administrator.
- (7) "Full-line individual" includes a producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third-party administrator.
- (8) "Limited-line agency" includes a bail bond producer and a limited-line producer.
- (9) "Limited-line individual" includes a bail bond agent, limited-lines producer, and customer service representative.
- (10) "Other organization" includes a home warranty, joint underwriter, purchasing group, rate service organization, risk retention group, service contract provider, and health discount program.
- (11) "Non-electronic application" means an application that must be manually entered into the department's database because the application was submitted by paper, facsimile, or email when the department has provided an electronic application process and stated the electronic process is the preferred process for receiving an application.
- (12) "Non-electronic filing" means a filing that must be manually entered into the department's database because the filing was submitted by paper, facsimile, or email when the department has provided an electronic filing process and stated the electronic process is the preferred process for receiving a filing.
- (13) "Non-electronic payment" means a payment that must be manually entered by the department because the payment was submitted by check, money order, or other physical medium when the department has provided an electronic payment process and stated the electronic process is the preferred process for receiving a payment.

(14) "Received by the department" means:

- (a) the date delivered to and stamped received by the department, if delivered in person;
- (b) the postmark date, if delivered by mail;
- (c) the delivery service's postmark date or pick-up date, if delivered by a delivery service; or
- (d) the received date recorded on an item delivered, if delivered by:
 - (i) facsimile;
 - (ii) email; or
 - (iii) another electronic method; or
- (e) a date specified in:
 - (i) a statute;
 - (ii) a rule; or
 - (iii) an order.

R590-102-4. General Instructions.

(1) Any fee payable to the department not included in Sections R590-102-5 through R590-102-~~25~~24 shall be due when service is requested, if applicable, otherwise by the due date on the invoice.

(2) Payment.

(a) A non-electronic payment processing fee will be added to a payment when the department has provided an electronic payment process and stated the electronic process is the preferred process for receiving a payment.

(b) Check.

(i) A check shall be made payable to the Utah Insurance Department.

(ii) A check that is dishonored in the process of the collection will not constitute payment of the fee for which it was issued and any action taken based on the payment will be voided.

(iii) Any late fee or other penalty resulting from the voided action will apply until proper payment is made.

(iv) A check payment that is dishonored is a violation of this rule.

(c) Cash. The department is not responsible for un-receipted cash that is lost or misdelivered.

(d) Electronic.

(i) Credit card.

(A) A credit card may be used to pay any fee due to the department.

(B) A credit card payment that is dishonored will not constitute payment of the fee and any action taken based on the payment will be voided.

(C) A late fee or other penalty resulting from the voided action will apply until proper payment is made.

(D) A credit card payment that is dishonored is a violation of this rule.

(ii) Automated clearinghouse (ACH).

(A) Any payer or purchaser desiring to use this method must contact the department for the proper routing and transit information.

(B) A payment that is made in error to another agency or that is not deposited into the department's account will not constitute payment of the fee and any action taken based on the payment will be voided.

(C) Any late fee or other penalty resulting from the voided action will apply until proper payment is made.

(D) An ACH payment that is dishonored is a violation of this rule.

(3) Retaliation. The fees enumerated in this rule are not subject to retaliation in accordance with Section 31A-3-401 if other states or countries impose higher fees.

(4) Refunds.

(a) Fees enumerated in this rule are non-refundable.

(b) Overpayments of fees are refundable.

(c) A request for a return of an overpayment must be submitted in writing.

(5) A non-electronic processing fee described in Section R590-102-21 will be assessed for a particular service if the department has established an electronic process for that service.

(6) Any annual or biennial license fee, service fee, or assessment described in this rule is for services the department will provide during the year and is paid in advance of providing the services.

(7) An electronic commerce dedicated fee described in Section R590-102-~~24~~23 may be added to the fees required by Sections R590-102-5 through R590-102-~~24~~20.

R590-102-5. Admitted Insurer and Prescription Drug Plan Fees.

(1) Annual license fees:

(a) certificate of authority initial license application, due with license application - \$1,000;

(b) certificate of authority renewal, due by the due date on the invoice - \$300;

(c) certificate of authority late renewal, due for any renewal paid after the date on the invoice - \$350; and

(d) certificate of authority reinstatement, due with application for reinstatement - \$1,000.

(2) Other license fees:

(a) certificate of authority amendments, due with request for amendment - \$250;

(b)(i) Form A application for merger, acquisition, or change of control, due with filing - \$2,000; and

(ii) Expenses incurred for consultant services necessary to evaluate a Form A will be charged to the applicant and due by the due date on the invoice;

(c) redomestication filing, due with filing - \$2,000; and

(d) application for organizational permit for mutual insurer to solicit applications for qualifying insurance policies or subscriptions for mutual bonds or contribution notes, due with application - \$1,000.

(3) The annual license fee includes the following licensing services for which no additional fee is required:

(a) filing annual statement and report of Utah business, due annually on March 1;

(b) filing holding company registration statement, Form B;

(c) filing application for material transactions between affiliated companies, Form D; and

(d) applications for:

(i) stock solicitation permit;

(ii) public offering filing, but not an SEC filing;

(iii) an SEC filing;

(iv) private placement offering; and

(v) individual license to solicit in accordance with the stock solicitation permit.

(4) Annual service fee:

(a) Due by the due date on the invoice.

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(b) A prescription drug plan is exempted from payment of a service fee.

(c) The fee is based on the Utah premium as shown in the company's prior year annual statement on file with the National Association of Insurance Commissioners and the department.

(d) Fee schedule:

- (i) \$0 premium volume - no service fee;
- (ii) more than \$0 but less than \$1 million in premium volume - \$700;
- (iii) \$1 million but less than \$3 million in premium volume - \$1,100;
- (iv) \$3 million but less than \$6 million in premium volume - \$1,550;
- (v) \$6 million but less than \$11 million in premium volume - \$2,100;
- (vi) \$11 million but less than \$15 million in premium volume - \$2,750;
- (vii) \$15 million but less than \$20 million in premium volume - \$3,500; and
- (viii) \$20 million or more in premium volume - \$4,350.

(e) The annual service fee includes the following services for which no additional fee is required:

- (i) filing of amendments to articles of incorporation, charter, or bylaws;
- (ii) filing of power of attorney;
- (iii) filing of registered agent;
- (iv) affixing commissioner's seal and certifying any paper;
- (v) filing of authorization to appoint and remove agents;
- (vi) initial filing of producer or agency appointment with an insurer;
- (vii) termination of producer or agency appointment with an insurer;
- (viii) report filing;
- (ix) rate filing; and
- (x) form filing.

(5) Actual costs plus overhead expenses incurred during an examination of an insurer shall be paid by the examined insurer by the due date on the invoice.

R590-102-6. Foreign Surplus Lines Insurer, Accredited Reinsurer, Certified Reinsurer, Trusteed Reinsurer, and Employee Welfare Fund Administrative/Service Fees.

(1) Annual license fees:

- (a) initial, due with application - \$1,000;
- (b) renewal, due by the due date on the invoice - \$500;
- (c) late renewal, due for any renewal payment paid after the due date on the invoice - \$550; and
- (d) reinstatement, due with application - \$1,000.

(2) The annual license fee includes the following services for which no additional fee is required:

- (a) filing of power of attorney; and
- (b) filing of registered agent.

R590-102-7. Other Organization Fees.

(1) Annual license fees:

- (a) initial, due with application - \$250;
- (b) renewal, due by the due date on the invoice - \$200;
- (c) late renewal, due for any renewal paid after the due date on the invoice - \$250; and

(d) reinstatement, due with application for reinstatement - \$250.

(e) The annual other organization initial or renewal fee includes the risk retention group annual statement filing, due annually on March 1.

(2) Annual service fee, due by the due date on the invoice - \$200.

(a) The annual service fee includes the following services for which no additional fee is required:

- (i) filing of power of attorney;
- (ii) filing of registered agent; and
- (iii) rate, form, report, or service contract filing.

R590-102-8. Captive Insurer Fees.

(1) Initial license application, due with license application - \$200.

(2) Actual costs incurred by the department during the initial license application review shall be paid by the captive insurer by the due date on the invoice.

(3) Annual license fees:

- (a) initial, due by the due date on the invoice - ~~\$6,125~~ ~~[-~~ ~~for a license date in the months of July through January - \$7,250;~~
- ~~(ii) for a license date in the month of February - \$6,250;~~
- ~~(iii) for a license date in the month of March - \$5,250;~~
- ~~(iv) for a license date in the month of April - \$4,250;~~
- ~~(v) for a license date in the month of May - \$3,250; and~~
- ~~(vi) for a license date in the month of June - \$2,250;~~

(b) renewal, due by the due date on the invoice - \$6,125 ~~[7,250]~~;

(c) late renewal, due for any renewal paid after the due date on the invoice - ~~\$6,130~~ ~~[7,300]~~; and

(d) reinstatement, due with application for reinstatement - ~~\$6,130~~ ~~[7,300]~~.

(4) Actual costs plus overhead expenses incurred during an examination of a captive insurer shall be paid by the examined captive insurer by the due date on the invoice.

R590-102-9. Captive Cell Fees.

(1) Initial license application, due with license application - \$200.

(2) Actual costs incurred by the department during the initial license application review shall be paid by the captive insurer by the due date on the invoice.

(3) Annual license fees:

- (a) initial, without proration, due by the due date on the invoice - \$1,000;
- (b) renewal, due by the due date on the invoice - \$1,000; and
- (c) late renewal, due for any renewal paid after the due date on the invoice - \$1,050.

R590-102-10. Industrial Insured Captive Fees.

~~(1) Initial license application, due with license application - \$1,000.~~

~~(2) Actual costs incurred by the department during the initial license application review shall be paid by the industrial insured captive by the due date on the invoice.~~

~~(3) Annual license fees:~~

- ~~(a) initial, due by the due date on the invoice:~~

~~(i) for a license date in the months of July through January - \$25,000; and~~
~~(ii) for a license date in the months of February through June - \$20,000;~~
~~(b) renewal, due by the due date on the invoice - \$25,000;~~
~~(c) late renewal, due for any renewal paid after the due date on the invoice - \$25,500; and~~
~~(d) reinstatement, due with application for reinstatement - \$25,500.~~
~~(4) Actual costs plus overhead expenses incurred during an examination of an industrial insured captive shall be paid by the examined industrial insured captive by the due date on the invoice.~~

R590-102-11. Life Settlement Provider Fees.

(1) Annual license fees:
 (a) initial, due with application - \$1,000;
 (b) renewal, due by the due date on the invoice - \$300;
 (c) late renewal, due for any renewal paid after the due date on the invoice - \$350; and
 (d) reinstatement, due with reinstatement application - \$1,000.
 (2) Annual service fee, due by the due date on the invoice - \$600.
 (a) The annual service fee includes the following service for which no additional fee is required: rate, form, report, or service contract filing.
 (3) Actual costs plus overhead expenses incurred during an examination of a viatical settlement provider shall be paid by the examined viatical settlement provider by the due date on the invoice.

R590-102-12. Professional Employer Organization (PEO) Fees.

(1) Annual license fees:
 (a) PEO not certified by an assurance organization:
 (i) initial, due with application - \$2,000;
 (ii) renewal, due by the due date on the invoice - \$2,000;
 (iii) late renewal, due for any renewal paid after the due date on the invoice - \$2,050; and
 (iv) reinstatement, due with reinstatement application - \$2,050.
 (b) PEO certified by an assurance organization:
 (i) initial, due with application - \$2,000;
 (ii) renewal, due by the due date on the invoice - \$1,000;
 (iii) late renewal, due for any renewal paid after the due date on the invoice - \$1,050; and
 (iv) reinstatement, due with reinstatement application - \$1,050.
 (c) PEO small operator:
 (i) initial, due with application - \$2,000;
 (ii) renewal, due by the due date on the invoice - \$1,000;
 (iii) late renewal, due for any renewal paid after the due date on the invoice - \$1,050; and
 (iv) reinstatement, due with reinstatement application - \$1,050.

R590-102-13. Individual Resident and Non-Resident License Fees, Other Than Individual Navigators.

(1) Biennial full-line license fees:
 (a) initial, due with application - \$70;

(b) renewal if renewed prior to license expiration date, due with renewal application - \$70; and
 (c) reinstatement if inactive license is reinstated within one year following the license expiration date, due with application for reinstatement - \$120.
 (2) Biennial limited-line license fees:
 (a) initial, due with application - \$45;
 (b) renewal if renewed prior to license expiration date, due with renewal application - \$45; and
 (c) reinstatement if inactive license is reinstated within one year following the license expiration date, due with application for reinstatement - \$95.
 (3) Other fees:
 (a) addition of producer classification or line of authority to individual producer license, due with request for additional classification or line of authority - \$25; and
 (b) title insurance product or service approval for dual licensed title licensee form filing, due with filing - \$25.
 (4) The biennial license fee includes the following services for which no additional fee is required:
 (a) issuance of letter of certification;
 (b) issuance of letter of clearance;
 (c) issuance of duplicate license; and
 (d) individual continuing education services.

R590-102-14. Individual Navigator Fees.

(1) Annual license fees:
 (a) initial, due with application - \$35;
 (b) renewal if renewed prior to license expiration date, due with renewal application - \$35; and
 (c) reinstatement if inactive license is reinstated within one year following the license expiration date, due with application for reinstatement - \$60.
 (2) The annual license fee includes the following services for which no additional fee is required:
 (a) issuance of letter of certification;
 (b) issuance of letter of clearance;
 (c) issuance of duplicate license; and
 (d) individual continuing education services.

R590-102-15. Agency License Fees, Other than Navigator or Bail Bond Agencies.

(1) Biennial resident and non-resident full-line agency and limited-line agency license fees:
 (a) initial, due with application - \$75;
 (b) renewal if renewed prior to license expiration date, due with renewal application - \$75; and
 (c) reinstatement if inactive license is reinstated within one year following the license expiration date, due with application for reinstatement - \$125.
 (2) Biennial resident title agency license fees:
 (a) initial, due with application - \$100;
 (b) renewal if renewed prior to license expiration date, due with renewal application - \$100; and
 (c) reinstatement if inactive license is reinstated within one year following the license expiration date, due with application for reinstatement - \$150.

NOTICES OF CHANGES IN PROPOSED RULES

(3) Addition of producer classification or line of authority to agency license, due with request for additional classification or line of authority - \$25.

(4) The biennial license fee includes the following services for which no additional fee is required:

- (a) issuance of letter of certification;
- (b) issuance of letter of clearance;
- (c) issuance of duplicate license;
- (d) initial filing of producer designation to agency license;
- (e) termination of producer designation to agency license;
- (f) filing of amendment to agency license; and
- (g) filing of power of attorney.

R590-102-~~146~~15. Navigator Agency Fees.

(1) Annual license fees:

(a) initial, due with application - \$40;

(b) renewal if renewed prior to license expiration date, due with renewal application - \$40; and

(c) reinstatement if inactive license is reinstated within one year following the license expiration date, due with application for reinstatement - \$65.

(2) The annual license fee includes the following services for which no additional fee is required:

- (a) issuance of letter of certification;
- (b) issuance of letter of clearance;
- (c) issuance of duplicate license;
- (d) initial filing of producer designation to agency license;
- (e) termination of producer designation to agency license;
- (f) filing of amendment to agency license; and
- (g) filing of power of attorney.

R590-102-~~147~~16. Bail Bond Agency Fees.

(1) Annual license fees:

(a) initial, due with application - \$250;

(b) renewal if renewed prior to license expiration date, due with renewal application - \$250; and

(c) reinstatement if inactive license is reinstated within one year following the license expiration date, due with application for reinstatement - \$300.

(2) The annual license fee includes the following services for which no additional fee is required:

- (a) issuance of letter of certification;
- (b) issuance of letter of clearance;
- (c) issuance of duplicate license;
- (d) initial filing of producer designation to agency license;
- (e) termination of producer designation to agency license;
- (f) filing of amendment to agency license; and
- (g) filing of power of attorney.

R590-102-~~148~~17. Continuing Care Provider Fees.

(1) Annual registration fee:

(a) initial, due with application - \$6,900;

(b) renewal, due by the due date on the invoice - \$6,900; and

(c) reinstatement, due with application for reinstatement - \$6,950.

(2) Annual disclosure statement fee:

(a) initial, due with application - \$600; and

(b) renewal, due with annual renewal disclosure statement - \$600.

R590-102-~~149~~18. Pharmacy Benefit Manager Licensing Fees.

(1) Annual license fee:

(a) initial, due with application - \$1,000;

(b) renewal, due by the due date on the invoice - \$1,000;

(c) late renewal, due for any renewal paid after the due date on the invoice - \$1,050; and

(d) reinstatement, due with application for reinstatement - \$1,000.

R590-102-~~20~~19. Guaranteed Asset Protection Provider Fees.

(1) Annual provider registration fee:

(a) initial, due with application - \$1,000;

(b) renewal, due by the due date on the invoice - \$1,000; and

(c) late renewal, due for any renewal paid after the due date on the invoice - \$1,050.

(2) Annual retail seller assessment:

(a) annual assessment, due by the due date on the invoice - \$50; and

(b) late fee, due for any retail seller assessment fee paid after the due date on the invoice - \$50.

R590-102-~~24~~20. Continuing Education Fees.

(1) Annual license fee:

(a) initial, due with application - \$250;

(b) renewal if renewed prior to license expiration date, due with renewal application - \$250; and

(c) reinstatement if inactive license is reinstated within one year following the license expiration date, due with application for reinstatement - \$300.

(2) Continuing education course post-approval fee, due with request for approval - \$5 per credit hour, minimum fee \$25.

R590-102-~~22~~21. Non-Electronic Processing or Payment Fees.

(1) Non-electronic filing processing fee. Assessed on a non-electronic filing, due with each non-electronic filing or by the due date on the invoice - \$5.

(2) Non-electronic application processing fee. Assessed on a non-electronic application, due with each non-electronic application or by the due date on the invoice - \$25.

(3) Non-electronic payment processing fee. Assessed on a non-electronic payment, due with each non-electronic payment or by the due date on the invoice - \$25.

R590-102-~~23~~22. Dedicated Fees.

The following are fees dedicated to specific uses:

(1) Fraud assessment:

(a) annual assessment as calculated under Section 31A-31-108 and stated in the invoice, due by the due date on the invoice; and

(b) late fee, due for any fraud assessment fee paid after the due date on the invoice - \$50.

(2) Title insurance regulation assessment: annual assessment as calculated under Section 31A-23a-415 and Rule R592-10 and stated in the invoice, due by the due date on the invoice.

(3) Annual Title Recovery, Education, and Research Fund assessment:

(a) individual title licensee applicant for initial license or renewal license, due with the initial application or the renewal application - \$15;

- (b) agency title licensee applicant, due with the initial application - \$1,000; and
- (c) annual agency title licensee assessment based on annual written title insurance premium, due by the due date on the invoice:
 - (i) Band A, \$0 to \$1 million - \$125;
 - (ii) Band B, more than \$1 million to \$10 million - \$250;
 - (iii) Band C, more than \$10 million to \$20 million - \$375;
- and
 - (iv) Band D, more than \$20 million - \$500.
- (4) Health insurance actuarial review assessment: annual assessment as calculated under Section 31A-30-115 and stated in the invoice, due by the due date on the invoice.
 - (5) Code book fees:
 - (a) code book, due at time of purchase or by invoice due date - \$57; and
 - (b) mailing fee, due at time of purchase or by invoice due date if book is to be mailed to purchaser - \$3.
 - (6) Fingerprint fees, due with application for individual license:
 - (a) Bureau of Criminal Investigation (BCI) - \$15; and
 - (b) Federal Bureau of Investigation (FBI) - \$13.25.

R590-102-~~24~~23. Electronic Commerce Dedicated Fees.

- (1) Electronic commerce, e-commerce, and internet technology services fee:
 - (a) admitted insurer and surplus lines insurer, due with the initial, renewal, or reinstatement application - \$75;
 - (b) captive insurer ~~and industrial insured captive~~, due with the initial, renewal, or reinstatement application - \$250;
 - (c) other organization including professional employer organization, continuing care provider, pharmacy benefit manager and life settlement provider, due with the initial, renewal, or reinstatement application - \$50;
 - (d) continuing education provider, due with the initial, renewal, or reinstatement application - \$20;
 - (e) agency, due with the initial, renewal, or reinstatement application - \$10; and
 - (f) individual, due with the initial, renewal, or reinstatement application - \$5.
- (2) Database access fees:
 - (a) information accessed through an electronic portal set up for that purpose, due when the department's database is accessed to input or acquire data - \$3 per transaction; and
 - (b) rate and form filing database access to an electronic public rate and form filing, due at time of service or by the due date on the invoice:
 - (i) a separate fee is assessed per line of insurance accessed (accident and health, life and annuity, or property-casualty);
 - (ii) each line of insurance accessed is charged the following fees:
 - (A) a base fee, which entitles the user up to 30 minutes of access, the assistance of staff during that time, and one DVD - \$45; and
 - (B) each additional 30 minutes of access time or fraction thereof, including the assistance of staff during that time - \$45; and
 - (iii) additional DVD - \$2.

R590-102-~~25~~24. Other Fees.

- (1) Photocopy fee - \$0.50 per page.
- (2) Complete annual statement copy fee - \$40 per statement.

- (3) Fee for accepting service of legal process - \$10.
- (4) Fees for production of information lists regarding licensees or other information that can be produced by list:
 - (a) printed list, if the information is already in list format and only needs to be printed or reprinted - \$1 per page; and
 - (b) electronic list compiled by accessing information stored in the Department's database:
 - (i) a separate fee is assessed for each list compiled;
 - (ii) each list is assessed one or more of the following fees:
 - (A) a base fee, which entitles the requestor up to 30 minutes of staff time to draft the information query, compile the information, prepare a CD, and prepare a CD for mailing to the requestor, due with request for information - \$50; and
 - (B) each additional 30 minutes or fraction thereof to draft the information query, compile the information, prepare a CD, and prepare a CD for mailing to the requestor, due by the due date on the invoice - \$50; and
 - (iii) additional CD, due by the due date on the invoice - \$1.
 - (5) Returned check fee - \$20.
 - (6) Workers compensation loss cost multiplier schedule - \$5.
 - (7) Address correction fee, assessed when department has to research and enter new address for a licensee, due by the due date on the invoice - \$35.
 - (8) Independent review organization initial application fee, due with application - \$250.
 - (9) Withdrawal from writing a line of insurance or reducing total annual premium volume by 75% or more, due with plan of orderly withdrawal submission - \$50,000.
 - (10) Administrative disciplinary action removal from public access on Insurance Department controlled website, due with application - \$185.

R590-102-~~26~~25. Severability.

If any provision of this rule, R590-102, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance fees

Date of Enactment or Last Substantive Amendment: 2021

Notice of Continuation: December 12, 2016

Authorizing, and Implemented or Interpreted Law: 31A-3-103

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R649-1	Filing No. 53303

Agency Information

1. Department:	Natural Resources
Agency:	Oil, Gas and Mining; Oil and Gas
Building:	Department of Natural Resources
Street address:	1594 W North Temple, Suite 1210
City, state, zip:	Salt Lake City, UT 84114

NOTICES OF CHANGES IN PROPOSED RULES

Contact person(s):		
Name:	Phone:	Email:
Natasha Ballif	801-538-5328	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:	
R649-1. Oil and Gas Definitions	
3. Change in Proposed Rule:	
Changes FILING Name, Publication date of prior filing:	R649-1. Oil and Gas Definitions, published 02/15/2021
4. Reason for this change:	
After evaluating the comments received during the 30-day public comment period, the Board of Oil, Gas, and Mining decided to implement suggestions that were given.	
5. Summary of this change:	
Changes include adding removed definitions from Rule R649-10 (adjudicative proceeding, agency, agency head, license, party, person, presiding officer, resource detriment, and respondent), two definitions were reordered because they were not in alphabetical order (authorized agent and aquifer). (EDITOR'S NOTES: The change in proposed rule on Rule R649-10 is under Filing No. 53306 in this issue, April 15, 2021, of the Bulletin. Also, the original proposed amendment upon which this change in proposed rule (CPR) was based was published in the February 15, 2021, issue of the Utah State Bulletin, on page 83. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)	

Fiscal Information

6. Aggregate anticipated cost or savings to:
A) State budget:
All changes in the rule filing are purely administrative and will have no additional fiscal impact on the state budget.
B) Local government:
This rule does not apply to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
There will be no additional fiscal impact to small businesses because of these proposed changes as they are purely administrative.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There will be no additional fiscal impact to businesses because of these proposed changes as these changes are purely administrative.

E) Persons other than small businesses, non-small businesses, or state or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
This rule does not affect persons other than small businesses, businesses, or local government entities.

F) Compliance costs for affected persons:
There will be no compliance costs for oil and gas operators as this rule change is purely administrative.

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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.

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

There will be no additional fiscal impact to businesses because of these proposed rule changes.

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

Brian Steed, 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		
40-6-1 et seq.		

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:	05/17/2021
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11. This rule change MAY become effective on:	05/24/2021
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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

Agency head or designee, and title:	John Baza, Director	Date:	03/26/2021
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R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.

R649-1. Oil and Gas Definitions.

R649-1-1. Definitions.

"Adjudicative proceeding" means an agency action or proceeding that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including any agency actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and judicial review of any of such actions.

"Agency" means the Board of Oil, Gas and Mining and the Division of Oil, Gas and Mining including the director or division employees acting on behalf of or under the authority of the director or board.

"Agency head" means an individual or body of individuals in whom the ultimate legal authority of the agency is vested by statute.

"Authorized Agent" means a representative of the director as authorized by the board.

"Aquifer" means a geological formation including a group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Application for Permit to Drill, Deepen or Plug Back" or "APD" means the Form 3 submission required under Section R649-3-4 with the division.

"Aquifer" means a geological formation including a group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Artificial Liner" means a pit liner made of material other than clay or other in-situ material that meets the requirements of Section R649-9-3, Permitting of Disposal Pits.

"Authorized Agent" means a representative of the director as authorized by the board.

"Authority for Expenditure" or "AFE" is a detailed written statement made in good faith by an operator memorializing the total estimated costs to be incurred in the drilling, testing, completion and equipping of a well for oil and gas operations.

"Barrel" means 42 gallons at 60 degrees Fahrenheit at atmospheric pressure.

"Board" means the Board of Oil, Gas and Mining.

"Carrier, Transporter or Taker" means any person moving or transporting oil or gas away from a well or lease or from any pool.

"Casing Pressure" means the pressure within the casing or between the casing and tubing at the wellhead.

"Central Disposal Facility" means a facility that is used by one or more producers for disposal of exempt E and P wastes and that the operator of the facility receives no monetary remuneration, other than operating cost sharing.

"Class II Injection Well" means a well that is used for:

1. the disposal of fluids that are brought to the surface in connection with conventional oil or natural gas production and that may

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be commingled with wastewater produced from the operation of a gas plant that is an integral part of production operations, unless that wastewater is classified as a hazardous waste at the time of injection;

2. enhanced recovery of oil or gas; or
3. storage of hydrocarbons that are liquids at standard temperature and pressure conditions.

"Closed System" means the use of a combination of solids control equipment including a shale shaker, flowline cleaner, desanders, desilters, mud cleaners, centrifuges, agitators, and any necessary pumps and piping incorporated in a series on the rig's steel mud tanks, or a self contained unit that eliminates the use of a reserve pit to dump and dilute drilling fluids for the removal of entrained drill solids. A closed system for the purpose of these rules may with Division approval include the use of a small pit to receive cuttings, but does not include the use of trenches for the collection of fluids of any kind.

"Coalbed Methane" means natural gas that is produced, or may be produced, from a coalbed and rock strata associated with the coalbed.

"Commercial Disposal Facility" means a disposal well, pit or treatment facility whose owner or operator receives compensation from others for the temporary storage, treatment, and disposal of produced water, drilling fluids, drill cuttings, completion fluids, and any other exempt E and P wastes, and whose primary business objective is to provide these services.

"Completion of a Well" means that the well has been adequately worked to be capable of producing oil or gas or that well testing as required by the division has been concluded.

"Confining Strata" refers to a body of material that is relatively impervious to the passage of liquid or gas and that occurs either below, above, or lateral to a more permeable material in such a way that it confines or limits the movement of liquids or gases that may be present.

"Correlative Rights" means the opportunity of each owner in a pool to produce his just and equitable share of the oil and gas in the pool without waste.

"Cubic Foot" of gas means the volume of gas contained in one cubic foot of space at a standard pressure base of 14.73 psia and a standard temperature base of 60 degrees Fahrenheit.

"Day" means a period of 24 consecutive hours.

"Development Wells" means any oil and gas producing wells other than wildcat wells.

"Director" means the executive and administrative head of the division.

"Disposal Facility" means an injection well, pit, treatment facility or combination thereof that receives E and P Wastes for the purpose of disposal. This includes both commercial and noncommercial facilities.

"Disposal Pit" means a lined or unlined pit approved for the disposal or storage of E and P Wastes.

"Division" means the Division of Oil, Gas and Mining.

"Drilling Fluid" means a circulating fluid usually called mud, that is introduced in a drill hole to lubricate the action of the rotary bit, remove the drilling cuttings, and control formation pressures.

"E and P Waste" means Exploration and Production Waste, and is defined as waste resulting from the drilling of and production from an oil and gas well as determined by the Environmental Protection Agency (EPA), prior to January 1, 1992, to be exempt from Subtitle C of the Resource Conservation and Recovery Act (RCRA).

"Emergency Pit" means a pit used for containing any fluid at an operating well during an actual emergency or for a temporary period of time.

"Enhanced Recovery" means the process of introducing fluid or energy into a pool for the purpose of increasing the recovery of hydrocarbons from the pool.

"Enhanced Recovery Project" means the injection of liquids or hydrocarbon or non-hydrocarbon gases directly into a reservoir for the purpose of augmenting reservoir energy, modifying the properties of the fluids or gases in the reservoir, or changing the reservoir conditions to increase the recoverable oil, gas, or oil and gas through the joint use of two or more well bores.

"Entity" means a well or a group of wells that have identical division of interest, have the same operator, produce from the same formation, have product sales from a common tank, LACT meter, gas meter, or are in the same participating area of a properly designated unit. Entity number assignments are made by the division in cooperation with other state government agencies.

"Field" means the general area underlaid by one or more pools.

"Gas" means natural gas or natural gas liquids or other gas or any mixture thereof defined as follows:

1. "Natural Gas" means those hydrocarbons, other than oil and other than natural gas liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and are produced and recovered at the wellhead in gaseous form. Natural gas includes coalbed methane.

2. "Natural Gas Liquids" means those hydrocarbons initially in reservoir natural gas, regardless of gravity, that are separated in gas processing plants from the natural gas as liquids at the surface through the process of condensation, absorption, adsorption, or other methods.

3. "Other Gas" means hydrogen sulfide (H₂S), carbon dioxide (CO₂), helium (He), nitrogen (N), and other nonhydrocarbon gases that occur naturally in the gaseous phase in the reservoir or are injected into the reservoir in connection with pressure maintenance, gas cycling, or other secondary or enhanced recovery projects.

"Gas-Oil Ratio" means the ratio of the number of cubic feet of natural gas produced to the number of barrels of oil concurrently produced during any stated period. The term GOR is synonymous with gas-oil ratio.

"Gas Processing Plant" means a facility in which liquefiable hydrocarbons are removed from natural gas, including wet gas or casinghead gas, and the remaining residue gas is conditioned for delivery for sale, recycling or other use.

"Gas Well" means any well capable of producing gas in substantial quantities that is not an oil well.

"Ground Water" means water in a zone of saturation below the ground surface.

"Hearing" means any matter heard before the board or its designated hearing examiner.

"Horizontal Well" means a well bore drilled laterally at an angle of at least 80 degrees to the vertical or with a horizontal projection exceeding one hundred feet measured from the initial point of penetration into the productive formation through the terminus of the lateral in the same common source of supply.

"Illegal Oil or Illegal Gas" means oil or gas that has been produced from any well within the state in violation of Title 40, Chapter 6, Board and Division of Oil, Gas and Mining, or any rule or order of the board.

"Illegal Product" means any product derived in whole or in part from illegal oil or illegal gas.

"Incremental Production" means that part of production that is achieved from an enhanced recovery project that would not have economically occurred under the reservoir conditions existing before the project and that has been approved by the division as incremental production.

"Injection or Disposal Well" means any Class II Injection Well used for the injection of air, gas, water or other substance into any underground stratum.

"Interest Owner" means a person owning an interest, which may include working interest, royalty interest, payment out of production, or any other interest, in oil or gas, or in the proceeds thereof.

"Joint Operating Agreement" or "JOA" is an agreement for the exploration, development, and production for oil, gas or other minerals between parties entitled to participate pursuant to the ownership of said minerals or leaseholds covering said minerals, which are subject to the contract area, which may be inclusive of a drilling unit, described therein.

"License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by statute.

"Load Oil" means any oil or liquid hydrocarbon that is used in any remedial operation in an oil or gas well.

"Log or Well Log" means the written record progressively describing the strata, water, oil or gas encountered in drilling a well with such additional information as is usually recorded in the normal procedure of drilling including electrical, radioactivity, or other similar conventional logs, a lithologic description of samples and drill stem test information.

"Multiple Zone Completion" means a well completion in which two or more separate zones, mechanically segregated one from the other, are produced simultaneously from the same well.

"Notice of Opportunity to Participate" means the written notice of opportunity to participate in a well for oil and gas operations required under Subsection 40-6-2(4) and (12) to be provided to an owner and which includes an offer to lease if the owner is an unleased owner, and an offer for the owner to directly participate financially, in proportion to the owner's interest in the drilling, testing, completion, equipping and operation of the subject well and which includes:

1. the approximate surface and, bottom hole location of the subject well by county, township, range, section, quarter-quarter section or substantially equivalent lot, and footages from directional section lines;
2. the proposed well name;
3. the proposed total distance from the surface of the ground to the terminus measured along the vertical and lateral components if the well is a horizontal well;
4. the proposed total depth;
5. the objective productive zone and the approximate depth and locations of producing intervals in the borehole;
6. the approximate date upon which the subject well was or will be spud;
7. a joint operating agreement proposed in good faith by the operator for operation of the drilling unit upon which the subject well is to be drilled;
8. an AFE for the subject well;
9. a statement that a refusal to agree to either lease or participate in the subject well may result in the imposition of the statutory risk compensation award allowed under Subsection 40-6-

6.5(4)(d)(i)(D) of between 150% and 400% as determined by the board; and

10. a statement that any initial compulsory pooling order may apply to subsequent wells within the drilling unit including any statutory risk compensation award imposed under Utah law pursuant to Subsection 40-6-6.5(12).

"Oil" means crude oil or condensate or any mixture thereof, defined as follows:

1. "Crude Oil" means those hydrocarbons, regardless of gravity, that occur naturally in the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.

2. "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally in the gaseous phase in the reservoir that are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the well bore or at the surface in field separators.

3. "Oil and Gas" ~~shall~~ may not include gaseous or liquid substances derived from coal, oil shale, tar sands or other hydrocarbons classified as synthetic fuel.

"Oil and Gas Field" means a geographical area overlying an oil and gas pool.

"Oil Well" means any well capable of producing oil in substantial quantities.

"Operator" means the person who has been designated by the owners or the board to operate a well or unit.

"Operatorship" means the exclusive right, privilege and obligation of exercising any rights granted by the owners or the board to act as operator of a well or drilling unit which rights are necessary and effective for prospecting for, producing, storing, allocating and distributing oil and gas extracted from a well or a drilling unit.

"Owner" means the person who has the right to drill into and produce from a reservoir and to appropriate the oil and gas that they produce, either for themselves and others.

"Party" means the board, division, or other person commencing an adjudicative proceeding, any respondents, any persons permitted by the board to intervene in the proceeding, and any persons authorized by statute or agency rule to participate as parties in an adjudicative proceeding.

~~"Person" means [and includes any natural person, bodies politic and corporate, partnerships, associations and companies.] an individual, group of individuals, partnership, corporation, association, political subdivision or its units, governmental subdivision or its units, public or private organization or entity of any character, or another agency.~~

"Pit" means an earthen surface impoundment constructed to retain fluids and oil field wastes.

"Pollution" means such contamination or other alteration of the physical, chemical or biological properties of any waters of the state, or the discharge of any liquid, gaseous or solid substance into any waters of the state in such manner as will create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wild animals, birds, fish or other aquatic life.

"Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each zone of a general structure that is completely separated from any other zone in the structure is a separate pool. "Common source of supply" and "reservoir" are synonymous with "pool."

NOTICES OF CHANGES IN PROPOSED RULES

"Preparation for Drilling" means:

1. mobilization of drilling equipment; or
2. erecting a drilling rig; or
3. diligently engaging in other work necessary to prepare the well site, including commencement of access road and pad construction.

"Presiding Officer" means an agency head, or an individual or body of individuals designated by the agency head, by the agency's rules, or by statute to conduct an adjudicative proceeding. The board, or its appointed hearing examiner, may be considered the presiding officer of any appeals or informal adjudicative proceedings that is commenced before the division as well as any adjudicative proceeding that is commenced before the board. The director or his designated agent may be considered a presiding officer for any informal adjudicative proceedings that is commenced before the division. If fairness to the parties is not compromised, an agency may substitute one presiding officer for another during any proceeding.

"Pressure Maintenance" means the injection of gas, water or other fluids into a reservoir, either to increase or maintain the existing pressure in such reservoir or to retard the natural decline in the reservoir pressure.

"Produced Water" means water produced in conjunction with the conventional production of oil or gas.

"Producer" means the owner or operator of a well capable of producing oil or gas.

"Producing Well" means a well capable of producing oil or gas.

"Product" means any commodity made from oil and gas.

"Production Facilities" means any storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells or injection wells, prior to any processing plant or refinery.

"Purchaser or Transporter" means any person who, acting alone or jointly with any other person, by means of his own, an affiliated, or designated carrier, transporter or taker, shall directly or indirectly purchase, take or transport by any means whatsoever, or who shall otherwise remove from any well or lease, oil or gas produced from any pool, excepting royalty portions of oil or gas taken in kind by an interest owner who is not the operator.

"Recompletion" means any completion in a new perforated interval or pool within an established wellbore and approved as a recompletion by the division.

"Refinery" means a facility, other than a gas processing plant, where controlled operations are performed by which the physical and chemical characteristics of petroleum or petroleum products are changed.

"Reserve Pit" means a pit used to retain fluid during the drilling, completion, and testing of a well.

"Resource Detriment" means: damage, harm or detriment to the mineral estate or oil and gas formation; pollution or surface damages as specified in Section R649-3-15; damage, harm or detriment to the surface estate or Surface Land as defined in Subsection 40-6-2(25); damage to a Surface land owner's property as defined in Subsection 40-6-2(27); or damage, harm or detriment to livestock or wildlife.

"Respondent" means any person against whom an adjudicative proceeding is initiated whether by an agency or any other person.

"Seismic Operator" means a person who conducts seismic exploration for oil or gas, whether for themselves or as a contractor for others.

"Shut-in Well" means a well that is completed, is shown to be capable of production in paying quantities, and is not presently being operated.

"Spud In" means the first boring of a hole in the drilling of a well by any type of rig.

"State" means the State of Utah.

"Stratigraphic Test or Core Hole" means any hole drilled for the sole purpose of obtaining geological information. The general rules applicable to the drilling of a well will apply to the drilling of a stratigraphic test or core hole.

"Temporarily Abandoned Well" means a well that is completed, is shown not capable of production in paying quantities, and is not presently being operated.

"Temporary Spacing Unit" means a specified area of land designated by the board for purposes of determining well density and location. A temporary spacing unit ~~shall~~ may not be a drilling unit as provided for in Section 40-6-6, Drilling Units, and does not provide a basis for pooling the interest therein as does a drilling unit.

"Underground Source of Drinking Water" (USDW) means a fresh water aquifer or a portion thereof that supplies drinking water for human consumption or that contains less than 10,000 mg/l total dissolved solids and that is not an exempted aquifer under Section R649-5-4.

"Waste" means:

1. The inefficient, excessive or improper use or the unnecessary dissipation of oil or gas or reservoir energy.
2. The inefficient storing of oil or gas.
3. The locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes reduction in the quantity of oil or gas ultimately recoverable from a reservoir under prudent and economical operations, or that causes unnecessary wells to be drilled, or that causes the loss or destruction of oil or gas either at the surface or subsurface.
4. The production of oil or gas in excess of:
 - 4.1. Transportation or storage facilities.
 - 4.2. The amount reasonably required to be produced in the proper drilling, completing, testing, or operating of a well or otherwise utilized on the lease from which it is produced.
5. Underground or above ground waste in the production or storage of oil or gas.

"Waste Crude Oil Treatment Facility" means any facility or site constructed or used for the purpose of wholly or partially reclaiming, treating, processing, cleaning, purifying or in any manner making non-merchantable waste crude oil marketable.

"Well" means an oil or gas well, injection or disposal well, or a hole drilled for the purpose of producing oil or gas or both. The definition of well ~~shall~~ may not include water wells, or seismic, stratigraphic test, core hole, or other exploratory holes drilled for the purpose of obtaining geological information only.

"Well Site" means the areas that are directly disturbed during the drilling and subsequent use of, or affected by production facilities directly associated with any oil well, gas well or injection well.

"Wildcat Wells" means oil and gas producing wells that are drilled and completed in a pool in which a well has not been previously completed as a well capable of producing in commercial quantities.

"Willful Violation" means any action or inaction done with conscious objective or desire to engage in the action or inaction that a reasonably prudent person would know is likely to cause a violation.

"Working Interest Owner" means the owner of an interest in oil or gas burdened with a share of the expenses of developing and operating the property.

"Workover" means any operation designed to sustain, to restore, or to increase the production rate, the ultimate recovery, or the reservoir pressure system of a well or group of wells and approved as a workover, a secondary recovery, a tertiary recovery, or a pressure maintenance project by the division. The definition ~~shall~~ may not include operations that are conducted principally as routine maintenance or the replacement of worn or damaged equipment.

KEY: oil and gas law

Date of Enactment or Last Substantive Amendment: 2021

Notice of Continuation: August 26, 2016

Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R649-10	Filing No. 53306

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Oil and Gas	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Natasha Ballif	801-538-5328	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:	
R649-10. Administrative Procedures	
3. Change in Proposed Rule:	
Changes FILING Name, Publication date of prior filing:	R649-10. Administrative Procedures, published 02/15/2021
4. Reason for this change:	
After evaluating the comments received during the 30-day public comment period, the Board of Oil, Gas, and Mining decided to implement suggestions that were given.	

5. Summary of this change:
Changes include removing Section R649-10-2, Definitions, which will be moved to Rule R649-1, renumbering each subsequent section, updating citations, adding "immediate and significant danger" to the renumbered Section R649-10-6, and making other technical changes. (EDITOR'S NOTES: The change in proposed rule on Rule R649-1 is under Filing No. 53303 in this issue, April 15, 2021, of the Bulletin. Also, the original proposed amendment upon which this change in proposed rule (CPR) was based was published in the February 15, 2021, issue of the Utah State Bulletin, on page 88. 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

6. Aggregate anticipated cost or savings to:
A) State budget:
All changes in the rule filing are purely administrative and will have no additional fiscal impact on the state budget.
B) Local government:
This rule does not apply to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There will be no additional fiscal impact to small businesses because of these proposed changes as these changes are purely administrative.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There will be no additional fiscal impact to businesses because of these proposed changes as they are purely administrative.
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>):
This rule does not affect persons other than small businesses, businesses, or local government entities.
F) Compliance costs for affected persons:
There will be no compliance costs for oil and gas operators as this rule change is purely administrative.

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.)

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

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.

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

There will be no additional fiscal impact to businesses because of these proposed rule changes.

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

Brian Steed, 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 40-6-1 et seq.		
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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:	05/17/2021
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11. This rule change MAY become effective on:	05/24/2021
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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

Agency head or designee, and title:	John Baza, Director	Date:	03/26/2021
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R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.

R649-10. Administrative Procedures.

R649-10-1. Designation of Informal Adjudicative Proceedings.

1. Adjudicative proceedings that shall be conducted informally before the division in accordance with ~~[these rules]~~ this rule are any actions prescribed by the ~~Title R649[Oil and Gas Conservation General Rules]~~ as being specifically under the division's authority and jurisdiction including: Rules R649-2 General Rules; R649-3 Drilling and Operating Practices; R649-5 Underground Injection Control of Recovery Operations and Class II Injection Wells; R649-6 Gas Processing and Waste Crude Oil Treatment; R649-8 Reporting and Report Forms; R649-9 Disposal of Produced Water; R649-11 Administrative Penalties.

2. Prior to the issuance of a final order in any adjudicative proceeding, the presiding officer may convert an informal proceeding to a formal adjudicative proceeding if:

2.1. Conversion of the proceeding is in the public interest.

2.2. Conversion of the proceeding does not unfairly prejudice the rights of any party.

3. Informal adjudicative proceedings shall be commenced and conducted in accordance with ~~[these]this rule[s and the applicable Oil and Gas Conservation General Rules. In case of conflict between these rules and the Oil and Gas Conservation General Rules, these rules shall govern the informal adjudicative proceedings].~~

[R649-10-2. Definitions.

~~As used in these rules:~~

~~1. "Adjudicative proceeding" means an agency action or proceeding that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including any agency actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and judicial review of any of such actions.~~

~~2. "Agency" means the Board of Oil, Gas and Mining and the Division of Oil, Gas and Mining including the director or division employees acting on behalf of or under the authority of the director or board.~~

~~3. "Agency head" means an individual or body of individuals in whom the ultimate legal authority of the agency is vested by statute.~~

~~4. "Board" means the Board of Oil, Gas and Mining.~~

~~5. "Division" means the Division of Oil, Gas and Mining.~~

~~6. "License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by statute.~~

~~7. "Party" means the board, division, or other person commencing an adjudicative proceeding, any respondents, any persons permitted by the board to intervene in the proceeding, and any persons authorized by statute or agency rule to participate as parties in an adjudicative proceeding.~~

~~8. "Person" means an individual, group of individuals, partnership, corporation, association, political subdivision or its units, governmental subdivision or its units, public or private organization or entity of any character, or another agency.~~

~~9. "Presiding Officer" means an agency head, or an individual or body of individuals designated by the agency head, by the agency's rules, or by statute to conduct an adjudicative proceeding. The board, or its appointed hearing examiner, shall be considered the presiding officer of any appeals or informal adjudicative proceedings that is commenced before the division as well as any adjudicative proceeding that is commenced before the board. The director or his designated agent shall be considered a presiding officer for any informal adjudicative proceedings that is commenced before the division. If fairness to the parties is not compromised, an agency may substitute one presiding officer for another during any proceeding.~~

~~10. "Respondent" means any person against whom an adjudicative proceeding is initiated whether by an agency or any other person.~~

R649-10-3]2. Commencement of Informal Adjudicative Proceedings.

1. Except for emergency orders, any informal adjudicative proceeding shall be commenced by:

1.1. A Notice of Agency Action, if proceedings are commenced by the board or division; or

1.2. A Request for Agency Action, if proceedings are commenced by persons other than the board or division.

2. A Notice of Agency Action shall be filed and served according to the following requirements:

2.1. The Notice of Agency Action shall be in writing and shall be signed by a presiding officer and shall include:

2.1.1. The names and mailing addresses of any person to whom notice is being given by the presiding officer, and the name, title, and mailing address of any attorney or employee who has been designated to appear for the agency.

2.1.2. The division's file number or other reference number.

2.1.3. The name of the adjudicative proceeding.

2.1.4. The date that the Notice of Agency Action was mailed.

2.1.5. A statement that the adjudicative proceeding is to be conducted informally according to the provision of ~~[these rules]this rule~~ and Sections 63G-4-202 and 63G-4-203 if applicable.

2.1.6. A statement that the parties may request an informal hearing before the division within ten days, or such later period as may be provided for in ~~Title R649[the Oil and Gas Conservation General Rules]~~, of the date of mailing or publication.

2.1.7. A statement of the legal authority and jurisdiction under which the adjudicative proceeding is to be maintained.

2.1.8. The name, title, mailing address, and telephone number of the presiding officer.

2.1.9. A statement of the purpose of the adjudicative proceeding and, to the extent known by the presiding officer, the questions to be decided.

2.2. The Division shall:

2.2.1. Mail the Notice of Agency Action to each party and any other person who has a right to notice under statute or rule.

2.2.2. Publish the Notice of Agency Action as required by statute or by ~~Title R649[the Oil and Gas Conservation General Rules]~~.

2.2.3. Post a copy of the notice in a public area in the main office of the division at least 24 hours in advance of the scheduled agency proceeding.

2.3. A Request for Agency Action initiated by a person other than the board or the division shall be in writing and signed by the person seeking action by the agency or by his representative, and shall include:

2.3.1. The names and addresses of any persons to whom a copy of the request for agency action is being sent.

2.3.2. The agency's file number or other reference number, if known.

2.3.3. The date that the request for agency action was mailed.

2.3.4. A statement of the legal authority and jurisdiction under which the agency action is requested.

2.3.5. A statement of the relief or action sought from the division.

2.3.6. A statement of the facts and reasons forming the basis for relief or action.

2.4. The person requesting agency action shall file the request with the division and shall send a copy by mail to each person known to have a direct interest in the requested agency action unless previously waived in writing by each person entitled to receive notice of the requested agency action.

2.5. The person requesting the agency action may use the division forms as specified in ~~Title R649[the Oil and Gas Conservation General Rules]~~ as a request for agency action.

2.6. The presiding officer shall promptly review a Request for Agency Action and shall:

2.6.1. Notify the requesting party in writing whether the request is granted and when the adjudicative proceeding is completed;

NOTICES OF CHANGES IN PROPOSED RULES

2.6.2. Notify the requesting party in writing that the request is denied; or

2.6.3. Notify the requesting party that further proceedings are required to determine the agency's response to the request.

2.7. The division shall mail any required notice to any parties, except that any notice required by Subsection [R649-10-3] 2.6 may be published when publication is required by statute.

2.7.1. Give the division's file number or other reference number.

2.7.2. Give the name of the proceeding.

2.7.3. Designate that the proceeding is to be conducted informally according to ~~[these rules]~~ this rule and Sections 63G-4-202 and 63G-4-203 if applicable.

2.7.4. If a hearing is to be held in an informal adjudicative proceeding, state the time and place of any scheduled hearing, the purpose for which the hearing is to be held, and that a party who fails to attend or participate in a scheduled and noticed hearing may be held in default.

2.7.5. If the adjudicative proceeding is to be informal, and a hearing is required by statute or rule, or if a hearing is permitted by rule and may be requested by a party with the time prescribed by rule, state the parties' right to request a hearing and the time within which a hearing may be requested under the agency's rules.

2.7.6. Give the name, title, mailing address, and telephone number of the presiding officer.

R649-10-[4]3. Procedures for Informal Adjudicative Proceedings.

1. Procedures for informal adjudicative proceedings should include the following:

1.1. Unless the agency by rule provides for and requires a response, no answer or other pleading responsive to the allegations contained in the notice of agency action or the request for agency action need be filed.

1.2. The agency shall hold a hearing if a hearing is requested within ten days or such later period as may be provided for in Title R649[the Oil and Gas Conservation General Rules].

1.3. In any hearing, the parties named in the Notice of Agency Action or in the Request for Agency Action shall be permitted to testify, present evidence, and comment on the issues.

1.4. Hearings will be held only after timely notice to each party.

1.5. Discovery is prohibited, but the agency may issue subpoenas or other orders to compel production of necessary evidence.

1.6. Any parties shall have access to information contained in the agency's files and to any materials and information gathered in any investigation, to the extent permitted by law.

1.7. Intervention is prohibited, except where a federal statute or rule requires that a state permit intervention.

1.8. Each hearing shall be open to any party.

1.9. Within a reasonable time after the close of an informal adjudicative proceeding, the presiding officer shall issue a signed order in writing that states the following:

1.9.1. The decision.

1.9.2. The reasons for the decision.

1.9.3. A notice of any right of administrative or judicial review available to the parties.

1.9.4. A statement that the filing of an appeal or the requesting of a review shall be accomplished within 30 days of the issuance of the order.

1.10. The presiding officer's order shall be based on the facts appearing in the agency's files and on the facts presented in evidence at any hearings.

1.11. A copy of the presiding officer's order shall be promptly mailed to each of the parties and to any persons who request a copy.

2.1. The agency may record any hearing.

2.2. Any party, at his own expense, may have a reporter, approved by the agency, prepare a transcript from the agency's record of the hearing.

3.0. Nothing in this section restricts or precludes any investigative right or power given to an agency by another statute.

R649-10-[5]4. Default In An Informal Proceeding.

1. The presiding officer may enter an order of default against:

1.1. A party in an informal adjudicative proceeding if after proper notice the party fails to participate in the informal adjudicative proceeding.

2.0. An order of default shall include a statement of the grounds for default and shall be mailed to each party.

3.1. A defaulted party may seek to have the agency set aside the default order, and any order in the adjudicative proceeding issued subsequent to the default order, by following the procedures outlined in Title 55, the Utah Rules of Civil Procedure.

3.2. A motion to set aside a default and any subsequent order shall be made to the presiding officer.

3.3. A defaulted party may seek board review under Section R649-10-[6]5 only on the decision of the presiding officer on the motion to set aside the default.

4.0. In an adjudicative proceeding commenced by the agency, or in an adjudicative proceeding commenced by a party that has other parties besides the party in default, the presiding officer shall, after issuing the order of default, conduct any further proceeding without the participation of the party in default and shall determine any issue in the adjudicative proceeding, including those affecting the defaulting party.

5.0. In an adjudicative proceeding that has no parties other than the agency and the party~~(ies)~~ in default, the presiding officer may, after issuing the order~~(s)~~ of default, dismiss the proceeding.

R649-10-[6]5. Appeal of Final Order of the Division.

1. A request for review of a final order issued by the division shall be filed with the secretary to the Board within 30 days of issuance of the order and:

1.1. Be signed by the party seeking review.

1.2. State the grounds for review and the relief requested.

1.3. State the date it was mailed.

1.4. Be sent by mail to the presiding officer and to each party.

2. Within 15 days of the mailing date of request for review, or within the time period provided by agency rule, whichever is longer, any party may file a response with the board. One copy of the response shall be sent by mail to each of the parties and to the presiding officer.

3. The board shall review the final order of the division within a reasonable time or within the time required by statute or the agency's rules.

4. To assist in review, the board may by order or rule permit the parties to file briefs or other papers, or to conduct oral argument.

5. Notice of hearings on review shall be mailed to each party.

6.1. Within a reasonable time after the filing of any response, other filings, or oral argument, or within the time required by statute or applicable rules, the board shall issue a written order on review.

6.2. The written order on review shall be signed by the board chairman or by a person designated by the board for that purpose and shall be mailed to each party.

6.3. The written order on review shall contain:

6.3.1. A designation of the statute or rule permitting or requiring review.

6.3.2. A statement of the issues reviewed.

6.3.3. Findings of fact as to each of the issues reviewed.

6.3.4. Conclusions of law as to each of the issues reviewed.

6.3.5. The reasons for the disposition.

6.3.6. Whether the decision of the presiding officer or agency is to be affirmed, reversed, or modified, and whether any portion of the adjudicative proceeding is to be remanded.

6.3.7. A notice of any right of further administrative reconsideration or judicial review available to aggrieved parties.

6.3.8. The time limits applicable to any appeal or review.

R649-10-[7]6. Emergency Orders.

Notwithstanding the other provisions of ~~[these rules]~~ this rule, the director or any member of the board is authorized to issue an emergency order without notice and hearing in accordance with Section 40-6-10. The emergency order shall remain in effect no longer than until the next regular meeting of the board, or such shorter period of time as shall be prescribed by statute.

1. An emergency order may be issued if:

1.1. ~~[F]~~ the facts known by or presented to the director or board member are supported by affidavit to show that an immediate and significant danger of waste occurring or other immediate and significant danger to the public health, safety, or welfare exists; and

1.2. ~~[F]~~ the threat requires immediate action by the director or board member~~[.]~~.

2. Limitations. In issuing its emergency order, the director or board member shall:

2.1. Limit its order to require only the action necessary to prevent or avoid the immediate and significant danger of waste occurring or other immediate and significant danger to the public health, safety, or welfare;

2.2. Issue promptly a written order, effective immediately, that includes a brief statement of findings of fact, conclusions of law, and reasons for the agency's utilization of emergency adjudicative proceedings;

2.3. Give immediate notice to the persons who are required to comply with the order; and

2.4. If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the division shall commence a formal adjudicative proceeding in accordance with the procedural rules of the board.

R649-10-[8]7. Exhaustion of Administrative Remedies.

A person aggrieved by a final order of the division in an adjudicative proceeding must seek review of that final order of the division by the board as provided in Section R649-10-[6]5.

R649-10-[9]8. Waivers.

Notwithstanding any other provision of ~~[these rules]~~ this rule, any procedural matter, including any right to notice or hearing, may be waived by the affected person by a signed, written waiver in a form acceptable to the division.

KEY: oil and gas law

Date of Enactment or Last Substantive Amendment: 2021

Notice of Continuation: July 23, 2019

Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.; 63G-4

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R649-11	Filing No. 53305

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas and Mining; Oil and Gas	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Natasha Ballif	801-538-5328	natashaballif@utah.gov

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

General Information

2. Rule or section catchline:	
R649-11. Administrative Penalties	
3. Change in Proposed Rule:	
Changes FILING Name, Publication date of prior filing:	R649-11. Administrative Penalties, published 02/15/2021
4. Reason for this change:	
After evaluating the comments received during the 30-day public comment period, the Board of Oil, Gas, and Mining decided to implement suggestions that were given.	
5. Summary of this change:	
Changes include updating citations, revisions to Division Enforcement Orders, the creation of Emergency Orders, and replacing "the environment" with "resource detriment". (EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the February 15, 2021, issue of the Utah State Bulletin, on page 92. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule together to understand all	

of the changes that will be enforceable should the agency make this rule effective.)

Fiscal Information

6. Aggregate anticipated cost or savings to:

A) State budget:

While changes were made to state enforcement actions, there will be no fiscal impact. All changes in this rule filing are purely administrative.

B) Local government:

This rule does not apply to local governments.

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

There will be an estimated fiscal cost to oil and gas operators who receive an emergency order; however, it cannot be estimated how many oil and gas operators will receive an emergency order. All other changes to this rule are administrative and will not result in a fiscal impact.

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

There will be an estimated fiscal cost to oil and gas operators who receive an emergency order; however, it cannot be estimated how many oil and gas operators will receive an emergency order. All other changes to this rule are administrative and will not result in a fiscal impact.

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

This rule does not affect persons other than small businesses, businesses, or local government entities.

F) Compliance costs for affected persons:

There will be no compliance costs for oil and gas operators as this rule change is purely administrative.

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

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.

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

This proposed rule change is estimated to have a fiscal cost to oil and gas operators who are in violation and receive an emergency order, however, it cannot be estimated who and how many oil and gas operators will receive an emergency order.

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

Brian Steed, 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 40-6-1 et seq.		
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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:	05/17/2021
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11. This rule change MAY become effective on:	05/24/2021
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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

Agency head or designee, and title:	John Baza, Director	Date:	03/26/2021
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R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.

R649-11. Administrative Penalties.

R649-11-1. General Information on Authority and Procedures.

1. Objectives and Enforcement Authority. Administrative penalties are assessed under Section 40-6-11 of the Utah Oil and Gas Conservation Act (the "Act") to deter violations and to ensure maximum compliance with the terms and purposes of the Utah Oil and Gas Conservation Act on the part of the oil and gas industry. The division shall have any enforcement rights or procedures allowed under Title 40, Chapter 6, Board and [d]Division of [e]Oil, [g]Gas and [m]Mining.

2. How Assessments are Made. The division shall appoint an assessment officer to review each unabated notice of violation in accordance with the assessment procedures described in [Section]Rule R649-11 to determine whether an administrative penalty shall be assessed and the amount of the penalty.

3. Compliance Conference. A person may request a compliance conference with an authorized representative of the division to review the compliance status of any condition or practice at any operation.

3.1. A compliance conference may not change the required abatement period contained in a notice of violation.

3.2. The division shall grant any request for a compliance conference received within the abatement period contained within a notice of violation.

3.3. The division may accept or reject any good faith request to conduct a compliance conference received after the abatement period contained within a notice of violation.

R649-11-2. Provisions of State Enforcement.

1. Notice of Violation.

1.1. During any division inspection, including a record review, if the division determines that a violation exists that does not cause imminent danger or harm, the division may issue a notice of violation to the owner and[or] operator fixing a reasonable time, not to exceed 90 calendar days, for the abatement of the violation and providing opportunity for a hearing before the division as articulated in Section[Rule] R649-10-3.

1.2. A notice of violation shall be issued in writing, signed by an authorized representative of the division, and shall set forth with reasonable specificity:

1.2.1. the nature of the violation;

1.2.2. the remedial action required, which may include interim required actions;

1.2.3. a reasonable time for abatement; and

1.2.4. a reasonable description of the portion of the oil and gas operation to that it applies.

1.3. The division may extend the time set for abatement or for accomplishment of an interim step if the failure to meet the time previously set was not caused by lack of diligence on the part of the person. The total time for abatement under a notice of violation, including any extensions, may not exceed 90 calendar days from the date of issuance except as provided for in Subsection 1.5.

1.4. The division will terminate a notice of violation by written notice to the owner or operator when the division determines that violations listed in the notice of violation have been abated. If any violations have been abated within the time for abatement provided in the notice of violation, then no administrative penalty shall be assessed. Termination of a notice of violation will not affect the right of the division to assess administrative penalties for those violations that the owner or operator failed to abate within the time for abatement provided in the notice of violation.

1.5. Circumstances that may qualify an oil and gas operation for an abatement period of more than 90 days are:

1.5.1. where climatic conditions preclude complete abatement within 90 days;

1.5.2. where due to climatic conditions, abatement within 90 days would clearly cause more harm than it would prevent;

1.5.3. where the owner's or operator's action to abate the violation within 90 days would violate safety standards; or

1.5.4. other circumstances beyond the control of the owner and operator as deemed by the division.

2. Division Enforcement Order.

~~2.1. The division shall immediately order a cessation of oil and gas operations in a division enforcement order if, during any division inspection, it finds any violation, which:~~

~~2.1.1. creates an imminent danger to the health or safety of the public; or~~

~~2.1.2. is causing or can reasonably be expected to cause significant, imminent harm to the environment.~~

NOTICES OF CHANGES IN PROPOSED RULES

~~2.2. Oil and gas operations conducted by any person without valid approval constitutes grounds for cessation of those oil and gas operations.~~

~~2.3. If a division enforcement order does not completely abate the conditions described in Subsection 2.1 in the most expeditious manner possible, the division shall impose affirmative obligations on the person to abate the violation. The division enforcement order shall specify the time by which abatement shall be accomplished.]~~

2.1[4]. When a notice of violation has been issued and the owner or operator fails to abate the violation within the abatement period, then the division shall issue a division enforcement order. A division enforcement order shall require the person to take each step the division deems necessary to abate the violations covered by the order in the most expeditious manner possible.

2.2[5]. A division enforcement order issued shall be in writing, signed by the authorized representative of the division who issued it, and shall set forth with reasonable specificity:

2.2[5].1. the nature of the violation;

2.2[5].2. the remedial action or affirmative obligation required, including interim required actions, if appropriate;

2.2[5].3. the time established for abatement;

2.2[5].4. a reasonable description of the portion of the oil and gas operation to which it applies; and

2.2[5].5. that the order shall remain in effect until the violation has been abated or until vacated, modified or terminated in writing by the division.

2.3[6]. Activities intended to protect public health[~~and~~], safety, and welfare and [the environment]prevent resource detriment will continue during the period of any order unless otherwise provided.

2.4[7]. The division may modify, terminate, or vacate a division enforcement order or cessation order for good cause and may extend the time for abatement if the failure to abate within the time previously set was not caused by lack of diligence on the part of the person.

2.5[8]. The division will terminate a division enforcement order or cessation order by written notice to the person, when it is determined that the conditions, practices, or violations listed in the order have been abated. If the violations have been abated within the time for abatement provided in the division enforcement order, then no administrative penalty shall be assessed. Termination of a division enforcement order will not affect the right of the division to assess administrative penalties for those violations that the person failed to abate within the time for abatement provided in the notice of violation.

3. Service of Notices of Violation, Division Enforcement Order and Administrative Penalties.

3.1. Notices of violation, division enforcement orders, and proposed administrative penalties assessment shall be served on the person promptly after issuance by one of the following methods:

3.1.1. Personal service, in accordance with the Utah Rules of Civil Procedure, Rule 4. Service shall be effective on the date of personal service.

3.1.2. First posting a copy of the notice at the oil and gas operation location or offices of the place of violation, and thereafter by personally delivering or mailing a copy by certified mail to the person at the last address provided to the division. Service shall be

complete upon personal delivery or three days after the date of mailing.

3.2. Service on the person shall be sufficient if service is made upon:

3.2.1. an officer of a corporation;

3.2.2. the person designated by law for service of process, or the registered agent for the corporation; or

3.2.3. an owner, or partner of an entity other than a corporation.

3.3. Proof of Service.

3.3.1. Proof of personal service shall be made in accordance with the Utah Rules of Civil Procedure, Rule 4.

3.3.2. Proof of posting or personal delivery may be made by a signed written statement of the person effecting posting or personal delivery stating the date, time, and place of posting, and, if personal delivery, the person to whom the notice was delivered.

4. Emergency Orders

4.1. The division director may immediately issue an emergency order, including an order to cease and desist if appropriate, in accordance with Section R649-10-5 if, during any division inspection, it finds any violation, which creates immediate and significant danger:

4.1.1. of waste occurring; or

4.1.2. to public health, safety or welfare.

R649-11-3. Administrative Penalty Assessment.

1. General. Any person who violated Title 40, Chapter 6, Board and division of oil, gas and mining, or a division rule, order or permit may be subject to an administrative penalty.

2. Maximum Administrative Penalty Amounts.

2.1. An administrative penalty on any person may not exceed \$5,000 per day for each day of a violation.

2.2. If the board determines that a violation is a willful violation, the board may impose an administrative penalty on that person not to exceed \$10,000 for each day of the violation.

2.3. Administrative penalties assessed by the division or the board may not exceed \$200,000 per violation per person.

3. Days of Violation. The duration of a violation shall be calculated in days as follows:

3.1. A reporting or other minor violation that presents low direct risk or threat of harm to public health, safety, and welfare, or resource detriment[the environment], begins on the day that the report should have been made or other required action should have been taken, and continues until the report is filed or the required action is completed to the division's satisfaction.

3.2. Violations that present a possibility of distinct, identifiable actual or threatened adverse impact, or violations that present a significant probability of actual or threatened adverse impact, begin on the date the violation was discovered or should have been discovered through the exercise of reasonable care and continue until the appropriate corrective action is completed to the division's satisfaction.

4. Penalty Calculation. The base penalty for each violation shall be calculated based on the division's penalty schedule. Each violation is initially assessed at the minor violation rate, but may be escalated to the major violation rate in accordance with Section R649-11-3.

5. Issuance of Proposed Assessments.

5.1. If a violation is not abated prior to the end of the abatement period specified for that violation, the division shall issue a proposed assessment to the person containing the penalty amount after the abatement period ends.

5.1.1. Failure by the division to serve a proposed assessment within 30 days will not be grounds for dismissal of any part of such assessment unless the permittee or operator:

- 5.1.1.1. proves actual prejudice as a result of the delay; and
- 5.1.1.2. makes a timely objection to the delay.

5.2. Upon abatement of the violation, or when the maximum penalty amount has been reached, the division will issue a final assessment to the person containing the final penalty amount.

5.2.1. Failure by the division to serve a final proposed assessment within 30 days will not be grounds for dismissal of any part of such assessment unless the permittee or operator:

- 5.2.1.1. proves actual prejudice as a result of the delay; and
- 5.2.1.2. makes a timely objection to the delay.

6. Violations Designated as Class I.

6.1. Violations that present a low direct risk or threat of harm to public health, safety and welfare, or present a low direct risk of resource detriment~~[the environment]~~, including:

- (a) Section R649-3-1 bonding violations;
- (b) Section R649-3-36 shut-in and temporarily abandoned wells violations;
- (c) Section R649-3-15 pollution and surface damage violations;
- (d) Section R649-3-34 well site restoration violations;
- (e) Section R649-3-16 reserve pit closure violations;
- (f) Rule R649-8 reporting violations;[-]
- (g) Section R649-9-2 improperly secured disposal facility violations;
- (h) Section R649-9-2 minor leaks and spills violations;
- (i) Section R649-9-3 garbage and solid waste in evaporation pit violations;
- (j) Section R649-9-3 inadequate supervision violations;
- (k) Section R649-9-4 failure to monitor leak detection system violations;
- (l) Section R649-9-10 inadequate construction notification violations;
- (m) Section R649-9-11 facility records for review violations; and
- (n) any other violation ~~[not specifically]~~ listed in ~~[the rule]~~ Title R649 or Title 40, Chapter 6, Board and Division of Oil, Gas and Mining.

7. Violations Designated as Class II.

7.1. Violations that present a possibility of distinct, identifiable, actual or threatened adverse impacts to public health, safety, and welfare, or resource detriment~~[the environment]~~, including:

- (a) Section R649-3-22 commingling without approval;
- (b) Section R649-3-23 completion/recompletion without approval;
- (c) Section R649-3-32 not reporting an incident;
- (d) Section R649-3-20 flaring or venting without approval;
- (e) Section R649-3-23 and R649-3-4 not adhering to the approved procedure or conditions on an APD or sundry notice;
- (f) Rule R649-5 and R649-9 violation of permit conditions, such as UIC or facility;
- (g) Section R649-5-2 injecting over approved pressure;

(h) Section R649-9-4 less than 2 feet freeboard;

(i) Section R649-9-4;

(j) Section R649-9-5;

(k) Rule R649-8 false reporting; and

(l) any other violation listed in Title R649 or Title 40, Chapter 6, Board and Division of Oil, Gas and Mining that presents a possibility of distinct, identifiable, actual or threatened adverse impacts to public health, safety and welfare, or ~~[the environment]~~ resource detriment.

8. Violations Designated as Class III.

8.1 Violations that present a significant probability of actual or threatened adverse impact to public health, safety, and welfare, or resource detriment~~[the environment]~~, including:

- (a) Section R649-3-4 drilling or spudding without an approved permit;
- (b) Section R649-3-24 P&A without approval;
- (c) Section R649-3-15 disposal of fluids in unapproved or improper facility or by improper method;
- (d) Rule R649-5 injection into reservoir or formation without approval;
- (e) Section R649-9-3 facility operating without a permit;
- (f) Section R649-9-4 pits overtopped;
- (g) Section R649-9-4 breached pit; and
- (h) any other rule violation listed in Title R649 or Title 40, Chapter 6, Board and Division of Oil, Gas and Mining that presents a significant probability of actual or threatened adverse impact to public health, safety and welfare, or ~~[the environment]~~ resource detriment.

9. Administrative Penalty Schedule.

9.1. Penalty Schedule. The division's penalty schedule establishes a daily penalty based on the classification of the rule violation, Class I, II, or III as provided in Subsection (6), (7), and (8), and the degree of actual or threatened adverse impact resulting from the violation, minor or major as provided in Subsections (9.2) and (10).

TABLE

9.1.1. Daily Penalty Schedule

Violation	Class I	Class II	Class III
Degree:			
Minor	\$750	\$1,500	\$5,000
Major	\$1,500	\$5,000	\$10,000

9.2. Degree of actual or threatened adverse impact. A minor violation and associated penalty amount may be increased to a major violation and penalty amount based on the degree of actual or threatened adverse impact to public health, safety and welfare, or resource detriment~~[the environment]~~ resulting from the violation. The division shall determine the degree of actual or threatened adverse impact to public health, safety, and welfare, or resource detriment~~[the environment]~~, based on the totality of circumstances in each case that may involve increasing a Class I violation to a Class II or Class III violation, or increasing a Class II violation to a Class III violation.

10. Penalty Adjustments based on Aggravating and Mitigating Factors. The division shall consider aggravating and mitigating factors when determining if a violation is minor or major. These factors shall include:

NOTICES OF CHANGES IN PROPOSED RULES

10.1. Aggravating factors:

10.1.1. The violation involved a substantial departure from the standards of ordinary care of a reasonable prudent person.

10.1.2. The violation was a willful violation.

10.1.3. The violation had a significant negative impact on human health or resource detriment~~[the environment]~~.

10.1.4. The violation resulted in significant waste of oil and gas resources.

10.1.5. The violation had a significant negative impact on correlative rights of other parties.

10.1.6. The violator was nonresponsive to the division in correcting or responding to the violation.

10.1.7. The violator benefited economically from the violation, in that case the amount of such benefit shall be taken into consideration.

10.1.8. The violator has a history of previous violations at the particular well or facility.

10.2. Mitigating factors:

10.2.1. The violator self-reported the violation.

10.2.2. The violator demonstrated prompt, effective and prudent response to the violation, including assistance to any impacted parties.

10.2.3. The cause of the violation was outside of the violator's reasonable control and responsibility.

10.2.4. The violator made a good faith effort to comply with applicable requirements prior to the division learning of the violation.

10.2.5. The violator has demonstrated a history of compliance with division rules, orders, and permits.

10.2.6. The violator has not been served with a notice of violation within the twenty-four-month period prior to the subject violation at issue.

11. Repeat Violations. The division shall consider the history of previous violations at a particular well or facility when determining an appropriate administrative penalty. If the person has three or more violations of the same minor violation in the twenty-four-month period immediately preceding the violation at issue, the minor violation shall escalate to a major violation.

12. Unabated Violations. The division may request an emergency order from the board requiring well or facility operations be suspended for any unabated violation where the maximum penalty amount has accrued. Operations may only resume upon abatement of the violation and payment of the penalty.

13. Appeals. A notice of violation, division enforcement order, or administrative penalty assessment issued by the division may be appealed by filing a request for agency action with the division within 30 calendar days of the assessment following the procedures provided in Section~~[Rule]~~ R649-10-2~~[3]~~.

KEY: oil and gas law

Date of Enactment or Last Substantive Amendment: 2021

Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.; 63G-4

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <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.):	R58-2	Filing No. 52899

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Leann Hunting	801-982-2242	leannhunting@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R58-2. Diseases, Inspections, and Quarantines

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule was enacted under Sections 4-31-115 and 4-31-118 that allow the Department of Agriculture and Food (Department) to make rules under the Control of Animal Diseases Act, and the Department's general rulemaking authority under Subsections 4-2-103(1)(c)(ii) and 4-2-103(1)(i).

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule should continue because it provides necessary guidelines regarding the responsibility of animal owners, veterinary professionals, and others to report animal diseases, in order that the Department may satisfy their statutory obligation to limit the spread of infectious animal diseases in the state. It also provides guidelines meant to reduce the spread of diseases at livestock auctions and animal exhibitions.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	04/01/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R58-4	Filing No. 52901

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Leann Hunting	801-982-2242	leannhunting@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R58-4. Use of Animal Drugs and Biologicals in the State of Utah
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is enacted under the authority of Section 4-5-104 that allows the Department of Agriculture and Food (Department) to make rules to conform to the requirements of the Federal Food, Drug, and Cosmetic Act, as well as 9 CFR Sections 101-103, that relate to definitions, licensing, and production of biological products (regulated under federal law).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule should continue because it limits the ability of a person to produce or transport in Utah any biological product containing an agent of an infectious disease without being licensed by the United States Department of

Agriculture. It also requires professionals engaged in the manufacture of such agents to be registered with the Department. These guidelines will protect the state from introduction of potentially deadly animal diseases.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	04/01/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R58-14	Filing No. 52905

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	Ambermbrown@utah.gov
Leann Hunting	801-982-2242	leannhunting@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R58-14. Holding Live Raccoons or Coyotes in Captivity
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule was enacted under the authority of Subsection 4-2-103(1)(i), the Department of Agriculture and Food's general rulemaking authority, and Section 4-23-111, the prohibition against holding a raccoon or coyote in captivity.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary and should continue because it protects the health and safety of individuals by prohibiting the holding of a raccoon or coyote in captivity in Utah. It provides necessary guidelines regarding enforcement and penalties related to this statutory limitation.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	04/01/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R152-1a	Filing No. 50229

Agency Information

1. Department:	Commerce	
Agency:	Consumer Protection	
Building:	Heber Wells	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146704	
City, state, zip:	Salt Lake City, UT 84114-6704	
Contact person(s):		
Name:	Phone:	Email:
Daniel Larsen	801-530-6145	dblarsen@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R152-1a. Internet Content Provider Ratings Methods Rule

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is enacted in accordance with Section 76-10-1234, which directs the Division of Consumer Protection (Division) to establish acceptable rating methods to be implemented by a content provider in accordance with Subsection 76-10-1233(1).

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division is unaware of any written comments regarding this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is required by Section 76-10-1234 and provides guidance to content providers regarding acceptable rating methods applicable to material harmful to minors. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Daniel O'Bannon, Director	Date:	03/24/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R152-11	Filing No. 50236

Agency Information

1. Department:	Commerce	
Agency:	Consumer Protection	
Building:	Heber Wells	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146704	
City, state, zip:	Salt Lake City, UT 84114-6704	
Contact person(s):		
Name:	Phone:	Email:
Daniel Larsen	801-530-6145	dblarsen@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R152-11. Utah Consumer Sales Practices Act Rule

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is enacted in accordance with Subsection 13-2-5(1), which allows the Division of Consumer Protection (Division) to issue rules to administer and enforce chapters listed in Section 13-2-1, and with Subsection 13-11-8(2),

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

which directs the Division to adopt substantive rules regarding Section 13-11-4.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division is unaware of any written comments regarding this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule defines with specificity acts and practices that violate the Utah Consumer Sales Practices Act, as required by Subsection 13-11-8(2). This rule assists the Division in protecting consumers and provides guidance to suppliers regarding conforming their conduct with Section 13-11-4. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Daniel O'Bannon, Director	Date:	03/19/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R152-26	Filing No. 50242

Agency Information

1. Department:	Commerce	
Agency:	Consumer Protection	
Building:	Heber Wells	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146704	
City, state, zip:	Salt Lake City, UT 84114-6704	
Contact person(s):		
Name:	Phone:	Email:
Daniel Larsen	801-530-6145	dblarsen@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R152-26. Telephone Fraud Prevention Act Rule

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is enacted in accordance with Subsection 13-2-5(1), which allows the Division of Consumer Protection (Division) to issue rules to administer and enforce chapters listed in Section 13-2-1, and with Subsection 13-26-3(5), which allows the Division to establish by rule the registration requirements that apply to a telephone soliciting business.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division is unaware of any written comments regarding this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule establishes registration requirements for telephone soliciting businesses and allows the Division to gather information from registrants necessary to administer and enforce Title 13, Chapter 26. This rule also clarifies the requirement for any telephone soliciting business that wishes to claim an exemption from registration in accordance with Subsection 13-26-4(2)(i) and provides guidance to regulated entities with respect to a consumer's right of rescission in accordance with Subsection 13-26-5(2). Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Daniel O'Bannon, Director	Date:	03/22/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R156-40	Filing No. 50273

Agency Information

1. Department:	Commerce	
Agency:	Occupational and Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City, UT 84114-6741	

Contact person(s):		
Name:	Phone:	Email:
Jennifer Falkenrath	801-530-7632	jzaelit@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R156-40. Recreational Therapy Practice Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 58, Chapter 40, provides for the licensure and regulation of several classifications of recreational therapists (master therapeutic recreation specialist, therapeutic recreation specialist and therapeutic recreation technician). Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Board of Recreational Therapy's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 40, with respect to several classifications of recreational therapists.
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:
Since this rule was last reviewed in April 2016, this rule has been amended one time in July 2017. The Division has received no written comments with respect to this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 40. This rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Division Director	Date:	11/05/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R156-57	Filing No. 50288

Agency Information

1. Department:	Commerce	
Agency:	Occupational and Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Jana Johansen	801-530-6621	janajohansen@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R156-57. Respiratory Care Practices Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 58, Chapter 57, provides for the licensure and regulation of respiratory care practitioners. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Respiratory Care Licensing Board's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 57, with respect to respiratory care practitioners.
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:
Since this rule was last reviewed in April 2016, the Division has received no written comments with respect to this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 57. This rule should also be continued as it provides information to ensure applicants for

licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Director	Date:	11/05/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R156-77	Filing No. 50307

Agency Information

1. Department:	Commerce	
Agency:	Occupational and Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Jeff Busjahn	801-530-6789	jbusjahn@utah.gov

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

General Information

2. Rule catchline:
R156-77. Direct-Entry Midwife Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 58, Chapter 77, provides for the licensure and regulation of direct-entry midwives. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Licensed Direct-entry Midwife Board Board's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 77, with respect to direct-entry midwives.

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:

Since this rule was last reviewed in April 2016, the Division has received no written comments with respect to this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 77. This rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Director	Date:	11/17/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R270-1	Filing No. 50378

Agency Information

1. Department:	Crime Victim Reparations	
Agency:	Administration	
Street address:	350 E 500 S Ste. 200	
City, state, zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Connie Wettlaufer	801-238-2371	cwettlaufer@utah.gov
Gary Scheller	801-238-2362	garys@utah.gov

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

General Information

2. Rule catchline:
R270-1. Award and Reparation Standards

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated under the authority of Section 63M-7-506 and provides interpretation and standards for the administration of crime victim reparations.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is needed because it provides clarification, guidance, and authority to those individuals with statutory authority and obligations to carry out the administration of the program. Therefore, this rule should be continued.

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated under the authority of Subsection 63M-7-515(1) and establishes procedures for adjudicating contested determinations made by a reparation officer.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is needed because it provides applicants who have been denied benefits a method of appeal and review by either the board or director. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Gary Scheller, Director	Date:	04/05/2021
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Agency Authorization Information

Agency head or designee, and title:	Gary Scheller, Director	Date:	04/05/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R270-2	Filing No. 50375

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R270-5	Filing No. 50379

Agency Information

1. Department:	Crime Victim Reparations	
Agency:	Administration	
Street address:	350 E 500 S Ste. 200	
City, state, zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Connie Wettlaufer	801-238-2371	cwettlaufer@utah.gov
Gary Scheller	801-238-2362	garys@utah.gov
Please address questions regarding information on this notice to the agency.		

Agency Information

1. Department:	Crime Victim Reparations	
Agency:	Administration	
Street address:	350 E 500 S, Suite 200	
City, state, zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Connie Wettlaufer	801-238-2371	cwettlaufer@utah.gov
Gary Scheller	801-238-2362	garys@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R270-2. Crime Victim Reparations Adjudicative Proceedings

General Information

2. Rule catchline:
R270-5. Electronic Meetings

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to adopt a rule governing the use of electronic meetings. This Rule R270-5 establishes procedures for conducting Crime Victim Reparations and Assistance Board (Board) meetings by electronic means.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Perhaps now more than ever in the midst of the COVID-19 pandemic, it has been prudent and required that the Board meet electronically rather than in person. Additionally, electronic meetings allow for greater public attendance of the meetings rather than holding the meeting in only one accessible physical location. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Gary Scheller, Director	Date:	10/13/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R270-6	Filing No. 50372
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Agency Information

1. Department:	Crime Victim Reparations	
Agency:	Administration	
Street address:	350 E 500 S Ste. 200	
City, state, zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Connie Wettlaufer	801-238-2371	cwettlaufer@utah.gov
Gary Scheller	801-238-2362	garys@utah.gov

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

General Information

2. Rule catchline:

R270-6. Recusal of a Board Member for a Conflict of Interest

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is promulgated under the authority of Section 63M-7-506 and is intended to establish standards for addressing potential conflicts of interest.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is needed because members of the Crime Victim Reparations and Assistance Board may be placed in a conflict of interest when awarding funding or in making other determinations. This rule addresses how those circumstances must be handled. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Gary Scheller, Director	Date:	04/05/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R436-5	Filing No. 51099
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Agency Information

1. Department:	Health	
Agency:	Center for Health Data, Vital Records and Statistics	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141012	
City, state, zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Linda S. Winger	801-538-6262	lindaw@utah.gov

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

General Information

2. Rule catchline:
R436-5. New Birth Certificate After Legitimation, Court Determination of Paternity, or Adoption

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized by Title 26, Chapter 2, which establishes a statewide vital records system for the registration, collection, preservation, amendment, and certification of vital records and other similar documents required by this chapter and activities related to them, including the tabulation, analysis, and publication of vital statistics.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from any interested persons supporting or opposing this rule. Only general inquiries have been made and responded to by the office.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is still required by Section 26-2-10. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Richard Sanders, Executive Director	Date:	02/10/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R592-15	Filing No.	51462
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Agency Information

1. Department:	Insurance
Agency:	Title and Escrow Commission
Room no.:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state, zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146901

City, state, zip:	Salt Lake City, UT 84114-6901
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Contact person(s):

Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule catchline:
R592-15. Submission of a Schedule of Minimum Charges for Escrow Services

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 31A-2-404 authorizes the Title and Escrow Commission to make rules related to title insurance. Subsection 31A-19a-209(2)(a)(i) requires that title insurers, title agencies, and title producers file a schedule of escrow charges with the Insurance Commissioner. Rule R592-15 sets forth the procedures for those filings.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Insurance Department has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule establishes a minimum floor for escrow rates, which ensures stability in the industry and codifies procedures for insurers, agencies, and agents to file those rates. The Title and Escrow Commission voted at its February 8, 2021, meeting to continue this rule by a margin of 4 to 0. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	03/30/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R608-1	Filing No.	51497
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Agency Information

1. Department:	Labor Commission
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Agency:	Antidiscrimination and Labor, Fair Housing	
Room no.:	3rd Floor	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146600	
City, state, zip:	Salt Lake City, UT 84114-6600	
Contact person(s):		
Name:	Phone:	Email:
Chris Hill		chill@utah.gov
Kendra Shirey		kshirey@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R608-1. Utah Fair Housing Rules
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 57-21-8(2)(a) grants the Utah Labor Commission (Commission) authority to establish rules to administer the Utah Fair Housing Act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule remains necessary in light of the Commission's continuing responsibility to administer Title 57, Chapter 21, the Utah Fair Housing Act (Act), and the statutory authority contained in Subsection 57-21-8(2)(a) to adopt rules necessary to implement the Act. The Commission has received no comments opposing this rule or its continuation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jacson R. Maughan, Commissioner	Date:	03/18/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R610-1	Filing No. 51493

Agency Information

1. Department:	Labor Commission	
Agency:	Antidiscrimination and Labor, Labor	
Room no.:	3rd Floor	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146600	
City, state, zip:	Salt Lake City, UT 84114-6600	
Contact person(s):		
Name:	Phone:	Email:
Chris Hill		chill@utah.gov
Kendra Shirey		kshirey@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R610-1. Minimum Wage, Clarify Tip Credit, and Enforcement
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 34-40-105 gives the Utah Labor Commission (Commission) authority to establish rules to administer the Utah Minimum Wage Act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule remains necessary in light of the Commission's continuing responsibility to administer Title 34, Chapter 40, the Utah Minimum Wage Act (Act), and the statutory authority contained in Section 34-40-105 to adopt rules necessary to implement the Act. The Commission has received no comments opposing this rule or its continuation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jacson R. Maughan, Commissioner	Date:	03/18/2021
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has received no comments opposing this rule or its continuation. Therefore, this rule should be continued.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R610-2	Filing No. 51495
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Agency Authorization Information

Agency head or designee, and title:	Jacson R. Maughan, Commissioner	Date:	03/18/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R610-3	Filing No. 51496
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Agency Information

1. Department:	Labor Commission	
Agency:	Antidiscrimination and Labor, Labor	
Room no.:	3rd Floor	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146600	
City, state, zip:	Salt Lake City, UT 84114-6600	
Contact person(s):		
Name:	Phone:	Email:
Chris Hill		chill@utah.gov
Kendra Shirey		kshirey@utah.gov
Please address questions regarding information on this notice to the agency.		

Agency Information

1. Department:	Labor Commission	
Agency:	Antidiscrimination and Labor, Labor	
Room no.:	3rd Floor	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146600	
City, state, zip:	Salt Lake City, UT 84114-6600	
Contact person(s):		
Name:	Phone:	Email:
Chris Hill		chill@utah.gov
Kendra Shirey		kshirey@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R610-2. Employment of Minors
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 34-23-104 gives the Utah Labor Commission (Commission) authority to establish rules to administer the Employment of Minors Act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule remains necessary in light of the Commission's continuing responsibility to administer Title 34, Chapter 23, the Employment of Minors Act (Act) and the statutory authority contained in Subsection 34-23-104(2) to adopt rules necessary to implement the Act. The Commission

General Information

2. Rule catchline:
R610-3. Filing, Investigation, and Resolution of Wage Claims
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsections 34-28-9(1)(b) and 34-28-19(5) give the Utah Labor Commission (Commission) authority to establish rules regarding filing of wage claims and retaliation for filing such claims.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received during or 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:

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

This rule remains necessary in light of the Commission's continuing responsibility to administer Title 34, Chapter 28, the Payment of Wages Act (Act), and the statutory authority contained in Subsections 34-28-9(1)(b) and 34-28-19(5) to adopt rules necessary to implement the Act. The Commission has received no comments opposing this rule or its continuation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jacson R. Maughan, Commissioner	Date:	03/18/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R652-122	Filing No. 51701

Agency Information

1. Department:	Natural Resources	
Agency:	Forestry, Fire and State Lands	
Room no.:	352	
Building:	DNR	
Street address:	1594 W North Temple	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145703	
City, state, zip:	Salt Lake City, UT 84114-5703	
Contact person(s):		
Name:	Phone:	Email:
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-122. Cooperative Agreements
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 implements Subsection 65A-8-203(5)(b), which authorizes the Division of Forestry, Fire, and State Lands (Division) to make rules concerning cooperative agreements; Subsection 65A-8-203(4)(a) and Subsection 65A-8-203(3)(b) which require the Division to establish minimum standards for a county wildland fire ordinance and to specify minimum standards for wildland fire training, certification, and wildland fire suppression equipment; Subsection 65A-8-203.1 which defines delegation of fire management authority; and Section 65A-8-203.2 which concerns billing for costs of wildland fire suppression for counties or municipalities that do not have a cooperative agreement with the Division.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule gives the Division the authority to make rules concerning cooperative agreements with eligible entities, set minimum standards for wildfire ordinances, training, certification, and suppression, and delegates fire management authority and billing for wildland fire suppression costs. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brian Cottam, Director	Date:	03/18/2021
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Administrative Services

Debt Collection

No. 53310 (Amendment) R21-1: Transfer of Collection Responsibility of State Agencies
Published: 02/15/2021
Effective: 03/25/2021

Agriculture and Food

Regulatory Services

No. 52663 (New Rule) R70-580: Kratom Product Registration and Labeling
Published: 05/01/2020
Effective: 04/02/2021

No. 52663 (First Change in Proposed Rule) R70-580: Kratom Product Registration and Labeling
Published: 06/15/2020
Effective: 04/02/2021

No. 52663 (Second Change in Proposed Rule) R70-580: Kratom Product Registration and Labeling
Published: 10/15/2020
Effective: 04/02/2021

No. 52663 (Third Change in Proposed Rule) R70-580: Kratom Product Registration and Labeling
Published: 12/15/2020
Effective: 04/02/2021

No. 52663 (Fourth Change in Proposed Rule) R70-580: Kratom Product Registration and Labeling
Published: 03/01/2021
Effective: 04/02/2021

Commerce

Occupational and Professional Licensing

No. 53292 (Amendment) R156-1: General Rule of the Division of Occupational and Professional Licensing
Published: 02/15/2021
Effective: 03/25/2021

No. 53284 (Amendment) R156-17b: Pharmacy Practice Act Rule
Published: 02/01/2021
Effective: 03/11/2021

No. 53288 (Amendment) R156-46b: Division Utah Administrative Procedures Act Rule
Published: 02/15/2021
Effective: 03/25/2021

No. 53287 (Amendment) R156-72: Acupuncture Licensing Act Rule
Published: 02/15/2021
Effective: 03/25/2021

No. 53315 (Amendment) R156-76: Professional Geologist Licensing Act Rule
Published: 03/01/2021
Effective: 04/08/2021

Education

Administration

No. 53316 (New Rule) R277-102: Adjudicative Proceedings
Published: 03/01/2021
Effective: 04/08/2021

NOTICES OF RULE EFFECTIVE DATES

No. 53317 (Amendment) R277-215: Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions
Published: 03/01/2021
Effective: 04/08/2021

No. 53318 (Amendment) R277-216: Surrender of License with UPPAC Investigation Pending
Published: 03/01/2021
Effective: 04/08/2021

No. 53319 (Amendment) R277-217: Educator Standards and LEA Reporting
Published: 03/01/2021
Effective: 04/08/2021

No. 53320 (Amendment) R277-303: Educator Preparation Programs
Published: 03/01/2021
Effective: 04/08/2021

No. 53321 (Amendment) R277-308: New Educator Induction and Mentoring
Published: 03/01/2021
Effective: 04/08/2021

No. 53322 (Amendment) R277-461: Elementary School Counselor Grant Program
Published: 03/01/2021
Effective: 04/08/2021

No. 53323 (Amendment) R277-484: Data Standards
Published: 03/01/2021
Effective: 04/08/2021

No. 53325 (Amendment) R277-490: Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP)
Published: 03/01/2021
Effective: 04/08/2021

No. 53324 (Repeal) R277-505: Education Leadership License Areas of Concentration and Programs
Published: 03/01/2021
Effective: 04/08/2021

No. 53326 (Repeal) R277-506: School Psychologists, School Social Workers, School Counselors, Communication Disorders (Audiologists), Speech-Language Pathologists, and Speech-Language Technicians Licenses and Programs
Published: 03/01/2021
Effective: 04/08/2021

No. 53228 (Amendment) R277-622: School-based Mental Health Qualified Grant Program.
Published: 12/15/2020
Effective: 04/01/2021

No. 53327 (Amendment) R277-716: Alternative Language Services for Utah Students
Published: 03/01/2021
Effective: 04/08/2021

No. 53280 (Amendment) R277-752. Special Education Intensive Services Fund
Published: 02/01/2021
Effective: 03/11/2021

No. 53281 (Amendment) R277-800. Utah Schools for the Deaf and the Blind
Published: 02/01/2021
Effective: 03/11/2021

No. 53282 (Amendment) R277-923. American Indian and Alaskan Native Education State Plan Pilot Programs
Published: 02/01/2021
Effective: 03/11/2021

No. 53283 (Amendment) R277-926. Certification of Residential Treatment Center Special Education Program
Published: 02/01/2021
Effective: 03/11/2021

Health

Child Care Center Licensing Committee

No. 53236 (New Rule) R381-40: Commercial Preschool Programs
Published: 01/01/2021
Effective: 03/22/2021

Health Care Financing, Coverage and Reimbursement Policy
No. 53296 (Amendment) R414-60: Limitations
Published: 02/15/2021
Effective: 03/26/2021

No. 53307 (Amendment) R414-303: Presumptive Eligibility for Medicaid
Published: 02/15/2021
Effective: 03/26/2021

Center for Health Data, Health Care Statistics
No. 53300 (Amendment) R428-1: Health Data Plan and Incorporated Documents
Published: 02/15/2021
Effective: 03/25/2021

Family Health and Preparedness, Licensing
No. 53262 (Amendment) R432-550. Birthing Center
Published: 01/15/2021
Effective: 03/10/2021

Heritage and Arts

Administration

No. 53216 (New Rule) R450-5: Utah Martin Luther King Jr. Human Rights Commission
Published: 12/15/2020
Effective: 04/05/2021

History

No. 53291 (New Rule) R455-16: Cultural Site Stewardship Program Vandalism Volunteer Selection, Training, and Certification Procedures
 Published: 02/15/2021
 Effective: 04/05/2021

No. 53298 (New Rule) R455-17: Cultural Site Stewardship Program Vandalism Reporting Procedures
 Published: 02/15/2021
 Effective: 04/05/2021

Insurance

Administration

No. 53217 (Amendment) R590-85. Accident and Health Insurance and Medicare Supplement Rates
 Published: 12/01/2020
 Effective: 03/11/2021

No. 53217 (Change in Proposed Rule) R590-85. Accident and Health Insurance and Medicare Supplement Rates
 Published: 02/01/2021
 Effective: 03/11/2021

No. 53285 (Amendment) R590-238-16. Acquisition of Control of or Merger with Domestic Company
 Published: 02/01/2021
 Effective: 03/11/2021

No. 53219 (New Rule) R590-286. Minimum Standards for Short-Term Limited Duration Health Insurance
 Published: 12/01/2020
 Effective: 03/11/2021

No. 53219 (Change in Proposed Rule) R590-286. Minimum Standards for Short-Term Limited Duration Health Insurance
 Published: 02/01/2021
 Effective: 03/11/2021

Natural Resources

Wildlife Resources

No. 53276 (Amendment) R657-58. Fishing Contests and Clinics
 Published: 02/01/2021
 Effective: 03/11/2021

School and Institutional Trust Lands

Administration

No. 53308 (New Rule) R850-12: Prohibited and Restricted Use of Trust Lands
 Published: 02/15/2021
 Effective: 04/01/2021

No. 53309 (Repeal and Reenact) R850-41: Rights of Entry
 Published: 02/15/2021
 Effective: 04/01/2021

Transportation

Operations, Traffic and Safety

No. 53232 (New Rule) R920-60: Amusement Ride Safety
 Published: 12/15/2020
 Effective: 03/19/2021

Preconstruction

No. 53184 (Amendment) R930-5: Maintenance
 Published: 12/01/2020
 Effective: 03/25/2021

End of the Notices of Rule Effective Dates Section

