

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed July 02, 2021, 12:00 a.m. through July 15, 2021, 11:59 p.m.

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August 01, 2021

Nancy L. Lancaster, Managing Editor

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between July 02, 2021, 12:00 a.m., and July 15, 2021, 11:59 p.m. are included in this, the August 01, 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 August 31, 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 November 29, 2021, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

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The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R35-1	Filing ID 53712

**Agency Information**

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Records Committee	
<b>Building:</b>	State Archives	
<b>Street address:</b>	346 S Rio Grande St	
<b>City, state and zip:</b>	Salt Lake City, UT 84101	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kendra Yates	801-531-3856	kendrayates@utah.gov
Rebekkah Shaw	801-531-3851	rshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R35-1. State Records Committee Appeal Hearing Procedures
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
These amendments are intended to facilitate the handling of electronic records provided for in camera review, and to narrow the focus of presentations to issues within the committee's purview.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The amendment to Subsection R35-1-2(5)(b) provides the option of destroying records provided to the Committee for in camera review, which is often preferable to returning the records when the records are in an electronic format. The amendment to Subsection R35-1-2(2) specifies parameters for the topics discussed in presentations.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This amendment has no fiscal impact on state budget because it is only administrative in nature.

**B) Local governments:**

This amendment has no fiscal impact on local governments because it is only administrative and internal in nature.

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

This amendment has no fiscal impact on small businesses because it is only administrative and internal in nature.

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

This amendment has no fiscal impact on non-small businesses because it is only administrative and internal in nature.

**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 has no fiscal impact on persons because it is only administrative in nature.

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

There is no cost for complying with these changes because they are only administrative in nature.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

This change will not have a fiscal impact on businesses, as it is only administrative in nature and clarifies processes around hearings and utilizing staff as they are in their current roles. Jenny Rees, Executive Director

**6. A) 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	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0



Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Government Operations, Jenney Rees, has reviewed and approved this fiscal analysis.			

**Citation Information**

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 63G-2-502(2)(a)		

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	8/31/2021

<b>10. This rule change MAY become effective on:</b>	09/07/2021
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Kenneth Williams, Director	<b>Date:</b>	06/10/2021
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**R35. Government Operations, Records Committee.****R35-1. State Records Committee Appeal Hearing Procedures.****R35-1-1. Scheduling Committee Meetings.**

(1) The Executive Secretary shall respond in writing to the notice of appeal within seven business days.

(2) Two weeks prior to the Committee meeting or appeal hearing, the Executive Secretary shall post a notice of the meeting on the Utah Public Notice Website.

(3) One week prior to the Committee meeting or appeal hearing, the Executive Secretary shall post a notice of the meeting, indicating the agenda, date, time, and place of the meeting at the building where the meeting is to be held and at the Utah State Archives.

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

(1) The meeting shall be called to order by the Committee Chair.

(2) Testimony shall be presented by the petitioner and the governmental entity. Presentations shall be limited to records access issues and alleged unreasonable denials of requests for fee waivers. Each party shall be allowed twenty minutes to present testimony and evidence, to call witnesses, and to respond to questions from Committee members.

(3) Witnesses providing testimony shall be sworn in by the Committee Chair.

(4) Questioning of the witnesses and parties by Committee members is permitted.

(5) The governmental entity must bring the disputed records to the hearing to allow the Committee to view records in camera if it deems an in camera inspection necessary pursuant to 63G-2-403(9).

(a) If the records withheld are voluminous or the governmental entity contends they have not been identified with reasonable specificity, the governmental entity shall notify the Committee via the Executive Secretary and the adverse party at least two days before the hearing and obtain approval from the Committee Chair to bring a representative sample of the potentially responsive records to the hearing, if it is possible to do so.

(b) Records provided by the governmental entity for in camera review by the Committee remain in the custody of the governmental entity. Records for in camera review are retained by the Committee for only the period of in camera review and all records are returned to the governmental entity or destroyed, provided they are not the record copy, at the conclusion of the in camera review.

(6) Third party presentations may be permitted. Prior to the hearing, the third party shall notify the Executive Secretary of intent to present. Third party presentations shall be limited to five minutes, and must be presented prior to closing arguments.

(7) Closing arguments may be presented by the petitioner and the governmental entity. Each party shall be allowed five minutes to present a closing argument and make rebuttal statements.

(8) After presentation of the evidence, the Committee shall commence deliberations. A Committee Member shall make a motion to grant or to deny the petitioner's request in whole or in part. Following discussion of the motion, the Committee Chair shall call for the question. The motion shall serve as the basis for the

## NOTICES OF PROPOSED RULES

Committee Decision and Order. The Committee shall vote and make public the decision of the Committee during the hearing.

(9) The Committee may adjourn, reschedule, continue, or reopen a hearing on the motion of a member.

(10) Except as expressly authorized by law, there shall be no communication between the parties and the members of the Committee concerning the subject matter of the appeal before the hearing or prior to the issuance of a final Decision And Order. Any other oral or written communication from the parties to the members of the Committee, or from the members of the Committee to the parties, shall be directed to the Executive Secretary for transmittal.

(11) The following provisions govern any meeting at which one or more members of the Committee or a party appears telephonically or electronically, pursuant to Section 52-4-207.

(a) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. The anchor location, unless otherwise designated in the notice, shall be at the offices of the Division of State Archives, Salt Lake City, Utah.

(b) If one or more Committee members or parties may be participating electronically or telephonically, public notices of the meeting shall so indicate. In addition, the notice shall specify the anchor location where the members of the Committee not participating electronically or telephonically will be meeting and where interested persons and the public may attend and monitor the open portions of the meeting.

(c) When notice is given of the possibility of a member of the Committee appearing electronically or telephonically, any member of the Committee may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the Committee. At the commencement of the meeting, or at such time as any member of the Committee initially appears electronically or telephonically, the Committee Chair shall identify for the record each of those who are appearing telephonically or electronically. Votes by members of the Committee who are not at the physical location of the meeting shall be confirmed by the Committee Chair.

(12)(a) Pursuant to Subsection 63G-2-401(5)(c) a petitioner may request a postponement of a hearing, with the consensus of the governmental entity. If the petitioner wishes to postpone the hearing or withdraw the appeal, the petitioner shall notify the Committee via the Executive Secretary and the governmental entity in writing no later than five days prior to the scheduled hearing date.

(b) The Committee Chair has the discretion to grant or deny a petitioner's request to postpone a hearing based upon: (i) the reasons given by the petitioner in his or her request, (ii) the timeliness of the request, (iii) whether petitioner has previously requested and received a postponement, (iv) any other factor determined to protect the equitable interests of the parties. If the request is granted, the Chair shall instruct the Executive Secretary to schedule the appeal for the next available hearing date pursuant to 63G-2-403(4)(a).

(c) The Chair will ordinarily deny a governmental entity's request to postpone the hearing, unless the governmental entity has obtained the petitioner's prior consent to reschedule the hearing date.

### R35-1-3. Issuing the Committee Decision and Order.

(1) The Decision and Order shall be signed by the Committee Chair and distributed by the Executive Secretary within seven business days after the hearing. Copies of each Decision and Order shall be distributed to the petitioner, the governmental entity and other interested parties. The original order shall be maintained

by the Executive Secretary. A copy of the order shall be made available for public access at the Utah State Archives website.

### R35-1-4. Committee Minutes.

(1) Purpose. Section 52-4-203 requires any public body to establish and implement procedures for the public body's approval of the written minutes of each meeting. This rule establishes procedures for the State Records Committee to approve the written minutes of each meeting.

(2) Authority. This rule is enacted under the authority of Sections 52-4-203, 63G-3-201, and 63A-12.

(3) Meetings of the Committee shall be recorded. The recording of the open meeting shall be made available to the public within three business days. Access to the audio recordings shall be provided by the Executive Secretary on the Utah Public Notice Website.

(4) Approved written minutes shall be the official record of the meetings and appeal hearings and shall be maintained by the Executive Secretary.

(a) Written minutes shall be read by members prior to the next scheduled meeting, including electronic meetings.

(b) Written minutes from meetings shall be made available no later than one week prior to the date of the next regularly scheduled Committee meeting.

(c) When minutes are complete but awaiting official approval, they are a public record and must be marked as "Draft."

(d) At the next meeting, at the direction of the Committee Chair, minutes shall be amended and/or approved with individual votes recorded in the minutes. The minutes shall be then marked as "Approved."

(e) When the minutes are "Approved" they will be so noted in the printed and online versions. A copy of the approved minutes shall be made available for public access on the Utah Public Notice Website.

**KEY:** government documents, state records committee, records appeal hearings

**Date of Enactment or Last Substantive Amendment:** 2021~~August 7, 2020~~

**Notice of Continuation:** June 3, 2019

**Authorizing, and Implemented or Interpreted Law:** 63G-2-401(5)(c); 63G-2-403(9); 63G-2-403(4)(a); 63G-2-201; 63A-12-101; 52-4-203

## NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

**Utah Admin. Code Ref (R no.):** R58-1

**Filing ID**  
53678

### Agency Information

<b>1. Department:</b>	Agriculture and Food
<b>Agency:</b>	Animal Industry
<b>Street address:</b>	350 N Redwood Road
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 146500

<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
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**

<b>2. Rule or section catchline:</b>
R58-1. Admission, Identification, and Inspection of Livestock, Poultry, and other Animals
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
Changes are needed to clarify and expand the requirements for captive Cervidae entering Utah. Additional changes have been made to make the rule text more consistent with the requirements of the Utah Rulewriting Manual.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Changes are made to clarify the requirements for captive Cervidae entering Utah, as well as specify requirements for captive caribou entering Utah and captive Canadian Cervidae entering Utah. Nonsubstantive changes, including capitalization, grammar, and punctuation are also made to make this rule more consistent with the Utah Rulewriting Manual.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
These changes merely clarify existing requirements and practices of the Department of Agriculture and Food (Department), rather than add or remove requirements. No fiscal impact to the state budget is anticipated.
<b>B) Local governments:</b>
The changes should not impact local governments because they do not import or own Cervidae in Utah.

<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):																																
There should be no fiscal impact to small businesses because the requirements for bringing animals into Utah are being clarified and have not changed.																																
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):																																
There should be no fiscal impact to non-small businesses because the requirements for bringing animals into Utah are being clarified and have not changed.																																
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):																																
There should be no fiscal impact to other persons because the requirements for bringing animals into Utah are being clarified and have not changed.																																
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):																																
Compliance costs will not be impacted because the fees and requirements imposed by the department will not change.																																
<b>G) Comments by the department head on the fiscal impact this rule may have on businesses</b> (Include the name and title of the department head):																																
This rule will not have a fiscal impact on business. Craig W. Butters, Commissioner																																
<b>6. A) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)																																
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## NOTICES OF PROPOSED RULES

State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Commissioner of the Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved this fiscal analysis.			

## Citation Information

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 4-2-103	Title 4, Chapter 31	

## Public Notice Information

<b>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. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	08/31/2021

<b>10. This rule change MAY become effective on:</b>	09/07/2021
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

## Agency Authorization Information

<b>Agency head or designee, and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	07/07/2021
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**R58. Agriculture and Food, Animal Industry.**
**R58-1. Admission, Identification, and Inspection of Livestock, Poultry, and Other Animals.**
**R58-1-1. Authority.**

(1) Promulgated under the authority of Title 4, Chapter 31, Control of Animal Disease, and Subsections 4-2-103(1)(c)(i), and 4-2-103(1)(i).

(2) It is the intent of these rules to eliminate or reduce the spread of diseases among animals by providing standards to be met in the movement of animals within ~~the State of~~ Utah and the importation of animals into the state.

**R58-1-2. Definitions.**

(1) "Accredited Veterinarian" means a veterinarian approved by the Deputy Administrator of Veterinary Services (VS), Animal and Plant Health Inspection Services (APHIS), United States Department of Agriculture (USDA), in accordance with the provisions of 9 CFR 161 to perform functions required by cooperative State-Federal disease control and eradication programs.

(2) "Animal identification number (AIN)" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal. The AIN consists of 15 digits, with the first 3 being the country code (840 for the United States or a unique country code for any U.S. territory that has such a code and elects to use it in place of the 840 code).

(3) "Animals" means ~~all~~ vertebrates, except humans.

(4) "Approved livestock facility" means a stockyard, livestock market, buying station, concentration point, or any other premises under ~~[S]~~state or ~~[F]~~federal veterinary inspection where livestock are assembled and that has been approved by the ~~[D]~~department.

(5) "Approved Livestock Market" means a livestock market that is licensed by the ~~[D]~~department under Title 4, Chapter 30, Livestock Markets.

(6) "Approved Slaughter Establishment" means a ~~[S]~~state or ~~[F]~~federally inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by ~~[S]~~state or ~~[F]~~federal inspectors.

(7) "Approved tagging site" means a premises, authorized by ~~[D]~~department, where livestock may be officially identified on behalf of their owner or the person in possession, care, or control of the animals when they are brought to the premises.

(8) "Brand Inspection Certificate" means an official form, issued by a government agency or other agency responsible for animal identification in the state of origin, used to transfer title of livestock; listing the identification marks of the animals~~(s)~~ as well as the consignor and consignee contact information.

(9) "Camelidae" means a term referring to members of the family of animals which for the purposes of these rules includes camels (~~[C]~~camelus dromedarius and ~~[C]~~camelus bactrianus), llamas (~~[L]~~lama glama), alpacas (~~[V]~~vicugna pacos), guanacos (~~[L]~~lama guanicoe), and vicunas (~~[V]~~vicugna vicugna).

(10) "Captive Cervidae" means a term referring to members of the family of animals which for the purposes of these rules includes captive bred ~~[C]~~caribou (~~[R]~~reindeer (~~[R]~~rangifer tarandus)), captive bred ~~[E]~~elk (~~[C]~~cervus canadensis nelsoni), and captive bred ~~[F]~~fallow deer (~~[D]~~dama dama) or any other captive bred cervidae allowed with permission from the State Veterinarian and the Utah Division of Wildlife Resources.

(11) "Certificate of Veterinary Inspection" means an official paper or electronic form completed by an accredited veterinarian that has examined the animal or animals listed on the certificate and has completed ~~all~~any disease testing or vaccinations as required.

(12) "Commuter herd" means a herd of cattle located in two or more states that is documented as a valid ranching operation by those states in which the herd is located and which requires movement of cattle interstate from a farm of origin or returned interstate to a farm of origin in the course of normal ranching operations, without change of ownership, directly to or from another premise owned, leased, or rented by the same individual.

(13) "Commuter herd agreement" means a written agreement between the owner~~(s)~~ of a herd of cattle and the animal health officials for the ~~[S]~~state or ~~[T]~~tribes of origin and destination specifying the conditions required for the interstate movement from one premises to another in the course of normal livestock management operations and specifying the time period, up to ~~[4]~~one year, that the agreement is effective. A commuter herd agreement may be renewed annually.

(14) "Dairy cattle" means ~~a~~any cattle, regardless of age or sex or current use, that are of a breed~~(s)~~ used to produce milk or other dairy products for human consumption, including~~[-but not limited to,]~~ ~~[A]~~ayrshire, ~~[B]~~brown ~~[S]~~swiss, ~~[H]~~holstein, ~~[J]~~ersey, ~~[G]~~uernsey, ~~[M]~~ilking ~~[S]~~shorthorn, and ~~[R]~~ed and ~~[W]~~whites.

(15) "Department" means the Utah Department of Agriculture and Food.

(16) "Designated ~~[b]~~Brucellosis surveillance area" means an area within a state that has been designated by the animal health official of that state as an area of increased disease risk for bovine ~~[b]~~Brucellosis.

(17) "Direct Movement" means the movement in which the animals are not unloaded enroute to their final destination, except for stops of less than 24 hours to feed, water, or rest the animals being moved, and not commingled with another producer's animals.

(18) "Exotic animal" means a rare or unusual animal pet or an animal, not commonly thought of as a pet, kept within a human household. For this chapter, rodents, reptiles, and amphibians are considered exotic animals.

(19) "Exposed Animal" means an animal that has been in contact with or on the same premises of or within a quarantine zone where animals with a contagious or communicable disease are present.

(20) "Farm of Origin" means the farm where the animal was born and remains prior to importation into the state.

(21) "Flock-based number system" means the flock-based number system that combines a flock identification number (FIN) with a producer's unique livestock production numbering system to provide a nationally unique identification number for an animal.

(22) "Flock identification number (FIN)" means a nationally unique number assigned by a ~~[S]~~state, ~~[T]~~tribal, or ~~[F]~~federal animal health authority to a group of animals that are managed as a unit on one or more premises and are under the same ownership.

(23) "Group/lot identification number (GIN)" means the identification number used to uniquely identify a "unit of animals" of the same species that is managed together as one group throughout the preharvest production chain.

(24) "Import Permit" means a number given by the ~~[D]~~department to the issuing veterinarian that is recorded on the certificate of veterinary inspection and is required before movement of the animals into the state.

(25) "Interstate movement" means movement of animals from one ~~[S]~~state into or through any other ~~[S]~~state.

(26) "Livestock Market Veterinarian" means a Utah licensed and USDA accredited veterinarian appointed by the ~~Utah Department~~

~~of Agriculture and Food]~~department to work at approved livestock markets.

(27) "Location identification (LID) number" means a nationally unique number issued by a ~~[S]~~state, ~~[T]~~tribal, ~~and~~or ~~[F]~~federal animal health authority to a location as determined by the ~~[S]~~state or ~~[T]~~tribe in which it is issued. The LID number may be used in conjunction with a producer's own unique livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal. It may also be used as a component of a group/lot identification number (GIN).

(28) "National Uniform Eartagging System (NUES)" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal.

(29) "Official Calhhood Vaccinate" means female bison or cattle vaccinated by a USDA Veterinary Services representative, ~~[S]~~state certified technician, or accredited veterinarian with an approved dose of RB51 vaccine or other USDA approved agent while from 4 to 12 months of age in accordance with its labeling. These cattle ~~must~~shall be properly identified by official tattoos and ear tag or registration tattoo and be reported on an official vaccination certificate (VS Form 4-24) within 30 days to the State Veterinarian.

(30) "Official eartag" means an identification tag approved by the ~~[D]~~department that bears an official identification number for individual animals. The official eartag ~~must~~shall be tamper-resistant and have a high retention rate in the animal.

(31) "Official eartag shield" means the shield shaped graphic of the U.S. Route Shield with "U.S." or the State postal abbreviation or ~~[T]~~tribal alpha code imprinted within the shield.

(32) "Official identification device or method" means a means approved by the ~~[D]~~department of applying an official identification number to an animal of a specific species or associating an official identification number with an animal or group of animals of a specific species or otherwise officially identifying an animal or group of animals.

(33) "Official identification number" means a nationally unique number that is permanently associated with an animal or group of animals.

(34) "Officially identified" means identified by means of an official identification device or method approved by the ~~[D]~~department.

(35) "Poultry" means domestic fowl ~~[c]~~such as chickens, turkeys, ducks, geese, and guinea and pea fowl~~]~~, pigeons and doves, pheasants and other gamebirds, and ratites.

(36) "Premises identification number (PIN)" means a nationally unique number assigned by a ~~[S]~~state, ~~[T]~~tribal, ~~and~~or ~~[F]~~federal animal health authority to a premises that is, in the judgment of the ~~[S]~~state, ~~[T]~~tribal, ~~and~~or ~~[F]~~federal animal health authority a geographically distinct location from other premises.

(37) "Qualified Feedlot" means a feedlot approved by the ~~Utah Department of Agriculture and Food]~~department to handle heifers, cows, or bulls ~~[which]~~that are either official calhhood vaccinated, or ~~[b]~~Brucellosis unvaccinated animals confined to a drylot area ~~[which]~~that is used to upgrade or finish feeding animals going only to slaughter or another qualified feedlot. ~~[All such a]~~Animals ~~must~~shall be kept separate from other animals not destined for slaughter.

(38) "Quarantine" means a verbal or written restriction of movement of animals into or out of an area or premise, issued by a State Animal Health Official.

(39) "Reactor" means any animal that has been determined by a designated ~~[b]~~Brucellosis epidemiologist to be infected with

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[b]Brucellosis based on test results, herd[~~/~~] or flock history, [~~and~~] or culture results.

(40) "Suspect" means any animal that may be infected with a contagious, infectious, or communicable disease based on test results [~~and~~] or herd[~~/~~] or flock history.

(41) "Test Eligible Cattle and Bison" means [~~all~~] cattle or bison six months of age or older, except:

[~~1-~~](a) [~~S~~]steers, spayed heifers; or

[~~2-~~](b) [~~O~~]official calfhood vaccinates of any breed under 24 months of age [~~which~~] that are not parturient, springers, or post parturient.

(42) "United States Department of Agriculture (USDA) approved backtag" means a backtag issued by APHIS that provides a temporary unique identification for each animal.

(43) "Zoological animal" means an animal kept at a zoological garden (zoo) or other exhibition that is inspected on a regular basis by the [~~United States Department of Agriculture~~] USDA.

### **R58-1-3. Official Identification Devices and Methods.**

(1) Any [~~S~~]state, [~~T~~]tribe, accredited veterinarian, or other person or entity who distributes official identification devices [~~must~~]shall maintain for [~~S~~]five years a record of the names and addresses of anyone to whom the devices were distributed.

(2) An official identification number is a nationally unique number that is permanently associated with an animal or group of animals and that adheres to one of the following systems:

(a) National Uniform Eartagging System (NUES)[~~-~~];

(b) Animal identification number (AIN)[~~-~~];

(c) [~~L~~]location-based number system[~~-~~];

(d) [~~F~~]flock-based number system[~~-~~]; or

(e) [~~A~~]any other numbering system approved by the animal health official of the state of origin for the official identification of animals.

(3) The [~~D~~]department has approved the following official identification devices or methods for the species listed.

(a) The [~~D~~]department may authorize the use of additional devices or methods for a specific species if the [~~D~~]department determines that [~~such~~]the additional devices or methods will provide for adequate traceability.

(4) Cattle and bison that are required to be officially identified for interstate movement must be identified by means of:

(a) [~~A~~]an official eartag; or

(b) [~~B~~]brands registered with a recognized brand inspection authority and accompanied by an official brand inspection certificate, when agreed to by the shipping and receiving [~~S~~]state or [~~T~~]tribal animal health authorities; or

(c) [~~T~~]tattoos and other identification methods acceptable to a breed association for registration purposes, accompanied by a breed registration certificate, when agreed to by the shipping and receiving [~~S~~]state or [~~T~~]tribal animal health authorities; or

(d) [~~G~~]group[~~/~~] or lot identification when a group[~~/~~] or lot identification number (GIN) may be used.

(5) Horses and other equine species that are required to be officially identified for interstate movement [~~must~~]shall be identified by one of the following methods:

(a) [~~A~~]a description sufficient to identify the individual equine including[~~- but not limited to,~~] name, age, breed, color, gender, distinctive markings, and unique and permanent forms of identification when present [~~e-g,~~such as brands, tattoos, scars, cowlicks, blemishes or biometric measurements[~~);~~];[~~-or~~]

(b) [~~E~~]electronic identification that complies with ISO 11784/11785[~~-or~~]

(c) [~~N~~]non-ISO electronic identification injected to the equine on or before June 30, 2013; or

(d) [~~D~~]digital photographs sufficient to identify the individual equine.

(6) Poultry that are required to be officially identified for interstate movement [~~must~~]shall be identified by one of the following methods:

(a) [~~S~~]sealed and numbered leg bands; or

(b) [~~G~~]group[~~/~~] and lot identification when a group/lot identification number (GIN) may be used.

(7) [~~S~~]sheep and goats that are required to be officially identified for interstate movement must be identified by one of the following methods:

(a) [~~E~~]electronic implants when accompanied by a certificate or owner statement that includes the electronic implant numbers and the name of the chip manufacturer[~~-or~~]

(b) [~~O~~]official eartags, including tags approved for use in the Scrapie Flock Certification Program or APHIS-approved premises identification number eartags when combined with a unique animal identification number[~~-or~~]

(c) United States Department of Agriculture backtags or official premises identification backtags that include a unique animal identification number, when used on sheep or goats moving directly to slaughter and when applied within 3 inches of the poll on the dorsal surface of the head or neck[~~-or~~]

(d) [~~L~~]legible official registry tattoos that have been recorded in the book of record of a sheep or goat registry association when the animal is accompanied by either a registration certificate or a certificate of veterinary inspection.

[~~-----~~](~~4~~) These tattoos may also be used as premises identification if they contain a unique premises prefix that has been linked in the National Scrapie Database with the assigned premises identification number of the flock of origin[~~-or~~]

(e) [~~P~~]premises identification eartags or tattoos, if the premises identification method includes a unique animal number or is combined with a flock eartag that has a unique animal number and the animal is accompanied by an owner statement[~~-or~~]

(f) [~~P~~]premises identification when premises identification is allowed and the animal is accompanied by an owner statement; or

(g) [~~A~~]any other official identification method or device approved by the animal health official of the state of origin.

(8) Swine that are required to be officially identified for interstate movement [~~must~~]shall be identified by one of the following methods:

(a) [~~O~~]official eartags[~~-or~~]

(b) [~~United States Department of Agriculture~~] USDA backtags, when used on swine moving to slaughter[~~-or~~]

(c) [~~O~~]official swine tattoos, when used on swine moving to slaughter[~~-or~~]

(d) [~~E~~]ear notching when used on any swine, if the ear notching has been recorded in the book of record of a purebred registry association[~~-or~~]

(e) [~~T~~]tattoos on the ear or inner flank of any swine, if the tattoos have been recorded in the book of record of a swine registry association;

(f) [~~F~~]for slaughter swine and feeder swine, an eartag or tattoo bearing the premises identification number assigned by the [~~S~~]state animal health official to the premises on which the swine originated[~~-or~~]

(g) [~~A~~]any other official identification device or method that is approved by the animal health official of the state of origin; or

(h) ~~[G]~~group ~~[/]~~ or lot identification when a group ~~[/]~~ or lot identification number (GIN) may be used.

(9) Captive cervids that are required to be officially identified for interstate movement ~~[must]~~shall be identified by one of the following methods:

- (a) ~~[Θ]~~official eartag~~;~~ and ~~[—(b)—A]~~ a tattoo that is placed peri-anally or inside the right ear and consists of a number assigned by the animal health official of the state of origin; or
- (c) ~~[A]~~a microchip that has been placed in the right ear.

#### **R58-1-4. Intrastate Cattle Movement - Rules - Brucellosis.**

(1) The State Veterinarian may require ~~[b]~~Brucellosis testing of cattle, bison, and elk, moving intrastate as necessary to protect against potential disease threat or outbreak.

(2) ~~[Utah Department of Agriculture and Food Livestock]~~department ~~[F]~~inspectors will help regulate intrastate movement of cattle according to Brucellosis rules at the time of change of ownership inspection.

#### **R58-1-5. Interstate Importation Standards.**

(1) No animal, poultry, or bird of any species or other animal including wildlife, that is known to be affected with or has been exposed to a contagious, infectious, or communicable disease, or that originates from a quarantined area, shall be shipped, transported, or moved into the State of Utah until written permission for ~~[such]~~entry is first obtained from the ~~[United States Department of Agriculture]~~USDA, Animal and Plant Health Inspection Service, Veterinary Services Division, and the ~~[Utah Department of Agriculture and Food]~~department, State Veterinarian, or Commissioner of Agriculture.

(a) Failure to obtain written permission may result in a citation.

(2) An official Certificate of Veterinary Inspection issued by an accredited veterinarian is required for importation of ~~[all]~~any animals.

(3) A copy of the certificate shall be immediately forwarded to the ~~[Utah Department of Agriculture and Food]~~department by the issuing veterinarian or the animal health official of the state of origin within ~~[7]~~seven calendar days from date on which the Certificate of Veterinary Inspection or other document is received or issued.

(4) Import permits for livestock, poultry, and other animals may be obtained by telephone or via the internet to the accredited veterinarian responsible for issuing a Certificate of Veterinary Inspection.

(5) Certificates of Veterinary Inspection are considered valid for 30 days from the date of inspection.

#### **R58-1-6. Cattle and Bison.**

(1) A Certificate of Veterinary Inspection and an import permit ~~[must]~~shall accompany ~~[all]~~any cattle and bison imported into the state.

(2) ~~[All]~~Any cattle and bison ~~[must]~~shall carry some form of individual identification as listed in Subsection R58-1-3(4).

(a) Individual identification ~~[must]~~shall be listed on the Certificate of Veterinary Inspection.

(i) Official individual identification used for testing purposes ~~[must]~~shall be shown on the Certificate of Veterinary Inspection; or

(ii) ~~[A]~~a copy of the official ~~[b]~~Brucellosis or ~~[t]~~Tuberculosis test sheets ~~[must]~~shall be stapled to each copy of the Certificate of Veterinary Inspection.

(b) ~~[All]~~Any cattle and bison imported into Utah from Canada, except those imported directly to slaughter, ~~[must]~~shall be

permanently branded with the letters CAN, not less than two ~~[(2)]~~inches high nor more than three ~~[(3)]~~inches high, placed high on the right hip.

(3) The import permit number ~~[must]~~shall be listed on the Certificate of Veterinary Inspection.

(4) The following cattle are exempted from Subsection R58-1-6(1)~~[-above]~~:

(a) ~~[C]~~cattle consigned directly to slaughter at an approved slaughter establishment; or

(b) ~~[C]~~cattle consigned directly to a ~~[S]~~state or ~~[F]~~federal approved Auction Market.

(c) Movements under Subsections R58-1-5(4)(a), and R58-1-5(4)(b) ~~[must]~~shall be in compliance with state and federal laws and regulations and ~~[must]~~shall be accompanied by a weighbill, brand certificate, or similar document showing some form of positive identification, signed by the owner or shipper stating the origin, destination, number, and description of animals and purpose of movement.

(d) Commuter cattle are exempt as outlined in Subsection R58-1-5(6).

(5) A brand inspection certificate or proof of ownership, which indicates the intended destination, is required for cattle entering the state.

(6) Commuter cattle may enter Utah or return to Utah after grazing if the following conditions are met.

(a) A commuter permit approved by the import state and the State of Utah ~~[must]~~shall be obtained prior to movement into Utah. This will allow movements for grazing for the current season if the following conditions are met:

(i) ~~[All]~~cattle shall meet testing requirements as to ~~[S]~~state classification for interstate movements as outlined in 9 CFR 1-78, which is incorporated by reference; USDA, Animal and Plant Health Inspection Services ~~[(APHIS)]~~, Brucellosis Eradication, Uniform Methods and Rules, October 1, 2003, and approved by cooperating ~~[S]~~states~~[-]~~;

(ii) ~~[C]~~commuter cattle shall not be mixed with quarantined, exposed, or suspect cattle nor change ownership during the grazing period~~[-]~~; and

(iii) ~~[All]~~bulls used in the commuter herd ~~[must]~~shall be tested annually for trichomoniasis as required by the State of Utah.

(b) No quarantined, exposed or reactor cattle shall enter Utah.

(7) Prior to importation of cattle or bison into Utah the following health restrictions must be met~~[-]~~:

(a) ~~[B]~~bison and cattle heifers of vaccination age between four and 12 months ~~[must]~~shall be officially calfhood vaccinated for ~~[b]~~Brucellosis prior to entering Utah, unless~~[-]~~:

(i) going directly to slaughter~~[-or]~~;

(ii) going to a qualified feedlot to be sold for slaughter~~[-]~~; or

(iii) going to an approved livestock market to be sold for slaughter or for vaccination.

(iv) Bison and cattle heifers of vaccination age may be vaccinated upon arrival by special permit from the State Veterinarian.

(b) ~~[All]~~Any female bison and cattle over 12 months of age imported to Utah ~~[must]~~shall have evidence of a ~~[b]~~Brucellosis calfhood vaccination tattoo to be imported or sold into the State of Utah, unless~~[-]~~:

(i) going directly to slaughter~~[-or]~~;

(ii) going to a qualified feedlot to be sold for slaughter~~[-or]~~;

(iii) going to an approved livestock market to be sold for slaughter~~[-]~~; or

(iv) they have tested negative for Brucella ~~[a]~~Abortus within 30 days prior to entry.

(c) Test eligible cattle imported from states designated as ~~[b]~~Brucellosis free, but that are coming from a designated ~~[b]~~Brucellosis

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surveillance area within that state, ~~[must]~~shall ~~[be-]~~test~~[ed]~~ negative for ~~[b]~~Brucellosis within 30 days prior to entry.

(i) Test eligible cattle may enter the state prior to testing with approval from the State Veterinarian but ~~[must]~~shall be tested immediately upon arrival and the cattle ~~[must]~~shall be kept isolated away from other cattle until test~~[ed]~~ing negative.

(d) ~~[All-]~~Test eligible cattle imported from states that have not been designated as ~~[b]~~Brucellosis free ~~[must]~~shall test negative for ~~[b]~~Brucellosis within 30 days before movement into Utah.

(e) Exceptions to the above testing requirements include exhibition animals and test eligible cattle imported to Utah and moving directly to:

(i) an approved livestock market~~[-or-]~~;

(ii) ~~[to-]~~a ~~["]~~qualified feedlot~~[-]~~; or

(iii) an approved slaughter establishment for immediate slaughter~~[to an approved slaughter establishment]~~.

(f) No reactor cattle, or cattle from herds under quarantine for ~~[b]~~Brucellosis will be allowed to enter the state except when consigned to an approved slaughter establishment. An import permit and a Veterinary Services Form 1-27 prior to shipment are also required.

(g) Entry of cattle ~~[which]~~that have been retattooed is not permitted unless they are moved for immediate slaughter to an approved slaughter establishment or to not more than one state or federal approved market for sale to a qualified feedlot or slaughtering establishment.

(h) A negative ~~[t]~~Tuberculosis test is required within 60 days prior to shipment for ~~[all]~~any dairy cattle ~~[2]~~two months of age and older and bison ~~[6]~~six months of age and older.

(i) Breeding cattle originating within a quarantined area or from reactor or exposed herds and ~~[all-]~~cattle from an area ~~[which]~~that is not classified as Tuberculosis ~~[F]~~free are required to be tested for tuberculosis within 60 days prior to entry to Utah.

(j) Rodeo bulls and roping steers ~~[must]~~shall be tested annually during the calendar year for tuberculosis prior to entry to Utah.

(k) No cattle infested with, or exposed to scabies shall be moved into Utah. Cattle from a county where scabies has been diagnosed during the past 12 months ~~[must]~~shall be officially treated within ~~[+0]~~ten days prior to shipment into Utah. The date of treating and products used ~~[must]~~shall be shown on the Certificate of Veterinary Inspection.

(l) No cattle infested with ticks that can transmit splenic or tick fever, or exposed to tick infestations shall be imported into the State of Utah for any purpose.

(m) ~~[All-]~~Any bulls imported to Utah shall be in compliance with Subsection R58-21-3(A), ~~[which]~~that requires testing of ~~[all-]~~bulls over ~~[twelve]~~12 months of age for ~~[t]~~Trichomoniasis prior to entry, with some exceptions ~~[which are]~~for slaughter, rodeo, exhibition, and bulls kept in confinement.

### R58-1-7. Horses, Mules, Asses, and Other Equidae.

(1) Equidae may be imported into the State of Utah when accompanied by an official Certificate of Veterinary Inspection or an electronic Extended Equine Certificate of Veterinary Inspection created by a platform approved by the department.

(2) The Certificate of Veterinary Inspection ~~[must]~~shall show a negative Equine Infectious Anemia (EIA)(Coggins - AGID or ELISA) test within one year previous to the time the certificate was issued.

(a) Entry of equidae into Utah shall not be allowed until the EIA test has been completed and reported negative.

(b) Equidae ~~[which]~~that test positive to the EIA test shall not be permitted entry into Utah, except by special written permission from the State Veterinarian.

(c) A nursing foal less than six ~~[(6)-]~~months of age accompanied by its EIA negative dam, and equidae moving directly to an approved livestock market are exempt from the test requirements.

(3) Utah horses returning to Utah as part of a commuter livestock shipment are exempted from the Certificate of Veterinary Inspection requirements; however, a valid Utah horse travel permit as outlined under Sections 4-24-405 or 4-24-406 and Section R58-9-4 is required for re-entering Utah.

(4) An import permit issued by the ~~[D]~~department ~~[must]~~shall accompany ~~[all]~~any stallions or semen.

(5) ~~[All-]~~Any stallions used for breeding that enter Utah or stallions whose semen will be shipped to Utah shall be tested for Equine Viral Arteritis (EVA) by an accredited veterinarian within 30 days prior to entry.

(a) Exceptions are stallions that have proof of negative EVA status prior to vaccination and proof of subsequent yearly vaccination.

(b) The EVA test or vaccination status ~~[must]~~shall be recorded on the Certificate of Veterinary Inspection.

(c) Breeding stallions and semen infected with Equine Arteritis Virus ~~[must]~~shall be handled only on an approved facility as required by Rule R58-23.

### R58-1-8. Swine.

(1) Swine may be shipped into the state if the following requirements are met:

(a) ~~[All-]~~swine ~~[must]~~shall be accompanied by an approved Certificate of Veterinary Inspection stating they have not been fed raw garbage.

(i) The Certificate of Veterinary Inspection ~~[must]~~shall show individual identification, ear tags, tattoos, registration numbers, microchips, or other permanent means.

(b) An import permit issued by the ~~[D]~~department ~~[must]~~shall accompany ~~[all]~~any swine imported into the state.

(c) ~~[All-]~~swine ~~[must]~~shall be tested negative for ~~[b]~~Brucellosis within 30 days prior to movement into the state or originate from a validated ~~[b]~~Brucellosis free herd or ~~[b]~~Brucellosis free state.

(i) A validated ~~[b]~~Brucellosis free herd number and date of last test is required to be listed on the Certificate of Veterinary Inspection.

(ii) Swine from states with serious disease occurrences or known populations of feral or wild hogs may be required to be tested for Brucellosis prior to entry to Utah.

(d) ~~[All-]~~swine ~~[must]~~shall be tested negative for ~~[p]~~Pseudorabies within thirty days unless they originate from a recognized qualified pseudorabies free herd or ~~[p]~~Pseudorabies Stage V state.

(i) Swine that have been vaccinated with any ~~[p]~~Pseudorabies vaccine shall not enter the state.

(ii) Swine ~~[which]~~that are infected or exposed to ~~[p]~~Pseudorabies may not enter the state, except swine consigned to a slaughterhouse for immediate slaughter ~~[and must]~~that shall be moved in compliance with 9 CFR 71, which is incorporated by reference.

(iii) Swine from states with known populations of feral or wild hogs may be required to be tested for Pseudorabies prior to entry to Utah.

(2) Prohibition of Non-domestic and Non-native Suidae and Tayassuidae.

(a) Javelina or ~~[P]~~peccary, and feral or wild hogs such as Eurasian or Russian wild hogs (~~[S]~~sus scrofa) are considered invasive species in Utah, capable of establishing wild reservoirs of disease such as ~~[b]~~Brucellosis and ~~[p]~~Pseudorabies.



(b) These animals are prohibited from entry to Utah except when approved by special application only for purposes of exhibition and after meeting the above testing requirements.

(c) Any person who imports [~~F~~]javelina, [~~P~~]peccary, or feral or wild hogs such as Eurasian or Russian wild hogs (~~[S]~~sus scrofa) into Utah without prior approval by the [~~D~~]department shall be subject to citation and fines as prescribed by the [~~D~~]department or may be called to appear before an administrative proceeding by the department.

#### **R58-1-9. Sheep.**

(1) [~~AH~~]Imported sheep [~~imported—must~~]shall be accompanied by a Certificate of Veterinary Inspection and an import permit.

(a) No sheep exhibiting clinical signs of blue tongue may enter Utah.

(b) Sheep [~~must~~]shall be thoroughly examined for evidence of foot rot and verified that they are free from foot rot.

(c) Sheep entering Utah [~~must~~]shall comply with federal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.

(d) Sheep from scrapie infected, exposed, quarantined, or source flocks may not be permitted to enter the state unless an official post-exposure flock eradication and control plan has been implemented.

(e) Breeding rams six months of age or older shall test negative for Brucella [~~e~~]Ovis within 30 days of entry or originate from a certified [~~b~~]Brucellosis free flock.

[~~—~~](~~b~~) Rams entering Utah for exhibition purposes only and returning immediately to their home state are exempt from the testing requirement.

#### **R58-1-10. Poultry.**

(1) [~~All-p~~]Poultry and hatching eggs being imported into Utah [~~must~~]shall meet the following requirements:

(a) [~~All-p~~]Poultry and hatching eggs [~~must~~]shall have an import permit from the [~~D~~]department.

(b) [~~All-p~~]Poultry and hatching eggs entering Utah must have a Certificate of Veterinary Inspection or a National Poultry Improvement Plan VS Form 9-3.

(c) [~~All-p~~]Poultry and hatching eggs shall originate from flocks or hatcheries that have a Pullorum-Typhoid Clean rating given by the official state agency of the National Poultry Improvement Plan (NPPI) of the state, or

(d) [~~All-p~~]Poultry entering Utah from a flock or hatchery [~~which~~]that does not have a clean rating through NPPI certification [~~must~~]shall have been tested negative for Pullorum-Typhoid within the last 30 days.

#### **R58-1-11. Goats and Camelids.**

(1) Goats being imported into Utah [~~must~~]shall meet the following requirements:

(a) [~~D~~]dairy goats [~~must~~]shall have an import permit from the [~~D~~]department and an official Certificate of Veterinary Inspection showing a negative [~~t~~]Tuberculosis test within 60 days, and a negative [~~b~~]Brucellosis test within 30 days prior to entry, or be from a certified [~~b~~]Brucellosis free herd and accredited [~~t~~]Tuberculosis free herd. Thereto; there [~~must~~]shall be no evidence of caseous [~~H~~]Lymphadenitis (abscesses).

(b) Meat type goats [~~must~~]shall have an import permit from the [~~D~~]department and an official Certificate of Veterinary Inspection indicating they are free from any communicable diseases or exposure and that there is no evidence of caseous [~~H~~]Lymphadenitis (abscesses).

(c) Goats entering Utah [~~must~~]shall comply with Federal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.

(d) Goats for slaughter may be shipped into Utah directly to an approved slaughter establishment or to an approved auction market without an official Certificate of Veterinary Inspection and an import permit but [~~must~~]shall comply with Federal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.

(2) Camelids being imported into Utah [~~must~~]shall have an import permit from the [~~D~~]department and an official Certificate of Veterinary Inspection showing a negative [~~t~~]Tuberculosis test within 60 days, and a negative [~~b~~]Brucellosis test within 30 days prior to entry or be from a certified [~~b~~]Brucellosis free herd and accredited [~~t~~]Tuberculosis free herd.

(3) Test eligible age for both [~~b~~]Brucellosis and [~~t~~]Tuberculosis shall be 6 months of age or older for both goats and camelids.

(4) Dairy goats and camelids entering Utah for exhibition purposes only and returning immediately to their home state are exempt from the testing requirement.

#### **R58-1-12. Psittacine and Passerine Birds and Raptors.**

(1) No psittacine or passerine birds or raptors shall be shipped into the State of Utah unless an official Certificate of Veterinary Inspection accompanies the birds.

(2) The number and kinds of birds to be shipped into Utah, their origin, date to be shipped, and destination [~~must~~]shall be listed on the Certificate of Veterinary Inspection.

#### **R58-1-13. Dogs, Cats, and Ferrets.**

(1) [~~All-d~~]Dogs, cats, and ferrets shall be accompanied by an official Certificate of Veterinary Inspection.

(2) [~~All-d~~]Dogs, cats and ferrets over three months of age [~~must~~]shall be currently vaccinated against rabies before entering Utah.

(a) The date of vaccination, name of product used, and expiration date [~~must~~]shall be written on the Certificate of Veterinary Inspection.

(3) No puppies or kittens less than 8 weeks of age shall be imported into the state unless accompanied by the mother.

#### **R58-1-14. Exotic Animals.**

(1) It is unlawful for any person to import into the State of Utah any species of exotic animal that is prohibited for importation or possession as listed in [~~Utah Administrative Code~~]Rule R657-3.

(2) [~~All-e~~]Exotic animals [~~c~~]like birds, mammals, and reptiles [~~—must~~] shall be accompanied by an official Certificate of Veterinary Inspection.

(3) [~~All-a~~]Aquatic animals [~~c~~]like fish, mollusk, crustacean, or amphibians [~~—must~~] shall fulfill [~~all~~]the requirements of [~~Utah Administrative Code~~]Rule R58-17 prior to importation into the State of Utah.

#### **R58-1-15. Game and Fur-Bearing Animals.**

(1) No game or fur bearing animals [~~will~~]shall be imported into Utah without an import permit [~~being~~]obtained from the [~~D~~]department.

(2) Each shipment shall be accompanied by an official Certificate of Veterinary Inspection.

(3) [~~All-m~~]Mink entering Utah shall have originated on ranches where mink viral enteritis has not been diagnosed or exposed to within the past three years.

**R58-1-16. Captive Cervidae.**

~~[(1) All captive cervidae entering Utah must meet the following requirements:~~

~~(a) No captive elk will be imported into Utah unless the destination premises is licensed with the Utah Department of Agriculture and Food.~~

~~(b) No captive caribou or fallow deer will be imported into Utah unless a Certificate of Registration (COR) has been obtained from the Utah Division of Wildlife Resources.~~

~~(c) No captive cervidae will be allowed to be imported into Utah that have originated from or have ever been east of the 100 degree meridian.~~

~~(d) All captive elk imported into Utah must meet the genetic purity requirement as referenced in Title 4, Chapter 39, Section 301, Utah Code Unannotated.~~

~~(e) All captive elk must meet the following Chronic Wasting Disease (CWD) requirements:~~

~~(i) Elk must come from a state with a USDA approved herd certification program.~~

~~(ii) Elk must originate from a herd that is not affected with or is a trace back or forward herd for CWD.~~

~~(iii) Elk must originate from a herd that has had a CWD herd surveillance program for 5 years prior to movement.~~

~~(f) All captive cervidae must be permanently identified using either a microchip or tattoo.~~

~~(g) All captive cervidae must have an import permit from the Department.~~

~~(h) All captive cervidae must have an official Certificate of Veterinary Inspection showing the following:~~

~~(i) A negative tuberculosis test within 60 days of import.~~

~~(ii) Negative Brucella abortus test results from a single sample that has been tested by two USDA approved tests.~~

~~(iii) Two forms of individual animal identification.~~

~~(iv) A statement that the animals listed on the certificate are not known to be infected with Johne's Disease (Paratuberculosis) or Malignant Catarrhal Fever and have never been east of the 100 degree meridian.]~~

~~(1) Captive elk entering Utah shall:~~

~~(a) meet the health and genetic purity requirements specified in Sections R58-18-11 and R58-18-7; and~~

~~(b) be imported to a premises licensed with the department.~~

~~(2) Any caribou (reindeer) entering Utah shall meet the following requirements:~~

~~(a) come from a state or province with a USDA approved herd certification program;~~

~~(b) originate from a herd that is not affected with or is a trace back or forward herd for Chronic Wasting Disease (CWD);~~

~~(c) originate from a herd that has participated in a National CWD Herd Certification program for at least 60 months and has received Certified CWD free status from the state or province of origin prior to movement; and~~

~~(d) each other requirement of this subsection.~~

~~(3) Any captive cervidae entering Utah shall:~~

~~(a) have a Certificate of Registration (COR) issued by the Utah Division of Wildlife Resources;~~

~~(b) be permanently identified using an RFID tag, metal NUES tag;~~

~~(c) have an import permit from the department;~~

~~(d) have an import application approved by the department; and~~

~~(e) have an official Certificate of Veterinary Inspection showing the following:~~

(i) if the cervidae is from the United States, they shall have a negative tuberculosis test (DPP or single cervical tuberculin) within 60 days of import and shall come from an accredited tuberculosis- free state or zone;

(ii) if the cervidae is from Canada they shall be sourced from a herd officially recognized as free of Tuberculosis and Brucellosis according to the provisions of the CFIA Captive Ungulate Program and shall have a negative Tuberculosis test within 60 days of import with the mid-cervical test;

(iii) cervidae from the United States shall have a negative Brucella Abortus test within 30 days of import and shall come from an accredited Brucellosis-free state or zone. Cervidae coming from Brucellosis certified-free herds are exempted from the testing requirement;

(iv) any cervidae six months of age or older originating from outside of the United States shall have negative Brucella Abortus test results from a single sample that has been tested by two USDA approved tests; and

(v) a statement that the animals listed on the certificate are not known to be infected with Johne's Disease (Paratuberculosis) or Malignant Catarrhal Fever.

**R58-1-17. Zoological Animals.**

(1) The entry of zoological animals to be kept in zoological gardens, or shown at exhibitions is authorized when an import permit, subject to requirements established by the State Veterinarian, has been obtained from the [D]department and the animals are accompanied by an official Certificate of Veterinary Inspection.

(2) Movement of these animals ~~[must]~~shall also be in compliance with the Federal Animal Welfare Act, 7 USC 2131-2159.

**R58-1-18. Wildlife.**

(1) It is unlawful for any person to import into the State of Utah any species of live native or exotic wildlife except as provided in Title 23, Chapter 13 and ~~[Utah Administrative Code]~~Rule R657-3.

(2) ~~[A]~~Any wildlife imports shall meet the same [D]department requirements as required for the importation of domestic animals.

**R58-1-19. Duties of Carriers.**

Owners and operators of railroads, trucks, airplanes, and other conveyances are forbidden to move any livestock, poultry, or other animals into or within the State of Utah or through the State except in compliance with the provisions set forth in these rules.

(1) Sanitation. ~~Any~~[H] railway cars, trucks, airplanes, and other conveyances used in the transportation of livestock, poultry, or other animals shall be maintained in a clean, sanitary condition.

(2) Movement of Infected Animals. Owners and operators of railway cars, trucks, airplanes, and other conveyances that have been used for movement of any livestock, poultry, or other animals infected with or exposed to any infectious, contagious, or communicable disease as determined by the [D]department, shall be required to have cars, trucks, airplanes, and other conveyances thoroughly cleaned and disinfected under official supervision before further use is permissible for the transportation of livestock, poultry, or other animals.

(3) Compliance with Laws and Rules. Owners and operators of railroad, trucks, airplanes, or other conveyances used for the transportation of livestock, poultry, or other animals are responsible to see that each consignment is prepared for shipment in keeping with the [S]state and [F]federal laws and regulations. Certificate of Veterinary Inspection, brand certificates, and permits should be attached to the waybill accompanying the attendant in charge of the animals.

**KEY:** disease control, import requirements

**Date of Enactment or Last Substantive Amendment:** ~~October 9, 2019~~ 2021

**Notice of Continuation:** January 12, 2017

**Authorizing, and Implemented or Interpreted Law:** 4-31; 4-2-103(1)(i)

#### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R68-26</b>	<b>Filing ID</b> <b>53708</b>
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#### Agency Information

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Plant Industry	
<b>Street address:</b>	350 N Redwood Road	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
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Please address questions regarding information on this notice to the agency.

#### General Information

<b>2. Rule or section catchline:</b>
R68-26. Industrial Hemp Product Registration and Labeling
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
Changes are needed to clarify the definition of THC, consistent with other rule changes that have been filed. Changes are also needed to add the requirement that industrial hemp products show testing for mycotoxins on a certificate of analysis. This will protect the safety of consumers that use industrial hemp products.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This filing adds other THC analogs defined in the Utah Controlled Substances Act to the definition of THC. This will allow the Department of Agriculture and Food (Department) to limit the concentration of all THC analogs in industrial hemp products to 0.3% or less. The changes also add a requirement that a certificate of analysis for an industrial hemp product include mycotoxin test results.

#### Fiscal Information

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

##### A) State budget:

These changes should not pose a significant cost or savings to the state budget because the rule changes do not bring in additional fees or pose additional administrative burden on the Department.

##### B) Local governments:

There should be no cost or savings to local governments because they do not register or regulate industrial hemp products in Utah.

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

There should not be significant additional costs or savings to small businesses because industrial hemp manufacturers are not currently registering products with THC analogs outside of Delta-9-THC. Additionally, most industrial hemp laboratories test for mycotoxins already and include the results on a certificate of analysis.

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

There should not be significant additional costs or savings to non-small businesses because industrial hemp manufacturers are not currently registering products with THC analogs outside of Delta-9-THC. Additionally, most industrial hemp laboratories test for mycotoxins already and include the results on a certificate of analysis.

##### 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 should not be significant additional costs or savings to other persons because industrial hemp manufacturers are not currently registering products with THC analogs outside of Delta-9-THC. Additionally, most industrial hemp laboratories test for mycotoxins already and include the results on a certificate of analysis.

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

Compliance costs for affected persons should not change because this rule clarifies rather than expands existing requirements and limitations for industrial hemp products.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

This rule change will not have a fiscal impact on businesses. Craig W. Buttars, Commissioner

**6. A) 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	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

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

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 4-41-103    Section 4-41-403   

**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. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2021

**10. This rule change MAY become effective on:** 09/07/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	07/09/2021
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**R68. Agriculture and Food, Plant Industry.**

**R68-26. Industrial Hemp Product Registration and Labeling.**

**R68-26-1. Authority and Purpose.**

1) Pursuant to Subsections 4-41-103(4) and 4-41-403(1), this rule establishes the requirements for labeling and registration of products made from and containing industrial hemp.

**R68-26-2. Definitions.**

- 1) "CBD" means cannabidiol.
- 2) "Certificate of Analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for which testing was performed.
- 3) "Department" means the Utah Department of Agriculture and Food.
- 4) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.
- 5) "Industrial hemp product" means products derived from, or made by processing industrial hemp plants or plant parts.
- 6) "Label" means the display of each written, printed, or graphic matter upon the immediate container or statement accompanying an industrial hemp product.
- 7) "Manufacturer" means a person who makes any industrial hemp products.
- 8) "Person" means an individual, partnership, association, firm, trust, limited liability company, or corporation or any employees of such.

9) "THC" means total composite tetrahydrocannabinol, including delta[—]9-[—]tetrahydrocannabinol[—~~and~~], tetrahydrocannabinolic acid, and any THC analogs as defined in Subsection 58-37-4(2)(a)(iii)(AA).

10) "Third-[ ]party laboratory" means a laboratory with no direct interest in a grower or processor of industrial hemp or industrial hemp products that is capable of performing mandated testing utilizing validated methods.

#### **R68-26-3. Product Registration.**

1) Each industrial hemp product distributed or available for distribution in Utah shall be officially registered annually with the department.

2) Application for registration shall be made to the department on a form provided by the department including the following information:

a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicants;

b) the name of the product;

c) the type and use of the product;

d) a complete copy of the label as it will appear on the product in a legible format; and

e) if the product has been assigned a National Drug Code in accordance with 21 CFR 207.33, the applicant shall provide the National Drug Code number.

3) If the industrial hemp product being registered contains a cannabinoid, the application shall include a certificate of analysis from a third-party laboratory for the product in compliance with Section R68-26-4. The certificate of analysis shall show the cannabinoid profile of the product by percentage of mass.

4) A registration fee per product, as set forth in the fee schedule approved by the legislature, shall be paid to the department with the submission of the application.

5) The department may deny registration for an incomplete application.

6) A new registration is required for any of the following:

a) any change in the industrial hemp product ingredients;

b) any change to the directions for use; and

c) any change of name for the product.

7) Other changes shall not require a new registration but the registrant shall submit copies of each label change to the department as soon as they are effective.

8) The person registering the industrial hemp product is responsible for the accuracy and completeness of information submitted.

9) A registration is renewable for up to a one-year period with an annual renewal fee per product[?] that shall be paid on or before June 30th of each year.

10) An industrial hemp product that has been discontinued shall continue to be registered in the state until the product is no longer available for distribution.

11) A late fee shall be assessed for a renewal of an industrial hemp product registration submitted after June 30th and shall be paid before the registration renewal is issued.

12) The department shall not register an industrial hemp product containing a cannabinoid if the product:

a) uses the cannabinoid as a food additive; or

b) is represented for use as a conventional food.

#### **R68-26-4. Certificate of Analysis.**

1) A certificate of analysis for any industrial hemp product containing a cannabinoid shall be available through a QR code or website listed on the label.

2) Testing shall be conducted on the product in its final form for:

a) the cannabinoid profile by percentage of mass;

b) solvents;

c) pesticides;

d) microbials;~~[and]~~

e) heavy metals[?]; and

f) mycotoxins.

3) The test results required in Subsection R68-26-4(1) shall be reported in accordance with the requirements for a cannabinoid product in Rule R68-29 including the specified units of measure.

4) The certificate of analysis shall include the following information:

a) the batch identification number;

b) the date received;

c) the date of completion;

d) the method of analysis for each test conducted; and

e) proof that the certificate of analysis is connected to the product.

#### **R68-26-5. Label Requirements.**

1) Industrial hemp products containing a cannabinoid produced for oral human consumption shall be labeled in accordance with:

a) 21 CFR 101.1, Principal display panel of package form

food;

b) 21 CFR 101.2, Information panel of package form food;

c) 21 CFR 101.3, Identity labeling of food in packaged

form;

d) 21 CFR 101.4, Food; designation of ingredients;

e) 21 CFR 101.5, Food; name and place of business of manufacturer, packer, or distributor;

f) 21 CFR 101.7, Declaration of net quantity of contents;

g) 21 CFR 101.9(j)(13) and (17), Nutrition labeling of food;

h) 21 CFR 101.15, Food; prominence of required statements; and

i) 21 CFR 101.36, Nutrition labeling of dietary supplements;

ii) a label may contain the term "product facts" in place of "supplement facts" provided the information required in 21 CFR 101.36 is on the label; and

iii) the label shall include the following text, prominently displayed: "This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease."

2) A cannabinoid product intended to be vaporized for inhalation shall:

a) be labeled in accordance with Subsection R68-26-5(1);

or

b) be labeled in accordance with 21 CFR 101.1, 21 CFR 101.2, 21 CFR 101.3, 21 CFR 101.4, 21 CFR 101.5, 21 CFR 101.7, 21 CFR 101.15, and contain the following text, prominently displayed: "This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease."

3) Industrial hemp products containing a cannabinoid produced for absorption by humans shall be labeled[  
————] in accordance with 21 CFR 701, Cosmetic Labeling.

4) Industrial hemp products containing cannabinoids other than CBD shall contain the following text, prominently displayed: "Warning - The safety of this product has not been determined."

5) Notwithstanding Subsection R68-26-5(1) or R68-25-5(3), an industrial hemp product containing a cannabinoid produced for human use that has a National Drug Code issued shall be labeled in accordance with 21 CFR 201.66.

6) In addition to the requirements of Subsections R68-26-5(1) through R68-26-5(3) an industrial hemp product containing a cannabinoid shall have on the label a scannable barcode, QR code, or web address linked to a document containing the following information:

a) the total quantity produced; and

b) a downloadable link for a certificate of analysis for the batch identified.

7) Industrial hemp products shall not contain medical claims on the label unless the product has been registered with the FDA and is labeled in accordance with Subsection R68-26-5(4).

8) Industrial hemp products that do not contain a cannabinoid intended for human consumption shall be labeled in accordance with 21 CFR 101, Food Labeling.

9) Industrial hemp products that do not contain a cannabinoid and are intended for human absorption shall be labeled in accordance with 21 CFR 701, Cosmetic Labeling.

10) Industrial hemp products meant for animal consumption shall be labeled and comply with applicable federal laws and regulations and other applicable state laws and regulations.

11) Industrial hemp seed products intended for cultivation shall be labeled in accordance with Title 4, Chapter 16, Utah Seed Act.

12) Each industrial hemp product shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9 and other applicable federal laws and regulations and applicable state laws and regulations relating to the labeling of food, cosmetics, and fiber.

#### **R68-26-6. Inspection and Testing.**

1) The department shall conduct randomized inspection of industrial hemp products distributed or available for distribution in the state for compliance with this rule.

2) The department shall periodically sample, analyze, and test industrial hemp products distributed within the state for compliance with registration and labeling requirements and the certificate of analysis, if applicable.

3) The department may conduct inspection of industrial hemp products distributed or available for distribution for any reason the department deems necessary.

4) The sample taken by the department shall be the official sample.

#### **R68-26-7. Retailer Responsibilities.**

1) A retailer shall:

a) ensure that any industrial hemp product is labeled correctly; and

b) ensure that each industrial hemp product sold is properly registered with the department.

2) Retailers shall provide the identity of the manufacturer of industrial hemp products sold upon request of the department.

3) A retailer may register the product in lieu of the manufacturer if the product is not registered.

#### **R68-26-8. Violation.**

1) Each improperly labeled industrial hemp product shall be a separate violation of this rule.

2) Industrial hemp products not meeting the labeling requirements shall be deemed to be misbranded.

3) Industrial hemp products shall be considered falsely advertised if it does not meet the labeling requirements of this rule.

4) It is a violation to distribute or market an industrial hemp product that is not registered with the department.

5) It is a violation to distribute or market industrial hemp flower as a final product.

6) It is a violation to distribute or market an industrial hemp product that contains greater than 0.3% THC.

7) It is a violation to distribute or market an industrial hemp product containing a cannabinoid that has not been tested as required by Rule R68-29.

8) It is a violation to distribute or market an industrial hemp product containing a cannabinoid as a conventional food product.

9) It is a violation to distribute or market a product claiming a cannabinoid derived from industrial hemp as a food additive.

#### **R68-26-9. Violation Categories.**

1) Public Safety Violations: Each person shall be fined \$3,000-[\$5,000 per violation. This category is for violations that present a direct threat to public health or safety including:

a) industrial hemp sold to an unlicensed source;

b) industrial hemp purchased from an unlicensed source;

c) refusal to allow inspection;

d) failure to comply with labeling requirements;

e) failure to comply with testing requirements;

f) possessing, manufacturing, or distributing industrial hemp product that a person knows or should know appeals to children; or

g) engaging in or permitting a violation of the Title 4, Chapter 41, Hemp and Cannabinoid Act that amounts to a public safety violation as described in this Subsection.

2) Regulatory Violations: Each person shall be fined \$1,000-\$5,000 per violation. This category is for violations involving this rule and other applicable state rules under Title R68 including:

a) failure to register an industrial hemp product;

b) failure to provide a certificate of analysis as required by Section R68-26-4;

c) failure to keep and maintain records;

d) engaging in or permitting a violation of Title 4, Chapter 41a, Hemp and Cannabinoid Act or this Rule that amounts to a regulatory violation as described in this subsection.

3) Licensing Violations: Each person shall be fined \$500-[\$5,000 per violation. This category is for violations involving licensing requirements including:

a) engaging in or permitting a violation of this rule, other applicable rules under Title R68, or Title 4, Chapter 41, Hemp and Cannabinoid Act, that amounts to a licensing violation; or

b) failure to respond to violations.

4) The department shall calculate penalties 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.

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

**KEY:** CBD labeling, CBD products, hemp product registration  
**Date of Enactment or Last Substantive Amendment:** [January 8, 2021  
**Authorizing, and Implemented or Interpreted Law:** 4-41-403(1); 4-41-402(2); 4-41-103(4)

#### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** New

<b>Utah Admin. Code Ref (R no.):</b>	<b>R68-37</b>	<b>Filing ID 53704</b>
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#### Agency Information

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Plant Industry	
<b>Street address:</b>	350 N Redwood Road	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
Cody James	801-982-2376	codyjames@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

#### General Information

<b>2. Rule or section catchline:</b>
R68-37. Industrial Hemp Cannabinoid Product Testing
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This new rule is needed to allow the Department of Agriculture and Food (Department) to set testing standards that ensure that industrial hemp cannabinoid products sold in Utah are safe for the public to use. Current guidance set in rule insufficiently addresses the testing of cannabinoid products.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
This rule sets testing requirements for cannabinoid products that are similar to the requirements for medical

cannabis products in Utah, including detailing required tests and adulterant standards.

#### Fiscal Information

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

##### A) State budget:

There should be no fiscal impact to the state under this rule because it is merely clarifying specific testing requirements for cannabinoid products. Registered cannabinoid products in Utah currently meet the testing requirements of this rule based on the guidance of the Utah Medical Cannabis Program.

##### B) Local governments:

There should be no fiscal impact to local governments because they do not regulate or sell industrial hemp cannabinoid products.

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

There should be no fiscal impact to small businesses because the cost required to get cannabinoid products tested and registered is not changing.

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

There should be no fiscal impact to non-small businesses because the cost required to get cannabinoid products tested and registered is not changing.

##### 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 should be no fiscal impact to other persons because the cost required to get cannabinoid products tested and registered is not changing.

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

Compliance costs for affected persons should not change because the testing required by the Department and cost of registration will remain the same under this new rule.

##### G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule will not have a fiscal impact on business in Utah. Craig W. Buttars, Commissioner

**6. A) 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	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

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

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 4-41-204		
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2021
--------------------------------------------	------------

<b>10. This rule change MAY become effective on:</b>	09/07/2021
------------------------------------------------------	------------

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	07/09/2021
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**R68. Agriculture and Food, Plant Industry.**

**R68-37. Industrial Hemp Cannabinoid Product Testing.**

**R68-37-1. Authority and Purpose.**

1) Pursuant to Subsection 4-41-204(2), this rule establishes the standards for industrial hemp cannabinoid product potency testing and sets limits for foreign matter, microbial life, pesticides, residual solvents, heavy metals, and mycotoxins.

**R68-37-2. Definitions.**

1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

- a) pesticides;
- b) heavy metals;
- c) solvents;
- d) microbial life;
- e) mycotoxins; or
- f) foreign matter.

2) "Analyte" means a substance or chemical component that is undergoing analysis.

3) "Batch or lot" means a quantity of:

a) cannabinoid concentrate produced on a particular date and time, following clean up until the next clean up during which the same lots of industrial hemp are used; or

b) cannabinoid product produced on a particular date and time, following clean up until the next clean up during which industrial hemp concentrate is used.

4) "Cannabinoid" means any:

a) naturally occurring derivative of cannabigerolic acid (CAS 25555-57-1); or

b) any chemical compound that is both structurally and chemically similar to a derivative of cannabigerolic acid.

5) "Cannabinoid concentrate" means:

a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.

6) "Cannabinoid product" means the same as the term is defined in Subsection 4-41-102(1).

7) "CBD" means cannabidiol (CAS 13956-29-1).

8) "CBDA" means cannabidiolic acid, (CAS 1244-58-2).



9) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the results for which that testing was performed.

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

11) "Final product" means a reasonably homogenous cannabinoid product in its final packaged form created using the same standard operating procedures and the same formulation.

12) "Foreign matter" means:

a) any matter that is present in a cannabis lot that is not a part of the cannabis plant; or

b) any matter that is present in a cannabis or cannabinoid product that is not listed as an ingredient.

13) "Industrial hemp" means a cannabis plant that contains less than 0.3% total THC by dry weight.

14) "Industrial hemp manufacturer" means an entity that holds, stores, packages, or labels an industrial hemp cannabinoid product.

15) "Pest" means:

a) any insect, rodent, nematode, fungus, weed; or

b) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other microorganisms that are injurious to health or to the environment or that the department declares to be a pest.

16) "Pesticide" means any:

a) substance or mixture of substances, including a living organism, that is intended to prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed, or other forms of plant or animal life that are normally considered to be a pest or that the commissioner declares to be a pest;

b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and

c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, or emulsifying agent with deflocculating properties of its own used with a pesticide to aid in the application or effect of a pesticide.

17) "THC" means total composite tetrahydrocannabinol, including delta-9-tetrahydrocannabinol, tetrahydrocannabinolic acid, and any THC analogs as defined in Subsection 58-37-4(2)(a)(ii)(AA).

18) "THCA" means delta-9-tetrahydrocannabinolic acid (CAS 23978-85-0).

19) "Total CBD" means the sum of the determined amounts of CBD and CBDA, according to the formula: Total CBD = CBD + (CBDA x 0.877).

20) "Total THC" means the sum of the determined amounts of THC and THCA, according to the formula: Total THC = THC + (THCA x 0.877).

21) "Unit" means each individual portion of an individually packaged product.

#### **R68-37-3. Required Cannabinoid Product Tests.**

1) An industrial hemp manufacturer may not register or sell a cannabinoid product unless a third party testing laboratory has tested a representative sample of the cannabinoid product to determine:

a) the amount of any THC analogs present in the sample; and

b) the presence of adulterants in the sample.

2) A certificate of analysis shall be included with each batch of cannabinoid product in accordance with Section R68-26-4.

#### **R68-37-4. Foreign Matter Standards.**

A sample and related batch of cannabinoid product fails quality assurance testing if:

1) the sample contains foreign matter visible to the unaided human eye;

2) the sample is found to contain microscopic foreign matter considered to be harmful or estimated to comprise greater than 3% of the mass of the representative sample as determined by the testing laboratory; or

3) foreign matter is found that is suspected to have been intentionally added to the sample to increase its visual appeal or market value.

#### **R68-37-5. Potency Testing.**

A batch of cannabinoid product shall have the quantity of any cannabinoid it is known to contain, including any THC analog, determined and listed on the COA.

#### **R68-37-6. Microbial Standards.**

A sample and related batch of cannabinoid product fails quality assurance testing for microbiological contaminants if the results exceed the limits as set forth in Table 2.

TABLE 2  
Microbial Analytes and Action Levels

Material	Microbial Limit Requirement (cfu)
Concentrated oil	Total Aerobic Microbial Count ≤10,000
Tablet	Total Aerobic Microbial Count ≤10,000
Capsule	Total Combined Yeast and Mold Count ≤1,000
Liquid Suspension	Absence of E. Coli and Salmonella spp.
Gelatinous cube	Absence of Staph
Transdermal	Total Aerobic Microbial Count ≤100
	Total Yeast and Mold ≤100
	Absence of Pseudomonas
	Absence of Staph

#### **R68-37-7. Pesticide Standards.**

1) A sample and related batch of cannabinoid product fails quality assurance testing for pesticides if the results exceed the limits as set forth in Table 3.

TABLE 3  
Pesticide Analytes and Action Levels

Analyte	Chemical Abstract Service (CAS) Registry number	Action Level ppm
Abamectin	71751-41-2	0.5
Acephate	30560-19-1	0.4
Acequinocyl	57960-19-7	2
Acetamiprid	135410-20-7	0.2
Aldicarb	116-06-3	0.4
Azoxystrobin	131860-33-8	0.2
Bifenazate	149877-41-8	0.2
Bifenthrin	82657-04-3	0.2
Boscalid	188425-85-6	0.4
Carbaryl	63-25-2	0.2
Carbofuran	1563-66-2	0.2
Chlorantraniliprole	500008-45-7	0.2
Chlorfenapyr	122453-73-0	1
Chlorpyrifos	2921-88-2	0.2
Clofentezine	74115-24-5	0.2
Cyfluthrin	68359-37-5	1
Cypermethrin	52315-07-8	1
Daminozide	1596-84-5	1
DDVP (Dichlorvos)	62-73-7	0.1
Diazinon	333-41-5	0.2
Dimethoate	60-51-5	0.2
Ethoprophos	13194-48-4	0.2

## NOTICES OF PROPOSED RULES

Etofenprox	80844-07-1	0.4
Etiozole	153233-91-1	0.2
Fenoxycarb	72490-01-8	0.2
Fenpyroximate	134098-61-6	0.4
Fipronil	120068-37-3	0.4
Flonicamid	158062-67-0	1
Fludioxonil	131341-86-1	0.4
hexythiazox	78587-05-0	1
imazalil	35554-44-0	0.2
Imidacloprid	138261-41-3	0.4
Kresoxim-methyl	143390-89-0	0.4
Malathion	143390-89-0	0.2
Metalaxyl	57837-19-1	0.2
Methiocarb	2032-65-7	0.2
Methomyl	16752-77-5	0.4
Methyl parathion	298-00-0	0.2
MGK-264	113-48-4	0.2
Myclobutanil	88671-89-0	0.2
Naled	300-76-5	0.5
Oxamyl	23135-22-0	1
Paclobutrazol	76738-62-0	0.4
Permethrins	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl butoxide	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4
Propoxur	114-26-1	0.2
Pyrethrins	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	203313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2
Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

2) Permethrins should be measured as cumulative residue of cis- and trans-permethrin isomers (CAS numbers 54774-45-7 and 51877-74-8).

3) Pyrethrins should be measured as the cumulative residues of pyrethrin I (CAS 121-21-1), pyrethrin II (CAS 121-29-9), cinerin I (CAS 25402-06-6), and jasmolin I (CAS 4466-14-2).

4) Abamectin is a composite of the amounts of avermectin B1a and avermectin B1b.

### **R68-37-8. Residual Solvent Standards.**

1) A sample and related batch of cannabinoid product fails quality assurance testing for residual solvents if the results exceed the limits provided in Table 4 unless the solvent is:

- a) a component of the product formulation;
- b) listed as an ingredient; and
- c) generally considered to be safe for the intended form of use.

TABLE 4  
List of Solvents and Action Levels

Solvent	Chemical Abstract Service (CAS)Registry number	Action level ppm
1,2 Dimethoxyethane	110-71-4	100
1,4 Dioxane	123-9	380
1-Butanol	71-36-3	5,000
1-Pentanol	71-41-0	5,000
1-Propanol	71-23-8	5,000
2-Butanol	78-92-2	5,000
2-Butanone 78-93-3		5,000
2-Ethoxyethanol	110-80-5	160
2-methylbutane	78-78-4	5,000
2-Propanol (IPA)	67-63-0	5,000

Acetone	67-64-1	5,000
Acetonitrile	75-05-8	410
Benzene	71-43-2	2
Butane	106-97-8	5,000
Cumene	98-82-8	70
Cyclohexane	110-82-7	3,880
Dichloromethane	75-09-2	600
2,2-dimethylbutane	75-83-2	290
2,3-dimethylbutane	79-29-8	290
1,2-dimethylbenzene	95-47-6	See Xylenes
1,3-dimethylbenzene	108-38-3	See Xylenes
1,4-dimethylbenzene	106-42-3	See Xylenes
Dimethyl sulfoxide	67-68-5	5,000
Ethanol	64-17-5	5,000
Ethyl acetate	141-78-6	5,000
Ethylbenzene	100-41-4	See Xylenes
Ethyl ether	60-29-7	5,000
Ethylene glycol	107-21-1	620
Ethylene Oxide	75-21-8	50
Heptane	142-82-5	5,000
n-Hexane	110-54-3	290
Isopropyl acetate	108-21-4	5,000
Methanol	67-56-1	3,000
Methylpropane	75-28-5	5,000
2-Methylpentane	107-83-5	290
3-Methylpentane	96-14-0	290
N,N-dimethylacetamide	127-19-5	1,090
N,N-dimethylformamide	68-12-2	880
Pentane	109-66-0	5,000
Propane	74-98-6	5,000
Pyridine	110-86-1	100
Sulfolane	126-33-0	160
Tetrahydrofuran	109-99-9	720
Toluene	108-88-3	890
Xylenes	1330-20-7	2,170

2) Xylenes is a combination of the following:

- a) 1,2-dimethylbenzene;
- b) 1,3-dimethylbenzene;
- c) 1,4-dimethylbenzene; and
- d) ethyl benzene.

### **R68-37-9. Heavy Metal Standards.**

A sample and related batch of cannabinoid product fails quality assurance testing for heavy metals if the results exceed the limits provided in Table 5.

TABLE 5  
Heavy Metals

Metals	Natural Health Products Acceptable limits in parts per million
Arsenic	<2
Cadmium	<0.82
Lead	<1.2
Mercury	<0.4

### **R68-37-10. Mycotoxin Standards.**

A sample and related batch of cannabinoid product fails quality assurance testing for mycotoxin if the results exceed the limits provided in Table 6.

TABLE 6  
Mycotoxin

Test	Specification
The total of	
Aflatoxin B1,	
Aflatoxin B2,	
Aflatoxin G1, and	
Aflatoxin G2	<20 ppb of substance
Ochratoxin A.	<20 ppb of substance

**KEY: industrial hemp, cannabinoid, testing****Date of Enactment or Last Substantive Amendment: 2021****Authorizing, and Implemented or Interpreted Law: 4-41-204(2)****NOTICE OF PROPOSED RULE****TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R70-550</b>	<b>Filing ID</b>	<b>53656</b>
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**Agency Information**

<b>1. Department:</b>	Agriculture and Food		
<b>Agency:</b>	Regulatory Services		
<b>Street address:</b>	350 N Redwood Road		
<b>City, state and zip:</b>	Salt Lake City, UT 84116		
<b>Mailing address:</b>	PO Box 1465000		
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500		
<b>Contact person(s):</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Amber Brown	801-982-2204	ambermbrown@utah.gov	
Travis Waller	801-982-2250	twaller@utah.gov	
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov	
Please address questions regarding information on this notice to the agency.			

**General Information**

<b>2. Rule or section catchline:</b>
R70-550. Utah Inland Shellfish Safety Program
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
Changes are needed to update a statutory reference due to renumbering of the Utah Code and update the incorporation in the rule to the most recent version.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The statutory reference in Section R70-550-1 is changed to Section 4-15-104 and the incorporation by reference in Section R70-550-2 is changed to the 2019 version of the National Shellfish Safety Program Guide for the Control of Molluscan Shellfish.

**Fiscal Information****5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

The changes just update references in this rule and would not result in any cost or savings to the state budget because the updates do not require program changes.

**B) Local governments:**

There will be no cost or savings to local governments because they do not sell or regulate the sale of molluscan shellfish in Utah.

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

The changes just update references in this rule and would not result in any cost or savings to small businesses because the updates do not require program or fee changes.

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

The changes just update references in this rule and would not result in any cost or savings to non-small businesses because the updates do not require program or fee changes.

**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 changes just update references in this rule and would not result in any cost or savings to other persons because the updates do not require program or fee changes.

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

Compliance costs for affected persons will not be impacted by these changes because the operation of the program will remain the same.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

This rule change will have no fiscal impact on businesses. Craig W. Buttars, Commissioner

**6. A) 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.)

## NOTICES OF PROPOSED RULES

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Commissioner of the Department of Agriculture and Food, Craig W. Buttars, has reviewed and approves the regulatory impact analysis.			

## Citation Information

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 4-5-104		

## Incorporations by Reference Information

<b>8. A) This rule adds, updates, or removes the following title of materials incorporated by references:</b>	
	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish
<b>Publisher</b>	United States Food and Drug Administration, Public Health Service

<b>Date Issued</b>	2019
<b>Issue, or version</b>	2019 Version

## Public Notice Information

<b>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. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	08/31/2021

<b>10. This rule change MAY become effective on:</b>	09/07/2021
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

## Agency Authorization Information

<b>Agency head or designee, and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	07/06/2021
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## R70. Agriculture and Food, Regulatory Services.

## R70-550. Utah Inland Shellfish Safety Program.

## R70-550-1. Authority.

This rule is promulgated by the Division of Regulatory Services, within the Department of Agriculture and Food under authority of Section 4-5-1[7]04.

## R70-550-2. Adopt by Reference.

The National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish: 201[3]2 Revision published by the United States Public Health Service[4], Food and Drug Administration, is hereby adopted and incorporated by reference within this rule.

## KEY: interstate shell fish safety

Date of Enactment or Last Substantive Amendment: ~~June 23, 2016~~ 2021

Notice of Continuation: January 12, 2017

Authorizing, and Implemented or Interpreted Law: 4-5-17

NOTICE OF PROPOSED RULE		
<b>TYPE OF RULE:</b> Repeal and Reenact		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R357-11</b>	<b>Filing ID</b> <b>53741</b>

## Agency Information

<b>1. Department:</b>	Governor
<b>Agency:</b>	Economic Development
<b>Building:</b>	World Trade Center

<b>Street address:</b>	60 E South Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Dane Ishihara	801-538-8864	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R357-11. Technology Commercialization and Innovation Program (TCIP)
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
The purpose of this rule is to repeal the technology commercialization and innovation program rule and pivot the program to the Utah technology innovation funding pilot.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule will codify definitions, authority, awards amounts, contract requirements, contract modification process, and funding distribution for the Utah technology innovation funding pilot.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no new aggregate anticipated cost or savings to the state budget. This rule is merely establishing the process to receive program awards.
<b>B) Local governments:</b>
There is no new aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no new aggregate anticipated cost or savings to small businesses because this proposed rule does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation.

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

There is no new aggregate anticipated cost or savings to non-small businesses because this proposed rule does not create new obligations for non-small businesses, nor does it increase the costs associated with any existing obligation.

**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 new aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed rule does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

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

There are no new compliance costs for affected persons because participation is optional.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

The purpose of this rule filing is to establish the standards and review process for participation in the program. This rule will have no negative impact on businesses. Dan Hemmert, Executive Director

**6. A) 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	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			

## NOTICES OF PROPOSED RULES

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

#### B) Department head approval of regulatory impact analysis:

The Executive Director of the Governor's Office of Economic Opportunity, Dan Hemmert, has reviewed and approved this fiscal analysis.

#### Citation Information

#### 7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 63N-3-204	Subsection 63G-3-201(2)(d)	
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2021
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<b>10. This rule change MAY become effective on:</b>	09/07/2021
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Dan Hemmert, Executive Director	<b>Date:</b>	07/14/2021
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#### R357. Governor, Economic Development.

#### [R357-11. Technology Commercialization and Innovation Program (TCIP).

##### R357-11-1. Purpose:

(1) The purpose of the Technology Commercialization and Innovation Act is to catalyze and enhance growth of technologies by encouraging interdisciplinary research activity and targeted areas, facilitating the transition of technologies out of the higher education to enhance job creation, and to support the commercialization of technologies developed by small businesses to enhance job creation.

##### R357-11-2. Authority:

(1) UCA 63N-3-204(2)(b) requires the office to make rules to regulate the Technology Commercialization Innovation Program ("TCIP") grant structure and awards and to recapture awards when a recipient fails to maintain a presence in Utah for at least five years after the award is made, as set forth in these rules.

##### R357-11-3. Definitions:

(1) This rule adopts the definitions set forth in 63N-3-203.

(2) "Board" means the Board of Business Development set forth in 63N-1-301.

(3) "Derivative Technology" means: Incremental advance or new of application of an existing technology.

(4) "Developmental Research Phase" means: A phase in which the technology is not beyond a basic concept as determined by the office.

(5) "New technology means" Intellectual property not previously marketed or generated revenue for any entity.

(6) Qualified Pre screening entity "means" A University's Technology Transfer Office or the USTAR Technology Outreach Innovation Program. This term only applies to University team applicants.

(7) "Service location" means a location where a grant recipient is developing and/or commercializing the new technology in a way that provides economic impact to the state; including but not limited to: job creation, new state revenue, and new local revenue.

(8) Solicitation Cycle Means: A granting cycle from application to grant distribution to be held at least once a year or more depending on availability of funds. All dates for any solicitation may be found on the TCIP website.

(9) "TCIP" means the Technology Commercialization and Innovation Program as defined in Utah Code Section 63N-3-203(6).

##### R357-11-4. General Grant Requirements:

(1) An applicant can only receive a TCIP award totaling an amount defined in policy per new technology. Policy shall be available on the TCIP website.

(2) An applicant may not submit more than one application in the same solicitation cycle if the applicant has more than one new technology that meets the eligibility requirement for a TCIP grant.

(a) Only one new technology project per applicant will be funded in a solicitation cycle.

(3) An applicant that has generated more than \$500,000 in revenue from the proposed new or derivative technology is not eligible for a TCIP grant.

(4) An applicant that has raised more than \$3,000,000 at the time of application in total prior funding, including equity and debt based financing, is not eligible for the TCIP grant.

~~(5) An applicant may apply for a TCIP grant up to three times. If an applicant has not been awarded a grant for that specific technology within three different solicitations, TCIP will reject subsequent applications without review. If an applicant who has previously received TCIP funding within the past three years wishes to apply for additional funding they can, however once that same technology has been reviewed and rejected three times without being funded it may no longer be considered for review. Executive Director of GOED or the director's designee has the right to review and accept or reject a technology that has been submitted over three times to ensure it meets these criteria.~~

#### **R357-11-5. Matching Funds.**

~~(1) Matching funds may be considered in granting an award if the Office provides notice of such a requirement in the application. If considered a grant recipient must show proof of the matching funds.~~

~~(2) Matching funds may be raised and spent at any time prior to submitting an invoice to the TCIP~~

~~(a) Grant recipient must submit bank statements (for Licensees) or financial statements (for Universities) demonstrating that the matching funds were available during the match period.~~

~~(b) If matching funds have been required by the Office to be a condition precedent to a grant award, matching funds do not have to be in place at the time of the application, but must be in place before TCIP funds are disbursed within the contract period of one year.~~

#### **R357-11-6. Applicant Specific Requirements.**

~~(1) University Teams: In order to apply for a grant or loan under the TCIP program, a University Team must satisfy the following initial criteria:~~

~~(a) The technology must be organized by faculty led university team;~~

~~(b) The technology must have completed the developmental research phase; and~~

~~(c) The applicant must be pre-screened by a qualified pre-screening entity.~~

~~(d) The qualified pre-screening entity must certify that the technology meets the criteria set forth in (a) and (b) of this section, and the certification must be provided before grant is awarded.~~

~~(2) Small Businesses: In order to apply for a grant or loan under the TCIP program, a small business must satisfy the following initial criteria:~~

~~(a) The applicant must be a "small business" as defined by the Federal Small Business Administration's definition and meet the criteria set forth in UCA Section 63N-3-203(5).~~

~~(3) A University licensee is also be eligible if it meets the definitions in (a) above.~~

#### **R357-11-7. Review of Applications and Awards.**

~~(1) Applicants who successfully meet the eligibility requirements set forth in R357-11-4 and R357-11-5 and R357-11-6 may submit their application for the TCIP grant through the online registration portal.~~

~~(2) The Executive Director of GOED or the director's designee will evaluate the applications received in each solicitation cycle. The Executive Director or the designee may use the following criteria, as defined by the Executive Director or the designee, to evaluate applications for TCIP grants:~~

~~(a) Quality, diversity, and number of jobs created in Utah;~~

~~(b) Quality of Management and Leadership, including experience with commercialization of new technologies as demonstrated by grant applicant's application and proposal;~~

~~(c) Strength of the new technology and potential for commercialization;~~

~~(d) Size and Growth of the market of the proposed technology~~

~~(e) Applicant's ability to market the technology and the credibility of their "go to market" strategy;~~

~~(f) Availability of matching funds and the source and relevance of those funds as set forth in R357-11-5~~

~~(g) Whether the project combines or coordinates related research at two or more institutions of higher education;~~

~~(h) Any other criteria deemed necessary or valuable to the selection process.~~

~~(3) Additionally, each applicant's application will be compared against and with the strength of all other applicants' applications and proposals within the same solicitation cycle.~~

~~(4) The Executive Director may assemble an outside review team to review the criteria set forth above and to make recommendations regarding the application.~~

~~(5) The Executive Director or his designee shall propose funding allocations to the Board.~~

~~(6) After the Board provides its advice, the Executive Director or the designee shall determine which applications should be prioritized for funding.~~

~~(7) Applications will be prioritized and funded based on the criteria set forth in (1) (3). Award letters will be provided setting forth the terms of the grant offer.~~

#### **R357-11-8. Requirements for Grant Recipients.**

~~(1) Contract~~

~~(a) An applicant who is awarded a TCIP grant must sign a contract with the State of Utah prior to receiving any funds~~

~~(2) Sub-Contracts~~

~~(a) Grant Recipients are prohibited from subcontracting with another entity to administer the new technology funded by the Grant.~~

~~(3) Time in State~~

~~(a) Grant recipients will be expected to retain their company, and supported technology, and exploit the technology in the State of Utah for a minimum period of five years from the date of their agreement with the State.~~

~~(b) Any applicant who fails to maintain a manufacturing or service location in the state or who fails to exploit the new technology from a location in the state will be subject to recapture of the grant funding, subject to the provisions of Utah Code Section 63N-3-204(2)(d) and R357-11-8.~~

~~(4) Authorization to disclose tax information~~

~~(a) Licensee grant recipients will be required to sign an authorization to disclose tax records for up to five years from the date of their agreement with the State.~~

~~(5) Mentoring Program~~

~~(a) Grant awardees may be required to participate in the TCIP Mentoring Program in order to secure funding.~~

~~(b) If a grant award is contingent on participation in the TCIP Mentoring Program, an awardee will be required to show active participation in the program prior to receiving any or part of the grant funding as outlined in recipient's contract.~~

#### **R357-11-9. Funding.**

~~(1) TCIP funding is for developing existing research to the point of commercialization, bridging the "funding gap" between research dollars and manufacturing dollars.~~

~~(2) TCIP funding may be used to:~~

~~(a) Purchase equipment;~~

- ~~\_\_\_\_\_ (b) Purchase supplies;~~
- ~~\_\_\_\_\_ (c) Fund graduate/undergraduate students for time directly applicable to center commercialization activities related to the new technology;~~
- ~~\_\_\_\_\_ (d) Fund faculty salaries directly applicable to center commercialization and related to the new technology;~~
- ~~\_\_\_\_\_ (e) Fund technology transfer activities (trade shows, brochures, etc.);~~
- ~~\_\_\_\_\_ (f) Fund market analysis;~~
- ~~\_\_\_\_\_ (g) Pay for consulting fees directly applicable to center commercialization;~~
- ~~\_\_\_\_\_ (h) Pay for business manager or marketing manager salaries directly applicable to center commercialization activities; or~~
- ~~\_\_\_\_\_ (i) Other purposes approved by GOED in writing.~~
- ~~\_\_\_\_\_ (3) Carryover Funds~~
- ~~\_\_\_\_\_ (a) The budget described in the contract is designated for the particular fiscal year and is an integral part of the contract. Upon the expiration of the contract, residual funds under the contract can only be accessed by amending the contract as described above.~~
- ~~\_\_\_\_\_ (4) Invoicing Requirement~~
- ~~\_\_\_\_\_ (a) To receive funds from the program, an invoice should be submitted by the awardee upon completion of the milestones or the mentor program with verification from the TCIP manager.~~
- ~~\_\_\_\_\_ (b) Every invoice must include:~~
  - ~~\_\_\_\_\_ (i) Contract Number;~~
  - ~~\_\_\_\_\_ (ii) Name of entity and Principal Investigator.;~~
  - ~~\_\_\_\_\_ (iii) Billing Period; and~~
  - ~~\_\_\_\_\_ (iv) Current and Cumulative Amounts.~~

**R357-11-10. Reporting Requirements.**

- ~~\_\_\_\_\_ (1) Reporting and Monitoring~~
- ~~\_\_\_\_\_ (a) Grant awardees or mentor will be required to submit a report of activities, achievements and expenses, etc., as specified in the awardees contract.~~
- ~~\_\_\_\_\_ (b) Grant awardees or mentor will be required to comply with the State's request for information pertaining to the economic impact to the State, at least annually for up to five years from date of the agreement.~~
- ~~\_\_\_\_\_ (c) Grant awardees or mentor will also be required to respond to additional periodic reporting to the TCIP Director, Governor's Office of Economic Development and GOED Board, and the Legislature, at any time during the agreement period and thereafter for two additional years.~~
- ~~\_\_\_\_\_ (d) Universities and Small Businesses should also expect periodic site visits from TCIP Director or board members. Such visits will be scheduled at mutually convenient times.~~

**R357-11-11. Recapture.**

- ~~\_\_\_\_\_ (1) In order to receive grant funding under these provisions, an applicant must commit to maintain a manufacturing location or service location in the State of Utah for at least five years from the date that the grant award letter is issued.~~
- ~~\_\_\_\_\_ (2) Maintaining a manufacturing and service location means that the applicant will perform at least 51% percent of the grant activities listed above in the State of Utah, will exploit the technology into a commercial project in Utah and will maintain working operations in the State for at least five years from the date the grant award letter is issued.~~
- ~~\_\_\_\_\_ (3) If the applicant fails to maintain a manufacturing a service location in Utah for at least five years from the date the grant award letter is issued, the entire grant amount may be subject to recapture.~~

~~\_\_\_\_\_ (4) A repayment by an applicant shall be prorated based on the number of full years the applicant operated in the state from the date of the awarded grant.~~

~~\_\_\_\_\_ (5) Should an applicant fail to comply with the requirements to maintain a manufacturing and service location in Utah for the purpose of exploiting the new technology that is the subject of the grant, the Office will issue a Notice of Agency Action for Recapture.~~

~~\_\_\_\_\_ (6) The Notice of Agency Action shall contain the grounds for recapture, and the prorated amount of the recapture, if any.]~~

**R357-11. Utah Technology Innovation Funding Pilot Rule.**

**R357-11-101. Purpose.**

~~\_\_\_\_\_ (1) The purpose of the Utah Technology Innovation Funding pilot is to leverage Utah small business success with the federal Small Business Innovation Research and Small Business Technology Transfer programs.~~

**R357-11-102. Definitions.**

~~\_\_\_\_\_ (1) The following terms are defined:~~

~~\_\_\_\_\_ (a) "Micro-grant" means a grant awarded to offset the cost of a SBIR or STTR Phase I proposal;~~

~~\_\_\_\_\_ (b) "Nonrecourse loan" means a loan awarded to a company that has received Phase I SBIR or STTR funding and has submitted a corresponding Phase II proposal;~~

~~\_\_\_\_\_ (c) "Rural County" means a county of the third, fourth, fifth, or sixth class.~~

~~\_\_\_\_\_ (d) "SBIR" means the federal small business innovation research program; and~~

~~\_\_\_\_\_ (e) "STTR" means the small business technology transfer program.~~

**R357-11-103. Authority.**

~~\_\_\_\_\_ (1) This rule is adopted by the office under the authority of Subsection 63G-3-201 (2) (d) and Section 63N-3-204~~

**R357-11-104. Award Amounts.**

~~\_\_\_\_\_ (1) Subject to available funds, a micro-grant may be awarded under the following terms:~~

~~\_\_\_\_\_ (a) a company shall not be awarded more than one SBIR or STTR micro-grant within a 5 year period;~~

~~\_\_\_\_\_ (b) a company must work with the Utah Innovation Center to prepare and submit a Phase I proposal;~~

~~\_\_\_\_\_ (c) a standard award may not exceed \$3,000; and~~

~~\_\_\_\_\_ (d) a company that is minority or women owned or located in a rural county may receive an additional award of \$2,000 for a total award amount of \$5,000.~~

~~\_\_\_\_\_ (2) Subject to available funds, a nonrecourse loan may be awarded under the following terms:~~

~~\_\_\_\_\_ (a) a company must have received a minimum \$100,000 SBIR or STTR Phase I award;~~

~~\_\_\_\_\_ (b) a company must work with the Utah Innovation Center to prepare and submit a corresponding Phase II proposal;~~

~~\_\_\_\_\_ (c) a company shall receive no more than two nonrecourse loans;~~

~~\_\_\_\_\_ (d) a standard award shall not exceed \$50,000; and~~

~~\_\_\_\_\_ (e) a company that is minority or women owned or located in a rural county may receive an additional award of \$10,000 for a total award amount of \$60,000.~~

**R357-40-105. Required Contract.**

~~\_\_\_\_\_ (1) The office reserves the right to award funding for any proposal in full or in part, to request additional information, or to reject any or all proposals.~~



(2) Upon award, and prior to disbursement of funds, awardee shall enter into a contract with the office governing the use of funding.

(3) Unless addressed in the terms and conditions of the contract between awardee and the office the following provisions shall apply:

(a) funding may not be used to provide a primary benefit to any state other than Utah; and

(b) for all other eligibility requirements, awardees must maintain eligibility status until the collaboration is complete, scope of work requirements have been met, final disbursement of funding has been made, and reporting has been completed.

#### **R357-40-106. Contract Modifications.**

(1) An awardee may request a modification to the terms of a contract.

(2) The office may deny a modification request for any reason.

(3) Approved changes shall be made in writing and through an amendment modifying the terms of the contract.

(4) Awardees refusal or failure to sign the contract within 90 days of receipt of the contract constitutes a rejection of the award and a waiver of any rights and benefits.

#### **R357-40-107. Funding Distribution.**

(1) The office shall reimburse the awardee for no more than the total amount specified in the contract.

(2) Payment will only be made for those costs authorized and approved by the office after sufficient documentation is provided in accordance with the terms and conditions provided in the contract.

(3) Misrepresentation to the office or violations of the agreement may result in forfeiture of funding, repayment of all or a portion of the funding received, or disqualification from continued funding.

(4) The office reserves the right to audit the use of grant funding.

**KEY:** technology, innovations, commercialization, small businesses  
Date of Enactment or Last Substantive Amendment: 2021~~October 13, 2017~~

Notice of Continuation: July 20, 2020

Authorizing, and Implemented or Interpreted Law: 63N-3-204~~(2)~~

#### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New

<b>Utah Admin. Code Ref (R no.):</b>	<b>R539-11</b>	<b>Filing ID</b> <b>53734</b>
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#### **Agency Information**

<b>1. Department:</b>	Human Services
<b>Agency:</b>	Services for People with Disabilities
<b>Building:</b>	MASOB
<b>Street address:</b>	195 N 1950 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	195 N 1950 W

<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kelly Thomson	435-669-4855	kthomson@utah.gov
Jonah Shaw	801-538-4219	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

#### **General Information**

##### **2. Rule or section catchline:**

R539-11. Intermediate Care Facility Advisory Committee

##### **3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):**

Staci Christensen and the entered into a settlement agreement in 2019. The Christensen v. Miner Settlement Agreement requires that the Intermediate Care Facility Advisory Committee (Committee) be established by law. The Committee will develop and recommend policy and practice that further reduces the intermediate care facility population.

##### **4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**

This rule codifies Committee membership, duties, and reporting requirements.

#### **Fiscal Information**

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

###### **A) State budget:**

No anticipated costs or savings to the state budget. Committee participation will be incorporated into the state employee's job duties. Community participation is voluntary and unpaid.

###### **B) Local governments:**

No anticipated costs or savings to local governments. Local level employees are not required to participate.

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

No anticipated costs or savings to small businesses. Participation by service providers is voluntary and can be incorporated into the employee's duties.

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

No anticipated costs or savings to non-small businesses. Participation by service providers is voluntary and can be incorporated into the employee's duties.

**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**):

No anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities. Participation by members of the public is voluntary. Participation does not require purchase of materials.

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

No anticipated compliance costs for affected persons. The Committee does not contain a compliance component. Committee recommendations may affect services offered through Medicaid.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed new rule will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

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

<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0

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

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

The Executive Director of the Department of Human Services, Tracy Gruber, reviewed and approved this fiscal analysis.

**Citation Information****7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Subsection 62A-5-103(2)(b)	Subsection 62A-5-103(2)(r)	Subsection 62A-5-103(2)(n)
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2021

**10. This rule change MAY become effective on:** 09/07/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	07/12/2021
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**R539. Human Services, Services for People with Disabilities. R539-11. Intermediate Care Facility Advisory Committee. R539-11-1. Purpose and Authority.**

(1) The purpose of this rule is to establish an advisory committee as required by the Christensen v. Miner Settlement Agreement, resolving Case No. 2:18CV37DAK in the United States

District Court for the District of Utah, as approved by Judge Dale A. Kimball on December 19, 2019.

(2) The Intermediate Care Facility Advisory Committee develops and proposes policy and practice to further reduce the intermediate care facility population.

(3) This rule is authorized by Subsections 62A-5-103(2)(b), 62A-5-103(2)(n), and 62A-5-103(2)(r).

#### **R539-11-2. Definitions.**

(1) Terms used in this rule are defined in Sections 62A-5-101, R539-1-3, and R414-510.

(2) "Committee" means the Intermediate Care Facility Advisory Committee.

(3) "HCBS" means home and community-based services. Home and community-based services are long term services and supports provided to individuals in their homes or other community settings that satisfy the requirements of 42 CFR Subsection 441.301(c)(4).

(4) "Large Intermediate Care Facility" means a facility with a bed count of 16 or more.

(5) "Medium Intermediate Care Facility" means a facility with a bed count of more than six and less than 16.

(6) "Settlement Agreement" means the Christensen v. Miner Settlement Agreement.

(7) "Small Intermediate Care Facility" means a facility with a bed count of six or fewer.

#### **R539-11-3. Membership.**

(1) The committee shall include:

(a) a representative of the division;

(b) a representative of the Utah Department of Health Division of Medicaid and Health Financing;

(c) a representative of the Disability Law Center;

(d) at least one resident of an intermediate care facility;

(e) at least one individual living in the community;

(f) at least one family member of a resident of an intermediate care facility;

(g) at least one family member of an individual living in the community;

(h) a large intermediate care facility provider;

(i) a medium intermediate care facility provider;

(j) an approved provider of an HCBS residential service;

(k) at least one approved provider of an HCBS supported living service;

(l) at least one approved provider of HCBS support coordination;

(m) a representative of the Utah Parent Center; and

(n) a representative of the Center for Persons with Disabilities at Utah State University.

(2) Subsection R539-11-3(1) lists the minimum representation required for committee membership.

#### **R539-11-4. Duties.**

(1) The committee shall operate in a manner that ensures information, work product, and activity are accessible to each member.

(2) The committee shall identify any barrier to HCBS for a resident or an individual at risk of residing in an intermediate care facility.

(3) The committee shall recommend policy and practice to further reduce the intermediate care facility population.

(a) A recommendation may include a change to legislative or administrative policy and practice.

(b) The committee shall address each of the following:

(i) strategy to further reduce the number of licensed intermediate care facilities;

(ii) strategy to further reduce the number of licensed intermediate care facility beds;

(iii) strategy to further reduce the number of large and medium size intermediate care facilities;

(iv) strategy to shift to greater reliance on small intermediate care facilities;

(v) strategy to ensure the competency of intermediate care facility staff and appropriate staffing ratio;

(vi) strategy to increase funding and any other available resource for HCBS; and

(vii) strategy to remove a barrier to HCBS.

(c) The committee may address any other topic that further reduces the intermediate care facility population.

(d) The committee may consider data and information that includes:

(i) data and information developed as a result of the Settlement Agreement;

(ii) information about economic development; and

(iii) information about a disability population that resides in any other institutional setting.

#### **R539-11-5. Report.**

(1) The committee shall prepare a written report on or before the termination date of the Settlement Agreement.

(2) The report shall include each recommendation for policy and practice that further reduces the intermediate care facility population over a ten-year period.

#### **R539-11-6. Termination.**

(1) Each duty and requirement of the committee shall end on the Settlement Agreement termination date.

(2) The committee shall stop meeting after the Settlement Agreement termination date.

**KEY: disabilities, intermediate care facility**

**Date of Enactment or Last Substantive Amendment: 2021**

**Authorizing, and Implemented or Interpreted Law: 62A-5-103**

#### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

**Utah Admin. Code Ref (R no.):** R592-7

**Filing ID**  
53742

#### **Agency Information**

<b>1. Department:</b>	Insurance
<b>Agency:</b>	Title and Escrow Commission
<b>Room no.:</b>	Suite 2300
<b>Building:</b>	Taylorville State Office Building
<b>Street address:</b>	4315 S 2700 W
<b>City, state and zip:</b>	Taylorville, UT 84129
<b>Mailing address:</b>	PO Box 146901

## NOTICES OF PROPOSED RULES

<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

### General Information

<b>2. Rule or section catchline:</b>
R592-7. Title Insurance Continuing Education
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
This rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended. The Title and Escrow Commission approved these changes in a July 12, 2021, meeting by a vote of 5 to 0.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards and to make the language of this rule more clear. It also updates Section R592-7-9, proposed Section R592-7-7, to use the Department's current language and removes an unlicensed person from the scope.

### Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget. The changes are clerical in nature and do not add, remove, or change regulations.
<b>B) Local governments:</b>
There is no anticipated cost or savings to local governments. This rule applies to insurance licensees and has no bearing on local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The changes are clerical in nature and do not add, remove, or change regulations.

<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
There is no anticipated cost or savings to non-small businesses. The changes are clerical in nature and do not add, remove, or change regulations.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):			
There is no anticipated cost or savings to any other persons. The changes are clerical in nature and do not add, remove, or change regulations.			
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no compliance costs for any affected persons. Any affected persons are already required to comply with the provisions of this rule, and the changes do not add, remove, or change regulations.			
<b>G) Comments by the department head on the fiscal impact this rule may have on businesses</b> (Include the name and title of the department head):			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner			
<b>6. A) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.			

**Citation Information**

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 31A-2-404(2)(a)(iii)		

**Public Notice Information**

<b>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. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	08/31/2021

<b>10. This rule change MAY become effective on:</b>	09/07/2021
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	07/15/2021
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**R592. Insurance, Title and Escrow Commission.****R592-7. Title Insurance Continuing Education.****R592-7-1. Authority.**

This rule is promulgated by the Title and Escrow Commission pursuant to Subsection 31A-2-404(2)(a)(iii) ~~which directs the Title and Escrow Commission to make rules for the administration of the provisions related to continuing education courses related to a title licensee~~.

**R592-7-2. Purpose and Scope.**

- (1) The purpose[s] of this rule ~~are~~ is to:
- (a) adopt continuing education requirements for ~~the approval of approving a continuing education course under Subsection 31A-2-404(2)(a)(iii);~~
  - (b) delegate authority from the Commission to the commissioner to approve a continuing education course related to a title licensee; and
  - (c) exempt a title licensee from the ~~provisions~~ requirements of Subsection R590-142-4(2)(c).
- (2) This rule applies to:
- (a) a title licensee; and
  - (b) ~~an unlicensed individual authorized to do business as a title licensee; and~~
  - (d) ~~a continuing education course~~ provider related to title insurance.
- (3) This rule does not apply to an individual who ~~is considered to have~~ has met the continuing education requirements ~~pursuant to~~ under Subsection 31A-23a-202(3)(b)(iii)(C).

**R592-7-3. Definitions.**

Terms used in this rule are defined in Sections 31A-1-301, 31A-2-402, and Rule R590-142. An additional term is defined as follows: ~~The following definitions shall apply for the purpose of this rule.~~

- (1) "Commission" means the Title and Escrow Commission as created under Subsection 31A-2-403(1)(a).
- (2) ~~1~~ "Continuing education course" means a continuing education course related to title insurance;
- (3) "Title licensee" has the same meaning as found in Subsection 31A-2-402(6).

**R592-7-4. Continuing Education Course and Approval.**

- (1) The Commission ~~hereby~~ delegates to the commissioner the authority to approve a continuing education course under Subsection 31A-2-404(2)(e).
- (2) The commissioner shall ~~rely on~~ use the requirements of Rule R590-142, Continuing Education Rule, ~~for the consideration of when considering~~ a request for a continuing education course approval.
- (3) When the commissioner approves a continuing education course, the course:
- (a) is ~~deemed~~ considered approved by the Commission and has concurrence of the commissioner under Subsection 31A-2-404(2)(e) and ~~this~~ Subsection R592-7-4(1); and
  - (b) ~~will be~~ is added to the ~~D~~ department's approved course list.
- (4) The commissioner shall provide a report to the Commission on a quarterly basis listing ~~new~~ continuing education courses approved ~~pursuant to this section~~ during the prior quarter.
- (5) If the commissioner disapproves a continuing education course, the commissioner shall:
- (a) remove the course from the ~~D~~ department's approved course list; and
  - (b) notify the course provider of the disapproved course.

**R592-7-5. Course Submission.**

A continuing education provider shall submit to the commissioner a request for approval of a continuing education course ~~in accordance with~~ under Section 31A-23a-202 and Rule R590-142.

# NOTICES OF PROPOSED RULES

## R592-7-6. Licensee Course Requirements.

(1) The continuing education credit hours required for the renewal of a title insurance producer license ~~[pursuant to]~~ under Subsections 31A-23a-202(3)(b)(iii)(A) and (B), may ~~[only]~~ be ~~[fulfilled through]~~ satisfied by completing an approved course that is:

- (a) related to title insurance, escrow, real estate, or ethics; and
- (b) categorized by the commissioner as:
  - (i) title;
  - (ii) title ethics; or
  - (iii) ethics.

(2)~~[(a)]~~ The restrictions ~~[set forth in]~~ under Subsection R590-142-4(2)(c) ~~[shall]~~ do not apply to a title licensee.

~~[(b)]~~ A title licensee may obtain ~~[all]~~ required credit hours through one or more insurers.

## R592-7-7]. Penalties.

~~A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

## R592-7-8. Enforcement Date.

~~The commissioner will begin enforcing this rule upon the rule's effective date.~~

## R592-7-9]. Severability.

~~[If any provision of this rule or its application to any person or situation is held to be invalid, such invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.] If any provision of this rule, Rule R592-7, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

**KEY:** title insurance continuing education

**Date of Enactment or Last Substantive Amendment:** 2021~~[July 30, 2018]~~

**Notice of Continuation:** June 10, 2019

**Authorizing, and Implemented or Interpreted Law:** 31A-2-308; 31A-2-402; 31A-2-404; 31A-23a-202

## NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R592-11</b>	<b>Filing ID 53743</b>
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## Agency Information

<b>1. Department:</b>	Insurance
<b>Agency:</b>	Title and Escrow Commission
<b>Room no.:</b>	Suite 2300
<b>Building:</b>	Taylorville State Office Building
<b>Street address:</b>	4315 S 2700 W
<b>City, state and zip:</b>	Taylorville, UT 84129
<b>Mailing address:</b>	PO Box 146901

<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

## General Information

### 2. Rule or section catchline:

R592-11. Title Insurance Producer Annual Reports

### 3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended. The Title and Escrow Commission approved these changes in a July 12, 2021, meeting by a vote of 5 to 0.

### 4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards and to make the language of this rule more clear. It also updates Section R592-11-6, proposed Section R592-11-5, to use the Department's current language and clarifies this rule's scope. It does not add, remove, or change any regulations or requirements.

## Fiscal Information

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

#### A) State budget:

There is no anticipated cost or savings to the state budget. The changes are clerical in nature and do not add, remove, or change regulations.

#### B) Local governments:

There is no anticipated cost or savings to local governments. This rule applies to insurance licensees and has no bearing on local governments.

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

There is no anticipated cost or savings to small businesses. The changes are clerical in nature and do not add, remove, or change regulations.

**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 are clerical in nature and do not add, remove, or change regulations.

**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 are clerical in nature and do not add, remove, or change regulations.

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

There are no compliance costs for any affected persons. Any affected persons are already required to comply with the provisions of this rule, and the changes do not add, remove, or change regulations.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

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

<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

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

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

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

**Citation Information****7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 31A-2-404	Section 31A-23a-406	Section 31A-23a-413
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2021

**10. This rule change MAY become effective on:** 09/07/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	07/15/2021
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**R592. Insurance, Title and Escrow Commission.****R592-11. Title Insurance Producer Annual Reports.****R592-11-1. Authority.**

This rule is promulgated by the Title and Escrow Commission pursuant to[

~~(1)-] Sections 31A-2-404(2)(a), 31A-23a-406, and 31A-23a-413[which requires the Title and Escrow Commission to make rules related to title insurance;~~

## NOTICES OF PROPOSED RULES

~~(2) Section 31A-23a-413, which requires certain title insurance producers to file an annual report; and~~  
~~(3) Subsection 31A-23a-406(1)(g), which requires the maintenance of a physical address in Utah].~~

### R592-11-2. Purpose and Scope.

(1) The purpose of this rule is to establish the [This rule establishes the] requirements of and a filing deadline for the Title Insurance Producer Annual Report required by Section 31A-23a-413.

(2) This rule applies to an agency title insurance producer and an individual title insurance producer.

### R592-11-3. Title Insurance Producer Annual Report.

(1) The following shall file a Title Insurance Producer Annual Report not later than April 30 of each year:

(a) an agency title insurance producer; and

(b) an individual title insurance producer who is not an employee of a title insurer or who has not been designated to an agency title insurance producer.

(2) A Title Insurance Producer Annual Report shall include:

(a) the number and location of each title or escrow trust account;

(b) proof of financial protection [required by] under Subsection 31A-23a-204(2)(a);[;]

(i) a copy of the declarations page of a fidelity bond;

(ii) a copy of the declarations page of a professional liability insurance policy; or

(iii) a copy of the commissioner's approval of equivalent financial protection approved by the commissioner;

(c) the name of the individual title insurance producer designated as the "qualifying licensee[;]" [as provided in] under Subsection 31A-23a-204(1);

(d) the physical address in Utah maintained by [the] an agency title insurance producer or an individual title insurance producer[; pursuant to] under Subsection 31A-23a-406(1)(g); and

(e) the physical address of each Utah branch office maintained by [the] an agency title insurance producer or an individual title insurance producer[;]

(3) A title insurance producer may comply with Subsection R592-11-3 by completing and submitting the Title Insurance Producer Annual Report Form that is available on the department's website].

### R592-11-4. Electronic Filing of Title Insurance Producer Annual Report.

The Title Insurance Producer Annual Report shall be submitted electronically using the [Insurance D] department's secure file upload site located at <https://forms.uid.utah.gov/insurance/fileUploads/>.

### R592-11-5. Enforcement Date.

~~The commissioner will begin enforcing this rule on its effective date.~~

### R592-11-6. Severability.

[If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.] If any provision of this rule, Rule R592-11, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The

remainder of this rule shall be given effect without the invalid provision or application.

KEY: title insurance

Date of Enactment or Last Substantive Amendment: 2021[December 23, 2019]

Notice of Continuation: June 14, 2021

Authorizing, and Implemented or Interpreted Law: 31A-2-404(2)(a); 31A-23a-406(1)(g); 31A-23a-413; 31A-23a-503(8)

## NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R602-1-5

Filing ID 53711

## Agency Information

<b>1. Department:</b>	Labor Commission	
<b>Agency:</b>	Adjudication	
<b>Room no.:</b>	Third Floor	
<b>Building:</b>	Heber M Wells	
<b>Street address:</b>	160 E 300 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 146600-	
<b>City, state and zip:</b>	Salt Lake City UT 84114-6600	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
	-	
Aurora Holley	801-530-6865	auroraholley@utah.gov
Chris Hill	801-362-3113	chill@utah.gov

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

## General Information

### 2. Rule or section catchline:

R602-1-5. Official Record

### 3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The Division of Adjudication (Division) is eliminating the term "audio" as the recording type because the Labor Commission is switching to video hearings. The Division is eliminating any term which qualifies the type of recording performed.

### 4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the



substantive differences between the repealed rule and the reenacted rule):

The Division is removing the term "audio" to reflect that recordings may be made using other formats.

### Fiscal Information

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

##### A) State budget:

This change in Section R602-1-5 will not result in an anticipated cost or savings. Previous hearings were recorded in an audio format. Current and future hearings will be recorded in a video format. The cost of recording an audio file is equivalent to the cost of recording a video file when the totality is considered. Audio recordings require additional equipment, such as expensive professional recording devices and professional microphones. The Division must purchase this audio equipment in groups of three for our three hearing rooms. Video hearings use more storage on the state servers, but do not require additional equipment to be purchased and maintained. Additional storage on the state servers is less expensive than maintaining audio equipment.

Ultimately, the change is a financial net zero. Parties will not incur any additional cost because appearing via video is less expensive than appearing in person. The Division is loath to call this a "savings" because such a statement would need to analyze the method by which hundreds of attorneys and their clients access the internet versus driving into Salt Lake City proper.

##### B) Local governments:

This rule change will not result in an anticipated cost or savings to local governments. Hearings are already recorded. The manner in which the recording is done is all that is changing.

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

This rule change will not result in an anticipated cost or saving to small businesses. Hearings are already recorded. The manner in which the recording is done is all that is changing.

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

This rule change will not result in an anticipated cost or saving to non-small businesses. Hearings are already recorded. The manner in which the recording is done is all that is changing.

##### E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation,

association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change will not result in an anticipated cost or savings to persons other than small businesses, non-small businesses, state or local government entities. Hearings are already recorded. The manner in which the recording is done is all that is changing.

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

There should be no compliance costs for affected persons because the hearings will still be recorded, just not audio only.

##### G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There should be no fiscal impact on businesses by making this rule change. Hearings are already recorded, the manner in which the recording will be made is changing. Jaceon R. Maughan, Commissioner

##### 6. A) 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	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

## NOTICES OF PROPOSED RULES

<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Commissioner of the Labor Commission, Jaceson R. Maughan, has reviewed and approved the regulatory impact analysis.			

## Citation Information

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 34A-1-302	Section 34A-1-304	Section 63G-4-102 et seq.

## Public Notice Information

<b>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. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	09/01/2021

<b>10. This rule change MAY become effective on:</b>	09/08/2021
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

## Agency Authorization Information

<b>Agency head or designee, and title:</b>	Jaceson R. Maughan, Commissioner	<b>Date:</b>	07/08/2021
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**R602. Labor Commission, Adjudication.****R602-1. General Provisions.****R602-1-5. Official Record.**

As contemplated by Section 34A-1-302(3), the only official record of any formal or informal hearing conducted by the Division is the [audio] recording kept by the administrative law judge during the hearing. Any recording or record kept of a formal or informal hearing other than that kept by the administrative law judge shall not be used for any purpose requiring an official record of the proceedings [as contemplated] in accordance with by Subsection 34A-1-302(3).

**KEY: witness fees, time, administrative procedures, filing deadlines**  
**Date of Enactment or Last Substantive Amendment: 2021 [October 9, 2015]**

Notice of Continuation: May 8, 2017

Authorizing, and Implemented or Interpreted Law: 34A-1-302; 34A-1-304; 63G-4-102 et seq.

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R602-2-1</b>	<b>Filing ID</b>	<b>53700</b>
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## Agency Information

<b>1. Department:</b>	Labor Commission	
<b>Agency:</b>	Adjudication	
<b>Room no.:</b>	Third Floor	
<b>Building:</b>	Heber M Wells	
<b>Street address:</b>	160 E 300 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 146600	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6600	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Aurora Holley	801-530-6865	auroraholley@utah.gov
Chris Hill	801-362-3113	chill@utah.gov
Please address questions regarding information on this notice to the agency.		

## General Information

<b>2. Rule or section catchline:</b>
R602-2-1. Adjudicative Process
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The Division of Adjudication (Division) is modifying the already existing hearing rule to designate remote video hearings as the default proceeding. The Division is also changing the requirement for filing medical exhibits to electronic filings.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
Video hearings are now the default. A party may request an in-person hearing for good cause shown. Medical Record Exhibits will now be filed electronically.

**Fiscal Information****5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

This rule change will not result in anticipated cost or savings to the state budget. This rule change establishes video hearings and electronic medical record exhibits as the default method for each event.

**B) Local governments:**

This rule change will not result in anticipated cost or savings to local governments. This rule change establishes video hearings and electronic medical record exhibits as the default method for each event.

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

This rule change will not result in anticipated cost or savings to small businesses. This rule change establishes video hearings and electronic medical record exhibits as the default method for each event.

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

This rule change will not result in anticipated cost or savings to non-small businesses. This rule change establishes video hearings and electronic medical record exhibits as the default method for each event.

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

This rule change will not result in anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities. This rule change establishes video hearings and electronic medical record exhibits as the default method for each event.

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

This rule change will not result in anticipated compliance costs for affected person because hearings are currently held, and medical record exhibits are currently filed. This rule change establishes video hearings and electronic medical record exhibits as the default method for each event.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

This rule change will not result in a fiscal impact on businesses because hearings are currently held, and medical record exhibits are currently filed. This rule

change establishes video hearings and electronic medical record exhibits as the default method for each event. Jaceson R. Maughan, Commissioner.

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

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Commissioner of the Labor Commission, Jaceson R. Maughan, has reviewed and approved the regulatory impact analysis.

**Citation Information****7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 34A-1-301 et seq.	Section 63G-4-102 et seq.	Subsection 34A-1-304(2)
Section 34A-2-212		

**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. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 09/01/2021

**10. This rule change MAY become effective on:** 09/08/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Jacson R. Maughan, Commissioner	<b>Date:</b>	07/08/2021
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**R602. Labor Commission, Adjudication.****R602-2. Adjudication of Workers' Compensation and Occupational Disease Claims.****R602-2-1. Adjudicative Process.****A. Definitions.**

1. "Commission" means the Labor Commission.  
 2. "Division" means the Division of Adjudication within the Labor Commission.

3. "Application for Hearing" means Adjudication Form 001 Application for Hearing Industrial Accident Claim, Adjudication Form 026 Application for Hearing Occupational Disease Claim, Adjudication Form 025 Application for Dependent's Benefits and Burial Benefits Industrial Accident, Adjudication Form 027 Application for Dependent's Benefits Occupational Disease, or other request for agency action complying with Section 63G-4-102 et seq. filed by an employer or insurance carrier regarding a workers compensation claim.

4. "Supporting medical documentation" means Adjudication Form 113 Summary of Medical Record or other medical report or treatment note completed by a physician that indicates the presence or absence of a medical causal connection between benefits sought and the alleged industrial injury or occupational disease.

5. "Authorization to Release Medical Records" is Adjudication Form 308 Authorization to Disclose, Release and Use Protected Health Information authorizing the injured workers' medical providers to provide medical records and other medical information to the commission or a party.

6. "Supporting documents" means supporting medical documentation, Adjudication Form 307 Medical Treatment Provider List, Adjudication Form 308 Authorization to Disclose, Release and Use Protected Health Information and, when applicable, Adjudication Form 152 Appointment of Counsel.

7. "Petitioner" means the person or entity who has filed an Application for Hearing.

8. "Respondent" means the person or entity against whom the Application for Hearing was filed.

9. "Discovery motion" includes a motion to compel or a motion for protective order.

10. "Designated agent" is the agent authorized to receive all notices and orders in workers' compensation adjudications pursuant to Section 34A-2-113. Designated agents shall provide the Adjudication Division an electronic address to receive delivery of documents from the Adjudication Division.

**B. Application for Hearing.**

1. Whenever a claim for compensation benefits is denied by an employer or insurance carrier, the burden rests with the injured worker, authorized representative of a deceased worker's estate, dependent of a deceased worker or medical provider, to initiate agency action by filing an appropriate Application for Hearing with the Division. Applications for hearing shall include an original, Adjudication Form 308 Authorization to Disclose, Release and Use Protected Health Information.

2. An employer, insurance carrier, or any other party with standing under the Workers Compensation Act may obtain a hearing before the Adjudication Division by filing a request for agency action with the Division complying with the Section 63G-4-102 et seq.

3. An Application for Hearing shall include supporting medical documentation of the claim where there is a dispute over medical issues. Applications for Hearing without supporting documentation and a properly completed Adjudication Form 308 Authorization to Disclose, Release and Use Protected Health Information may not be mailed to the employer or insurance carrier for answer until the appropriate documents have been provided. In addition to respondent's answer, a respondent may file a motion to dismiss the Application for Hearing where there is no supporting medical documentation filed to demonstrate medical causation when such is at issue between the parties.

4. When an Application for Hearing with appropriate supporting documentation is filed with the Division, the Division shall mail to the respondents a copy of the Application for Hearing, supporting documents and Notice of Formal Adjudication and Order for Answer.

5. In cases where the injured worker is represented by an attorney, a completed and signed Adjudication Form 152 Appointment of Counsel form shall be filed with the Application for Hearing or upon retention of the attorney.

**C. Answer.**

1. The respondent shall have 30 days from the date of mailing the Order for Answer to file a written answer to the Application for Hearing.

2. The answer shall admit or deny liability for the claim and shall state the reasons liability is denied. The answer shall state all affirmative defenses with sufficient accuracy and detail that the petitioner and the Division may be fully informed of the nature and substance of the defenses asserted.

3. An answer shall include a summary of benefits which have been paid to date on the claim, designating such payments by category, such as medical expenses, temporary total disability, permanent partial disability.

4. When liability is denied based upon medical issues, copies of reasonably available, admissible medical reports sufficient to support the denial of liability shall be filed with the answer.

5. If the answer filed by the respondents fails to sufficiently explain the basis of the denial, fails to include medical reports or records to support the denial, or contains affirmative defenses without sufficient factual detail to support the affirmative defense, the Division may strike the answer filed and order the respondent to

file within 20 days a new answer which conforms with the requirements of this rule.

6. An answer must state whether the respondent is willing to mediate the claim.

7. Petitioners are allowed to timely amend the Application for Hearing, and respondents are allowed to timely amend the answer, as newly discovered information becomes available that would warrant the amendment. The parties shall not amend their pleadings later than 45 days prior to the scheduled hearing without leave of the Administrative Law Judge.

8. Responses and answers to amended pleadings shall be filed within ten days of service of the amended pleading without further order of the Labor Commission.

#### D. Default.

1. If a respondent fails to file an answer as provided in Subsection (c), the Division may enter a default against the respondent.

2. If default is entered against a respondent, the Division may conduct any further proceedings necessary to take evidence and determine the issues raised by the Application for Hearing without the participation of the party in default pursuant to Subsection 63G-4-209(4).

3. A default of a respondent shall not be construed to deprive the Employer's Reinsurance Fund or Uninsured Employers' Fund of any appropriate defenses.

4. The defaulted party may file a motion to set aside the default under the procedures in Subsection 63G-4-209(3). The Adjudication Division shall set aside defaults upon written and signed stipulation of parties to the action.

#### E. ~~Waiver of~~ Hearing.

1. Hearings shall take place through an electronic platform as noticed by the Division. An administrative law judge may grant permission for an in-person hearing when good cause is shown.

#### 2. Waiver of Hearing

~~[4]~~a. The parties may, with the approval of the administrative law judge, waive their right to a hearing and enter into a stipulated set of facts, which may be submitted to the administrative law judge. The administrative law judge may use the stipulated facts, medical records and evidence in the record to make a final determination of liability or refer the matter to a Medical Panel for consideration of the medical issues pursuant to Section R602-2-2.

~~[2]~~b. Stipulated facts shall include sufficient facts to address the issues raised in the Application for Hearing and answer.

~~[3]~~c. In cases where Medical Panel review is required, the administrative law judge may forward the evidence in the record, including medical records, fact stipulations, radiographs and deposition transcripts, to a medical panel for assistance in resolving the medical issues.

#### F. Discovery.

1. Upon filing the answer, the respondent and the petitioner may commence discovery. Discovery documents may be delivered by electronic transmittal. Discovery allowed under this rule may include interrogatories, requests for production of documents, depositions, and medical examinations. Discovery shall not include requests for admissions. Appropriate discovery under this rule shall focus on matters relevant to the claims and defenses at issue in the case. Discovery requests are deemed continuing and shall be promptly supplemented by the responding party as information becomes available.

2. Without leave of the administrative law judge, or written stipulation, any party may serve upon any other party written interrogatories, not exceeding 25 in number, including discrete

subparts, to be answered by the party served. The frequency or extent of use of interrogatories, requests for production of documents, medical examinations or depositions shall be limited by the administrative law judge if it is determined that:

a. the discovery sought is unreasonably cumulative or duplicative, or is obtainable from another source that is more convenient, less burdensome, or less expensive;

b. the party seeking discovery has had ample opportunity by discovery in the action to obtain the discovery sought; or

c. the discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the adjudication.

3. Upon reasonable notice, the respondent may require the petitioner to submit to a medical examination by a physician of the respondent's choice.

a. Petitioner may seek relief from the medical examination detailed in ~~[this subsection]~~ Subsection (3), and the administrative law judge may provide such relief, upon the showing by a petitioner of an unreasonable demand by respondent related to such medical examination.

b. Respondent shall send any questionnaire, consent or release forms requested by the examining physician or insurance carrier to the petitioner at least 14 days prior to the scheduled medical examination.

c. After a reasonable attempt between the parties to resolve any issues which may arise due to the forms in ~~[s]~~ Subsection (b), a petitioner shall file objections to any questionnaire, consent or release forms requested by the examining physician or insurance carrier with the administrative law judge at least seven days prior to the scheduled medical examination.

4. Parties may conduct depositions pursuant to the Utah Rules of Civil Procedure and Section 34A-1-308.

5. Requests for production of documents are allowed, but limited to matters relevant to the claims and defenses at issue in the case, and shall not include requests for documents provided with the petitioner's Application for Hearing, nor the respondents' answer.

6. Parties shall diligently pursue discovery so as not to delay the adjudication of the claim. If a hearing has been scheduled, discovery motions shall be filed no later than 45 days prior to the hearing unless leave of the administrative law judge is obtained.

7. Discovery motions shall contain copies of relevant documents pertaining to the discovery at issue, such as mailing certificates and follow up requests for discovery. The responding party shall have ~~[40]~~ten days from the date the discovery motion is mailed to file a response to the discovery motion.

8. Parties conducting discovery under this rule shall maintain mailing certificates and follow up letters regarding discovery to submit in the event Division intervention is necessary to complete discovery. Discovery documents shall not be filed with the Division at the time they are forwarded to opposing parties.

9. Any party who fails to obey an administrative law judge's discovery order shall be subject to the sanctions available under the Utah Rules of Civil Procedure, Rule 37.

10. Notwithstanding the disclosures required under Section R602-2-1, parties shall remain obligated to respond timely and appropriately to discovery requests.

#### G. Subpoenas.

1. Commission subpoena forms shall be used in discovery proceedings to compel the attendance of witnesses. Subpoenas shall be signed by the administrative law judge assigned to the case, or the duty judge where the assigned judge is not available. Subpoenas to

## NOTICES OF PROPOSED RULES

compel the attendance of witnesses shall be served at least 14 days prior to the hearing consistent with the Utah Rules of Civil Procedure, Rule 45. Witness fees and mileage shall be paid by the party which subpoenas the witness.

2. A subpoena to produce records shall be served on the holder of the record at least 14 days prior to the date specified in the subpoena as provided in the Utah Rule of Civil Procedure, Rule 45. Fees associated with the production of documents shall be paid by the party which subpoenas the record.

### H. Medical Records Exhibit.

1. The parties are expected to exchange medical records during the discovery period.

2. Petitioner shall submit all relevant medical records contained in his possession to the respondent for the preparation of a joint medical records exhibit at least twenty working days prior to the scheduled hearing.

3. The respondent shall prepare a joint medical record exhibit containing all relevant medical records. The medical record exhibit shall include all relevant treatment records that tend to prove or disprove a fact in issue. Hospital nurses' notes, duplicate materials, and other non-relevant materials need not be included in the medical record exhibit.

4. The medical records shall be indexed, paginated, arranged by medical care provider in chronological order and bound. The medical records ~~[may not]~~ shall be filed via electronic transmittal.

5. The medical record exhibit prepared by the respondent shall be delivered to the Division and the petitioner or petitioner's counsel at least ten working days prior to the hearing. Late-filed medical records may or may not be admitted at the discretion of the administrative law judge by stipulation or for good cause shown.

6. The administrative law judge may require the respondent to submit an additional copy of the joint medical record exhibit in cases referred to a medical panel.

7. The petitioner is responsible to obtain radiographs and diagnostic films for review by the medical panel. The administrative law judge shall issue subpoenas where necessary to obtain radiology films.

### I. Hearing.

1. Notices of hearing shall be mailed to the addresses of record of the parties. The parties shall provide current addresses to the Division for receipt of notices or risk the entry of default and loss of the opportunity to participate at the hearing.

2. Judgment may be entered without a hearing after default is entered or upon stipulation and waiver of a hearing by the parties.

3. No later than 45 days prior to the scheduled hearing, parties shall file a signed pretrial disclosure form that identifies: (a) fact witnesses the parties actually intend to call at the hearing; (b) expert witnesses the parties actually intend to call at the hearing; (c) language translator the parties intend to use at the hearing; (d) exhibits, including reports, the parties intend to offer in evidence at the hearing; (e) the specific benefits or relief claimed by the petitioner; (f) the specific defenses that the respondent actually intends to litigate; (g) whether, or not, a party anticipates that the case will take more than two hours of hearing time; (h) the job categories or titles the respondents claim the petitioner is capable of performing if the claim is for permanent total disability, and; (i) any other issues that the parties intend to ask the administrative law judge to adjudicate. The administrative law judge may exclude witnesses, exhibits, evidence, claims, or defenses as appropriate of any party who fails to timely file a signed pre-trial disclosure form as set forth above. The parties shall supplement the pre-trial disclosure form

with information that newly becomes available after filing the original form. The pre-trial disclosure form does not replace other discovery allowed under these rules.

4. If the petitioner requires the services of language translation during the hearing, the petitioner has the obligation of providing a person who can translate between the petitioner's native language and English during the hearing. If the respondents are dissatisfied with the proposed translator identified by the petitioner, the respondents may provide a qualified translator for the hearing at the respondent's expense.

5. The petitioner shall appear at the hearing prepared to outline the benefits sought, such as the periods for which compensation and medical benefits are sought, the amounts of unpaid medical bills, and a permanent partial disability rating, if applicable. If mileage reimbursement for travel to receive medical care is sought, the petitioner shall bring documentation of mileage, including the dates, the medical provider seen and the total mileage.

6. The respondent shall appear at the hearing prepared to address the merits of the petitioner's claim and provide evidence to support any defenses timely raised.

7. Parties are expected to be prepared to present their evidence on the date the hearing is scheduled. Requests for continuances may be granted or denied at the discretion of the administrative law judge for good cause shown. Lack of diligence in preparing for the hearing shall not constitute good cause for a continuance.

8. Subject to the continuing jurisdiction of the Labor Commission, the evidentiary record shall be deemed closed at the conclusion of the hearing, and no additional evidence will be accepted without leave of the administrative law judge.

### J. Motions-Time to Respond.

Responses to all motions shall be filed within ~~[10]~~ ten days from the date the motion was filed with the Division. Reply memoranda shall be filed within ~~[5]~~ five days from the date a response was filed with the Division.

### K. Motions - Length and Type

1. Without prior leave of the Administrative Law Judge, supporting memorandum shall not exceed a total of 10 pages, opposing memorandum shall not exceed ~~[7]~~ seven pages and reply memorandum shall not exceed ~~[3]~~ three pages. Pleadings shall be double spaced.

a. The page limitations are inclusive of headings, table of contents, introduction, background, conclusion, statement of issues and facts, and arguments.

b. The text of motions and memoranda shall be typeset in 12-point.

c. The Administrative Law Judge shall not consider anything contained on pages which exceed the page limits.

d. If a memorandum is to exceed the page limitations set forth in this rule, leave of the Administrative Law Judge must first be obtained. A motion for leave to file a lengthy memorandum must include a statement of the reasons why additional pages are needed and specify the number required. The Administrative Law Judge will approve such requests only for good cause and a showing of exceptional circumstances that justify the need for an extension of the specified page limitations. Absent such a showing by the requesting party, such requests will not be approved. A lengthy memorandum must not be filed with the Division prior to an entry of an order authorizing its filing.

2. Other than one supporting and one opposing and one reply memoranda, no other memoranda shall be considered by the Administrative Law Judge.

## L. Orders on Continuances.

The Administrative Law Judge may rule, ex parte, on requests for continuances.

## M. Notices.

1. Orders and notices mailed by the Division to the last address of record provided by a party are deemed served on that party.

2. Where an attorney appears on behalf of a party, notice of an action by the Division served on the attorney is considered notice to the party represented by the attorney.

## N. Form of Decisions.

Decisions of the presiding officer in any adjudicative proceeding shall be issued in accordance with the provisions of Section 63G-4-203 or 63G-4-208.

## O. Motions for Review.

1. Any party to an adjudicative proceeding may obtain review of an Order issued by an Administrative Law Judge by filing a written request for review with the Adjudication Division in accordance with the provisions of Section 63G-4-301 and Section 34A-1-303. Unless a request for review is properly filed, the Administrative Law Judge's Order is the final order of the Commission. If a request for review is filed, other parties to the adjudicative proceeding may file a response within 15 calendar days of the date the request for review was filed. If such a response is filed, the party filing the original request for review may reply within [5]five calendar days of the date the response was filed. Thereafter the Administrative Law Judge shall:

a. reopen the case and enter a Supplemental Order after holding such further hearing and receiving such further evidence as may be deemed necessary;

b. amend or modify the prior Order by a Supplemental Order; or

c. refer the entire case for review under Section 34A-2-801.

2. Motions for Review shall not exceed a total of 15 pages. Response briefs shall not exceed a total of 12 pages. Reply briefs shall not exceed a total of [5]five pages. All motions and briefs shall be double spaced.

a. The page limitations herein are inclusive of headings, table of contents, introduction, background, conclusion, statement of issues and facts, and arguments.

b. The text of motions and memoranda shall be typeset in 12-point font.

c. The Commission and the Appeals Board may disregard argument or other writing contained on pages which exceed the page limits.

3. If the Administrative Law Judge enters a Supplemental Order~~[as provided in this subsection]~~ under Subsection (1)(a) or (b), it shall be final unless a request for review of the same is filed.

## P. Procedural Rules.

In formal adjudicative proceedings, the Division shall generally follow the Utah Rules of Civil Procedure regarding discovery and the issuance of subpoenas, except as the Utah Rules of Civil Procedure are modified by the express provisions of Section 34A-2-802 or as may be otherwise modified by these rules.

## Q. Requests for Reconsideration and Petitions for Judicial Review.

A request for reconsideration of an Order on Motion for Review may be allowed and shall be governed by the provisions of Section 63G-4-302. Any petition for judicial review of final agency action shall be governed by the provisions of Section 63G-4-401.

## R. Request for Abstract.

## 1. Timing of Request.

a. A petitioner who seeks an abstract relative to an award of benefits other than permanent total disability benefits shall file the request after the order of the commission becomes final.

b. A petitioner who seeks an abstract relative to an award of permanent total disability benefits may file the request:

i. after the order of the commission becomes final; or

ii. where the award has been subject to agency review, after a preliminary determination is issued by the commissioner or the appeals board affirming that the petitioner is permanently and totally disabled, unless that preliminary decision is stayed under Subsection 34A-2-212(3), Section 63G-4-405 or set aside by the Utah Court of Appeals.

c. A motion to stay a preliminary permanent total disability determination shall be filed with the body that conducted agency review pursuant to Subsections R612-200-5(C)(1)(d) and R612-200-5(e).

## 2. Content of Filing. A request for abstract shall:

a. set forth verbatim the language of the final order or preliminary decision that awards the benefits at issue[-];

b. set forth the specific monetary sums claimed for each benefit that has been awarded and that is at issue[-];

c. include evidence available to the petitioner that corroborates the specific monetary sums claimed, ~~[including but not limited to]~~ such as:

i. billing statements;

ii. RBRVS calculations;

iii. interest calculations; and

iv. evidence of amounts paid[-]; and

d. ~~[H]~~include an exact copy, in its entirety, of each order that awards benefits for which the abstract is sought.

## 3. Adjudication of Contest.

a. A request for abstract may be adjudicated by the administrative law judge who issued the order awarding the benefits at issue, unless reassigned to another judge.

b. Any objection to the request for abstract shall be filed within ten days of the filing date of the request.

c. If an objection is filed, any reply shall be filed within five days of the filing date of the objection.

d. If a proffer of conflicting evidence demonstrates a need to clarify or modify the abstract, the administrative law judge may schedule a hearing. Any such hearing may be held using electronic means.

e. The administrative law judge shall issue an order adjudicating the request for abstract within 20 days of:

i. the respondent's objection deadline, if the respondent does not object to the abstract;

ii. the petitioner's reply deadline, if the briefing does not demonstrate a need to clarify or modify the abstract; or

iii. the date on which the administrative law judge conducts a hearing on the abstract.

f. The administrative law judge's decision regarding the request for abstract shall be subject to agency review only if agency review is requested before the abstract is filed with the district court.

**KEY: workers' compensation, administrative procedures, hearings, abstract of judgment**

**Date of Enactment or Last Substantive Amendment: 2021|October 22, 2020|**

**Notice of Continuation: May 9, 2017**

**Authorizing, and Implemented or Interpreted Law: 34A-1-301 et seq.; 63G-4-102 et seq.; 34A-1-304(2); 34A-2-212**

**NOTICE OF PROPOSED RULE****TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R614-1-4</b>	<b>Filing ID</b> <b>53701</b>
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**Agency Information**

<b>1. Department:</b>	Labor Commission	
<b>Agency:</b>	Occupational Safety and Health	
<b>Room no.:</b>	Third Floor	
<b>Building:</b>	Heber M Wells Building	
<b>Street address:</b>	160 E 300 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 146650	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6650	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Cameron S. Ruppe	801-530-6898	cruppe@utah.gov
Holly D. Lawrence	801-530-6494	hlawrence@utah.gov

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

**General Information****2. Rule or section catchline:**

R614-1-4. Incorporation of Federal Standards

**3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):**

The reason for this change is to incorporate the July 1, 2020, edition of the Code of Federal Regulations (CFR) in order to remove and revise safety and health standard requirements that are outdated, duplicative, unnecessary and inconsistent, which will permit better compliance by employers and reduce costs and paperwork burdens where possible, without reducing employee protections.

**4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**

The revisions include an update to the consensus standard incorporated by reference for signs and devices used to protect workers near automobile traffic, a revision to the requirements for roll-over protective structures to comply with current consensus standards, updates for storage of digital x-rays, and the method of calling emergency services to allow for use of current technology. Two standards are also being revised to align with current medical practice: A reduction to the number of necessary

employee x-rays and updates to requirements for pulmonary function testing. To protect employee privacy and prevent identity fraud, the requirements that employers include an employee's social security number (SSN) on exposure monitoring, medical surveillance, and other records were also removed from the standards. This is not an economically significant regulatory action.

**Fiscal Information****5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

Enactment of this proposed rule amendment is not expected to have a fiscal impact on the state budget, as the changes made removes and revises outdated, duplicative, unnecessary and inconsistent safety and health standard requirements. There will be no additional burden placed on the Utah Occupational Safety and Health Division as a result of these changes.

**B) Local governments:**

It is not anticipated that enactment of this proposed rule amendment will incur a cost to local governments, as the changes made remove and revise outdated, duplicative, unnecessary and inconsistent safety and health standard requirements. Some local government entities who fall within the scope of 29 CFR 1910.1029 (Coke Oven Emissions), 29 CFR 1910.1045 (Acrylonitrile), and 29 CFR 1910.1018 (Inorganic Arsenic) may anticipate savings as a result of the removal of the requirement for periodic chest X-rays (CXR). At the time these standards were promulgated, routine screening for lung cancer with CXR was considered appropriate; however, recent studies with many years of follow-up have not shown a benefit from CXR screening for either lung cancer incidence or mortality. The Occupational Safety and Health Administration (OSHA) estimates the CXR cost per each exam at \$73.11. The number of employees who are affected by these standards are unknown, therefore, the anticipated savings is inestimable.

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

It is not anticipated that enactment of this proposed rule amendment will incur a cost to small businesses, as the changes made remove and revise outdated, duplicative, unnecessary and inconsistent safety and health standard requirements. Some small businesses who fall within the scope of 29 CFR 1910.1029 (Coke Oven Emissions), 29 CFR 1910.1045 (Acrylonitrile), and 29 CFR 1910.1018 (Inorganic Arsenic) may anticipate savings as a result of the removal of the requirement for periodic CXRs. At the time these standards were promulgated, routine screening for lung cancer with CXR was considered appropriate; however, recent studies with many years of follow-up have not shown a benefit from CXR screening for either lung cancer incidence or mortality. OSHA estimates the CXR cost per each exam at \$73.11. The number of employees



who are affected by these standards are unknown, therefore, the anticipated savings is inestimable.

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

It is not anticipated that enactment of this proposed rule amendment will incur a cost to non-small businesses, as the changes made removes and revises outdated, duplicative, unnecessary and inconsistent safety and health standard requirements. Some non-small businesses who fall within the scope of 29 CFR 1910.1029 (Coke Oven Emissions), 29 CFR 1910.1045 (Acrylonitrile), and 29 CFR 1910.1018 (Inorganic Arsenic) may anticipate savings as a result of the removal of the requirement for periodic CXRs. At the time these standards were promulgated, routine screening for lung cancer with CXR was considered appropriate; however, recent studies with many years of follow-up have not shown a benefit from CXR screening for either lung cancer incidence or mortality. OSHA estimates the CXR cost per each exam at \$73.11. The number of employees who are affected by these standards are unknown, therefore, the anticipated savings is inestimable.

**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**):

Enactment of this proposed rule amendment may incur a cost for persons other than small businesses, non-small businesses, state, or local government entities. Such persons who provide medical services to help employers comply with CXR requirements under 29 CFR 1910.1029 (Coke Oven Emissions), 29 CFR 1910.1045 (Acrylonitrile), and 29 CFR 1910.1018 (Inorganic Arsenic) may anticipate the loss of revenue as a result of the removal of the requirement for periodic CXRs. OSHA estimates the CXR cost per each exam at \$73.11. The number of employees who are affected by these standards are unknown, therefore, the cost incurred by persons who provide periodic CXRs is inestimable.

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

Affected persons will not incur costs as a result of adhering to the proposed rule amendment.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

It is not anticipated that enactment of this proposed rule amendment will incur a cost to businesses, as the changes made removes and revises outdated, duplicative, unnecessary and inconsistent safety and health standard requirements. Some small businesses who fall within the scope of 29 CFR 1910.1029 (Coke Oven Emissions), 29 CFR 1910.1045 (Acrylonitrile), and 29 CFR 1910.1018

(Inorganic Arsenic) may anticipate savings as a result of the removal of the requirement for periodic CXRs. At the time these standards were promulgated, routine screening for lung cancer with CXR was considered appropriate; however, recent studies with many years of follow-up have not shown a benefit from CXR screening for either lung cancer incidence or mortality. OSHA estimates the CXR cost per each exam at \$73.11. The number of employees who are affected by these standards are unknown, therefore, the anticipated savings is inestimable. Jaceson R. Maughan, Commissioner

**6. A) 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	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Commissioner of the Labor Commission, Jaceson R Maughan, has reviewed and approved of the regulatory impact analysis.

## Citation Information

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Title 34A,  
Chapter 6

## Incorporations by Reference Information

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

	First Incorporation
<b>Official Title of Materials Incorporated (from title page)</b>	29 CFR 1904
<b>Date Issued</b>	July 1, 2020

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

	Second Incorporation
<b>Official Title of Materials Incorporated (from title page)</b>	29 CFR 1910.6 and 1910.21 through end of part 1910
<b>Date Issued</b>	July 1, 2020

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

	Third Incorporation
<b>Official Title of Materials Incorporated (from title page)</b>	29 CFR 1926.6 and 1926.20 through the end of part 1926
<b>Date Issued</b>	July 1, 2020

## 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. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 09/01/2021

**10. This rule change MAY become effective on:** 09/08/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

## Agency Authorization Information

<b>Agency head or designee, and title:</b>	Jaceson R. Maughan, Commissioner	<b>Date:</b>	07/08/2021
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**R614. Labor Commission, Occupational Safety and Health.****R614-1. General Provisions.****R614-1-4. Incorporation of Federal Standards.**

A. The following federal occupational safety and health standards are hereby incorporated:

1. 29 CFR 1904, July 1, [2019]2020, is incorporated by reference, except 29 CFR 1904.36 and the workplace fatality, injury and illness reporting requirements found in 29 CFR 1904.1, 1904.2, 1904.7 and 1904.39. Workplace fatalities, injuries and illnesses shall be reported pursuant to the more specific Utah standards in subsection 34A-6-301(3)(b)(ii) of the Utah OSH Act and UAC R614-1-5(B)(1).

2. 29 CFR 1908, July 1, 2015, is incorporated by reference.

3. 29 CFR 1910.6 and 1910.21 through the end of part 1910, of the July 1, [2019]2020, edition are incorporated by reference.

4. 29 CFR 1926.6 and 1926.20 through the end of part 1926, of the July 1, [2019]2020, edition are incorporated by reference.

**KEY:** safety

**Date of Enactment or Last Substantive Amendment:** ~~2021~~October 23, 2020

**Notice of Continuation:** October 19, 2017

**Authorizing, and Implemented or Interpreted Law:** 34A-6

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R616-3-3</b>	<b>Filing ID</b>	<b>53702</b>
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## Agency Information

<b>1. Department:</b>	Labor Commission		
<b>Agency:</b>	Boiler, Elevator and Coal Mine Safety		
<b>Room no.:</b>	Third Floor		
<b>Building:</b>	Heber M Wells		
<b>Street address:</b>	160 E 300 S		
<b>City, state and zip:</b>	Salt Lake City, UT 84111		
<b>Mailing address:</b>	PO Box 146600		
<b>City, state and zip:</b>	Salt Lake City UT 84114-6600		
<b>Contact person(s):</b>			
<b>Name:</b>		<b>Email:</b>	
Chris Hill		chill@utah.gov	
Pete Hackford		phackford@utah.gov	
Rick Sturm		rstrum@utah.gov	
Please address questions regarding information on this notice to the agency.			

**General Information****2. Rule or section catchline:**

R616-3-3. Safety Codes for Elevators

**3. Purpose of the new rule or reason for the change** (Why is the agency submitting this filing?):

The reason for the change is to adopt the 2019 Edition of ASME A17.1

**4. Summary of the new rule or change** (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The proposed rule change incorporates the 2019 edition of ASME A17.1, with the exception of Section 2.27.1 which requirements will remain those listed in the 2016 edition. The changes in the 2019 edition are mainly clarification of construction standards for elevators. There are no major changes.

**Fiscal Information****5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There is no cost or savings to the state budget by the adoption of the 2019 edition of ASME A17.1. This is a construction code and elevators must be built to it at the factory.

**B) Local governments:**

There is no cost or savings to local governments. This is a construction code and elevators must be built to it at the factory.

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

There is no cost to small businesses unless they install new elevators, or remodel or replace an existing elevator, escalator, or moving walk. Then it would be up to the manufacturer if costs were raised to meet the new codes adopted throughout the US.

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

There is no cost to non-small businesses unless they install new elevators, or remodel or replace an existing elevator, escalator, or moving walk. Then it would be up to the manufacturer if costs were raised to meet the new codes adopted throughout the US.

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

There is no cost or savings to persons other than small businesses, non-small businesses, state or local government entities, as this is a construction code and elevators must be built to it at the factory.

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

There are no compliance costs for affected persons, as this is a construction code and elevators must be built to it at the factory.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

Because elevators would be built to this standard at the factory, it would be up to the manufacturer, whether or not an increase in the cost of an elevator would be necessary because of this standard. Jackson R Maughan, Commission

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

<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## NOTICES OF PROPOSED RULES

<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Commissioner of the Labor Commission, Jaceson R Maughan, has reviewed and approved this regulatory impact analysis.			

## Citation Information

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 34A1-101 et seq.		

## Incorporations by Reference Information

<b>8. A) This rule adds, updates, or removes the following title of materials incorporated by references:</b>	
	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	ASME A17.1
<b>Publisher</b>	ASME
<b>Issue, or version</b>	2019

## Public Notice Information

<b>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. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	09/01/2021

<b>10. This rule change MAY become effective on:</b>	09/08/2021
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

## Agency Authorization Information

<b>Agency head or designee, and title:</b>	Jaceson R. Maughan, Commissioner	<b>Date:</b>	07/08/2021
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**R616. Labor Commission, Boiler, Elevator and Coal Mine Safety.****R616-3. Elevator Rules.****R616-3-3. Safety Codes for Elevators.**

The following safety codes are adopted and incorporated by reference within this rule:

A. ASME A17.1-201[6]9/CSA B44-16, Safety Code for Elevators and Escalators, and amended as follows:

1. Delete 2.2.2.5;

2. The requirements listed in section 2.27.1 will be those listed in the 2016 Edition of ASME A17.1 Section 2.27.1 and not those listed in the 2019 Edition.

[2]3. Amend 8.6.5.8 as follows: Existing hydraulic cylinders installed below ground when found to be leaking shall be replaced with cylinders conforming to 3.18.3.4 or the car shall be provided with safeties conforming to 3.17.1 and guide rails, guide rail supports and fastenings conforming to 3.23.1. This code is issued every two years. New issues become mandatory only when a formal change is made to these rules. Elevators are required to comply with the A17.1 code in effect at the time of installation.

B. ASME A17.3 - 2015 Safety Code for Existing Elevators and Escalators. This code is adopted for regulatory guidance only for elevators classified as remodeled elevators by the Division of Boiler, Elevator and Coal Mine Safety.

C. ASME A90.1-2015, Safety Standard for Belt Manlifts.

D. ANSI A10.4-2016, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations.

E. ICC/ANSI A117.1 (2009) Accessible and Usable Buildings and Facilities, sections 407 and 408, and 410 approved October 20, 2010.

F. ASME A18.1-2014 Safety Standard For Platform Lifts And Stairway Chairlifts.

G. ASME A17.6-2010 Standard for Elevator Suspension, Compensation, and Governor Systems.

H. The Commission may, by rule, add or delete from the applicable safety codes for any good and sufficient safety reason.

I. In the event that adopted safety codes are in conflict with one another, the ASME A17.1, Safety Code for Elevators and Escalators will take precedence. The exception to this is for compliance with the accessibility guidelines of Pub. L. No. 101-336 "The Americans with Disability Act of 1990". In this instance, the International Building Code standards adopted in R616-3-3(E) for accessibility as applied to elevators take precedence over ASME A17.1.

**KEY: elevators, certification, safety**

**Date of Enactment or Last Substantive Amendment:** 2021~~May 11, 2020~~

**Notice of Continuation:** March 2, 2021

**Authorizing, and Implemented or Interpreted Law:** 34A-1-101 et seq.

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New

**Utah Admin. Code Ref (R no.):** R714-165

**Filing ID**  
53710

**Agency Information**

<b>1. Department:</b>	Public Safety	
<b>Agency:</b>	Highway Patrol	
<b>Building:</b>	Calvin Rampton Complex	
<b>Street address:</b>	4501 S 2700 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84119-5994	
<b>Mailing address:</b>	PO Box 141100	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1100	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tim Kincaid	801-580-9931	tkincaid@utah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov
Matt Spillman	801-698-2186	mspillman@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R714-165. Standards for School Buses
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
This rule is being enacted as a result of the passage of S.B. 113 during the 2021 General Session.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule establishes standards governing the design and operation of school buses as authorized by Section 41-6a-1304.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is not an anticipated cost or savings to the state budget because this rule only establishes the standards that apply for school buses under Section 41-6a-1304.

**B) Local governments:**

There is not an anticipated cost or savings to the local governments because this rule only establishes the standards that apply for school buses under Section 41-6a-1304.

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

There is not an anticipated cost or savings to small businesses because this rule only establishes the standards that apply for school buses under Section 41-6a-1304.

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

There is not an anticipated cost or savings to non-small businesses because this rule only establishes the standards that apply for school buses under Section 41-6a-1304.

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

There is not an anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities because this rule only establishes the standards that apply for school buses under Section 41-6a-1304.

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

There is not an anticipated compliance cost for affected persons because this rule only establishes the standards that apply for school buses under Section 41-6a-1304.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

This rule should not have an impact on businesses because it only establishes the standards that apply for Utah school buses as determined by the Utah State Board of Education through an incorporation by reference of the Standards for Utah School Buses and Operation. Jess L. Anderson, Commissioner

**6. A) 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	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Commissioner of the Department of Public Safety, Jess L. Anderson, has reviewed and approved this fiscal analysis.			

**Citation Information**

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 41-6a-1304		

**Incorporations by Reference Information**

<b>8. A) This rule adds, updates, or removes the following title of materials incorporated by references:</b>	
	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	Standards for Utah School Buses and Operation

<b>Publisher</b>	Utah State Board of Education
<b>Date Issued</b>	03/30/2021
<b>Issue, or version</b>	2020 Published Edition

**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. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2021

**10. This rule change MAY become effective on:** 09/07/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tim Kincaid, Captain Utah Highway Patrol	<b>Date:</b>	07/07/2021
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**R714. Public Safety, Highway Patrol.**

**R714-165. Standards for School Buses.**

**R714-165-1. Authority.**

This rule is authorized by Section 41-6a-1304.

**R714-165-2. Purpose.**

(1) The purpose of this rule is to set standards governing the design and operation of school buses.

**R714-165-3. Definitions.**

(1) Terms used in this rule are defined in Section 53E-3-401.

**R714-165-4. Adoption of Standards for Utah School Buses and Operations Standards.**

(1) In cooperation with the Utah State Board of Education, the Standards for Utah School Buses and Operations as contained in the 2020 Published Edition, is incorporated by reference.

(2) The Standards for Utah School Buses and Operations are published by the Utah State Board of Education and can be found at <https://www.schools.utah.gov/file/aadb2d10-f996-4423-badd-2723d1186176>.

(3) The requirements in Subsections (1) and (2) apply to the design and operation of all school buses in this state when:

- (a) owned and operated by any education entity;
- (b) privately owned and operated under contract with an education entity; or
- (c) privately owned for use by a private school.

**KEY: school bus, school bus standards****Date of Enactment or Last Substantive Amendment: 2021****Authorizing, and Implemented or Interpreted Law: 41-6a-1304****NOTICE OF PROPOSED RULE****TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R728-403</b>	<b>Filing ID</b>	<b>53740</b>
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**Agency Information**

<b>1. Department:</b>	Public Safety		
<b>Agency:</b>	Peace Officer Standards and Training		
<b>Street address:</b>	410 W 9800 S		
<b>City, state and zip:</b>	Sandy, UT 84070		
<b>Contact person(s):</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Scott Stephenson	801-256-2322	sstephen@utah.gov	
Kim Gibb	801-556-8198	kgibb@utah.gov	
Please address questions regarding information on this notice to the agency.			

**General Information**

<b>2. Rule or section catchline:</b>
R728-403. Procedures for Certification
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
This change is being made as a result of the passage of S.B. 102 during the 2021 General Session.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The amendments in the rule: 1) allow for a lawful permanent resident to apply for training and certification through Peace Officer Standards and Training (POST); 2) change the waiting period to apply for certification following multiple convictions or violations from consecutively to concurrently; 3) remove the requirement for an applicant to provide a BCI proficiency certificate, ICS 100 training, and NIMS 700 training; 4) remove the designation of inactive for a peace officer or dispatcher not performing duties for a period of 18 months; and 5) make grammatical corrections.

**Fiscal Information****5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There is not an anticipated cost or savings to the state budget because the amendments only allow for a lawful permanent resident to apply for training and certification through POST, modify some of the requirements for certification, and make grammatical corrections.

**B) Local governments:**

There is not an anticipated cost or savings to local governments because the amendments only allow for a lawful permanent resident to apply for training and certification through POST, modify some of the requirements for certification, and make grammatical corrections.

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

There is not an anticipated cost or savings to small businesses because the amendments only allow for a lawful permanent resident to apply for training and certification through POST, modify some of the requirements for certification, and make grammatical corrections.

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

There is not an anticipated cost or savings to non-small businesses because the amendments only allow for a lawful permanent resident to apply for training and certification through POST, modify some of the requirements for certification, and make grammatical corrections.

**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, or state or local government entities because the amendments only allow for a lawful permanent resident to apply for training and certification through POST, modify some of the requirements for certification, and make grammatical corrections.

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

There is not an anticipated compliance cost for affected persons because the amendments only allow for a lawful permanent resident to apply for training and certification through POST, modify some of the requirements for certification, and make grammatical corrections.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

There is not an anticipated fiscal impact to small or non-small businesses because the amendments only allow for a lawful permanent resident to apply for training and certification through POST, remove some of the certificates required for certification, remove the requirement that a certification expires after an officer or dispatcher has not performed related duties for 18 months, and make grammatical corrections. Jess L. Anderson, Commissioner

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

<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) 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.

**Citation Information****7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 53-6-203	Section 53-6-205	Section 53-6-206
Section 53-6-208	Section 53-6-302	Section 53-6-303
Section 53-6-304	Section 53-6-306	

**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. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2021

**10. This rule change MAY become effective on:** 09/07/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Scott Stephenson, Director POST	<b>Date:</b>	07/14/2021
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**R728. Public Safety, Peace Officer Standards and Training.****R728-403. Procedures for Certification.****R728-403-1. Authority.**

This rule is authorized by Subsection 53-6-105(1)(k), which provides that the director shall, with the advice of the council, make rules necessary to administer Title 53 Chapter 6.

**R728-403-2. Purpose.**

The purpose of this rule is to provide procedures for a dispatcher or peace officer to become certified or reactivate certification.

**R728-403-3. Definitions.**

(1) Terms used in this rule are defined in Section 53-6-102.

(2) In addition:

(a) "Actively Engaged" means a currently certified peace officer as defined in Section 53-13-102 through 53-13-105 who works while on duty as defined in 53-13-101 for a minimum of 60 hours per reporting year and receives annual training as defined in Section 53-6-306(3)(a).

(b) "Applicant" means a person seeking to become certified or reinstate certification as a dispatcher or peace officer;

(c) "Certification examination" means the written test given to an applicant to become certified or to reactivate certification as a dispatcher or peace officer;

(d) "Physical fitness test" means the physical fitness standards adopted by the council on June 4, 2009, which must be met in order to become a peace officer;



- (e) "Reporting year" means an annual period starting on July 1, and ending on June 30 of the following year;
- (f) "Training program" means the basic training courses offered by the division or one of the certified academies, which are required to become a:
  - (i) special function officer;
  - (ii) correctional officer;
  - (iii) law enforcement officer; or
  - (iv) dispatcher; and
- (g) "Training year" means the same as reporting year.

**R728-403-4. Application for Training and Certification.**

(1) An applicant seeking to become certified as a dispatcher or peace officer shall submit a completed application packet to the division that includes:

- (a) a written or electronic application form provided by the division;
- (b) a photocopy of a government-issued identification card;
- (c) evidence that the applicant is a United States citizen or lawful permanent resident to include:
  - (i) a photocopy of a birth certificate; ~~[-or]~~
  - (ii) a photocopy of a United States passport; ~~[-or]~~
  - (iii) in the case of naturalized citizen, a naturalization number; or
  - (iv) in the case of a lawful permanent resident, a photocopy of a lawful permanent resident card that identifies residence for five years immediately preceding the day on which the application is made;
- (d) one completed FBI applicant fingerprint card (Form FD-258) with the applicant's legible fingerprints;
- (e) one recent color photograph of passport quality with the applicant's name written on the back of the photograph;
- (f) evidence that the applicant has completed high school or obtained the educational equivalent; and
- (g) the application fee, unless the applicant has been hired as a dispatcher or peace officer by a governmental entity.

(2) An applicant seeking to become a certified peace officer shall also submit:

- (a) ~~proof that the applicant has achieved a passing score on the National Peace Officer Selection Test (NPOST), unless the applicant was certified as a special functions officer prior to 1997 and is applying to become a law enforcement officer or correctional officer; and~~
- (b) ~~a medical evaluation from a medical doctor indicating the applicant is able to participate in all aspects of the training program.~~

(3) The applicant must submit the application packet four weeks prior to the start of a training program to allow the division adequate time to process the application packet.

(a) The division shall not accept nor process any application that is not complete or fails to include all required attachments.

(4) An application shall be considered valid for one year from the time the application is completed by the applicant.

(5)(a) Once a completed application packet is received by the division, the packet shall be reviewed to determine if the applicant meets the requirements in Sections 53-6-203 or 53-6-302.

(b) If the division does not have sufficient information to make this determination, the division may request the applicant provide additional information.

(6)(a) In determining whether an applicant has demonstrated good moral character as required by Sections 53-6-203 or 53-6-302, the division shall conduct a criminal history background check of local, state, and national criminal history files to determine if the applicant has a criminal record.

(b) An applicant with a criminal history that contains any of the following shall be denied entrance into a training program and shall not receive certification:

- (i) a conviction of a felony under state or federal law in this or any other state;
- (ii) dismissal from the armed services under dishonorable conditions; or
- (iii) a conviction of domestic violence, unless the conviction has been expunged or set aside.

(c) An applicant who has been convicted of, or involved in conduct which is a state or federal criminal offense, may not be allowed to attend a basic training program or receive POST certification for a period of time consistent with the POST Council disciplinary guidelines as approved by the council ~~[-on June 5, 2013].~~

(i) The waiting period shall run from the date of the involvement, unless the applicant is still under court supervision (i.e. probation) for the violation, in which case the applicant will not be allowed to make application until the probation has been successfully completed or the applicant is no longer under court supervision.

(ii) Waiting periods shall run ~~consecutively~~ concurrently for applicants who have been convicted of or involved in multiple violations.

(d) Any activity involving the abuse of alcohol or drugs may be considered in determining whether an applicant will be allowed to attend a basic training program or receive POST certification.

(e) An applicant convicted of or involved in minor crimes not otherwise identified in this rule, including traffic violations that reflect a willful disregard for lawful behavior as evidenced by repetitiveness of conduct or other aggravating factors, ~~shall~~ may not be allowed to attend a basic training program or receive POST certification prior to one year from the latest conviction or involvement.

(i) In cases where arrest warrants are issued, the one-year waiting period will begin at the time the warrant is served on the applicant.

(f) If an applicant is found to have falsified any information to gain admittance into a basic training program, a two-year waiting period shall be applied from the date the division becomes aware of the falsification.

(i) If the ~~information~~ falsified information is covered by other sections of this rule, (i.e., state or federal criminal offense) and a specific waiting period is required, the division shall require the applicant to wait the longer of the two periods. Waiting periods will not be combined to run ~~consecutively~~ concurrently.

(ii) If an applicant completes the basic training program and prior to taking the certification examination the division becomes aware of a falsification, the applicant shall not be allowed to take the certification examination.

(iii) An applicant who is dismissed during the course of a basic training program for falsifying any information to obtain certification shall not be eligible for further POST training or certification until the two-year waiting period has been met.

(iv) If an applicant becomes certifiable and then is subsequently discovered to have falsified information to obtain certified status, that individual may be subject to suspension of their POST certification.

(7) If the applicant is the subject of an ongoing investigation by the division, the applicant shall not be deemed eligible to attend a training program until the investigation is completed.

(8) If the division determines that the applicant meets all of the requirements in Sections 53-6-203 or 53-6-302, the division shall notify the applicant that the applicant is eligible to attend a training program.

## NOTICES OF PROPOSED RULES

(9) If the division determines that the applicant does not meet the requirements in Sections 53-6-203 or 53-6-302, the applicant shall be denied admission to a training program.

(10) Applicants who are accepted into a peace officer training program shall pass the POST physical fitness requirements for entrance into the specific training program as approved by the [C]ouncil and outlined in POST policy and procedure 2390-Physical Training Requirements.

(11) Applicants who are accepted into a peace officer training program shall be subject to random and "for cause" drug testing as outlined in POST policy and procedure 2400-Drug Testing for Applicants and Cadets.

(12) Applicants seeking dispatcher certification must also provide evidence of:

~~\_\_\_\_\_ (a) ] Utah Emergency Medical Dispatcher (EMD) certification[;~~

~~\_\_\_\_\_ (b) Bureau of Criminal Identification (BCI) proficiency certificate; and~~

~~\_\_\_\_\_ (c) documentation showing completion of:~~

~~\_\_\_\_\_ (i) Incident Command System (ICS) 100 training;~~

~~\_\_\_\_\_ (ii) ICS 200 training; and~~

~~\_\_\_\_\_ (iii) National Incident Management System (NIMS) 700 training].~~

### **R728-403-5. Completion of a Training Program.**

(1) An applicant successfully completes the training program by:

(a) attending all required training courses;

(b) obtaining passing scores on all intermediate and subject specific tests; and

(c) participating in all required physical fitness, practical skill training and other required activities.

(2) Applicants shall be subject to all officially published policy at the training academy they attend.

(3) An applicant who fails to complete any portion of the academic training program may not take the certification examination.

(4) An applicant may take the certification examination prior to passing the physical fitness, defensive tactics, firearms, or emergency vehicle operations tests.

(5) An applicant who is unable to pass the physical fitness, defensive tactics or firearms tests, within one year after completing the training program or within one year of taking the certification examination shall be denied certification.

(6) An applicant who is unable to pass the emergency vehicle operations tests within one year from completion of the emergency vehicle operations training program shall be denied certification.

(7) An applicant who fails the certification examination shall have one opportunity to take a make-up examination within one year of the first examination.

(a) An applicant who fails the certification examination after two attempts shall be denied certification and shall not be permitted to take the certification examination again until the applicant satisfactorily completes another approved basic training program.

(8) An applicant who successfully completes the training program shall be certified as a peace officer in the state of Utah.

### **R728-403-6. Waiver of Basic Training Program.**

(1) An applicant who has not attended a training program offered by the division or a satellite academy, may seek to waive a training program by submitting a completed waiver packet to the division, which includes:

(a) a completed application packet as provided in Section R728-403-4;

(b) documentation showing that the applicant has completed training equivalent to the training program the applicant is seeking to waive, such as:

(i) a copy of the training curriculum;

(ii) the number of hours completed; and

(iii) the date the training was completed; and

(c) evidence of any prior employment as a dispatcher or peace officer that includes:

(i) a detailed job description; and

(ii) verification from the applicant's employer of the last date the applicant worked as a dispatcher or peace officer.

(2) Once the division has received a completed waiver packet, the division shall review the packet to determine if the training completed by the applicant is the equivalent of the training program the applicant seeks to waive.

(a) If the division does not have sufficient information to make this determination, the division may request that the applicant submit additional information.

(3) If the division determines the peace officer training completed by the applicant is the equivalent of the peace officer training program the applicant seeks to waive, and the program was completed less than four years prior to the date the applicant will take the certification examination, or the applicant has been actively engaged in performing the duties of a peace officer within the past four years, and the applicant meets all of the requirements in Section R728-403-4 and Sections 53-6-203 and 53-6-206, the applicant may take the physical fitness test and the certification examination.

(a) If the applicant passes both the physical fitness test and the certification examination, the applicant shall be certified as a peace officer in the state of Utah.

(b) If the applicant fails to pass the certification examination, the applicant shall be given one additional opportunity to pass the certification examination, which must be completed within one year of the first examination.

(c) An applicant who fails the certification examination after two attempts shall be denied certification and shall not be permitted to take the certification examination again until the applicant satisfactorily completes an approved basic training program.

(d) If the applicant fails to pass the physical fitness test, the applicant may be given additional opportunities to pass during regularly scheduled fitness tests provided by POST.

(e) The applicant must pass the certification examination and the physical fitness test within four years from the date of completion of the original training program, or four years from the date they were last actively engaged in the duties of a peace officer.

(f) An applicant who successfully completes the waiver process for law enforcement officer certification or correctional officer certification shall be deemed to have also completed requirements for special functions officer certification.

(g) An applicant seeking to be certified as both a law enforcement officer and a correctional officer must complete the waiver process and pass the certification examinations for each of those peace officer classifications.

(4) If the division determines that the dispatcher training completed by the applicant is the equivalent of the training program the applicant seeks to waive, and the program was completed less than four years prior to the date the applicant will take the certification examination, or the applicant has been actively engaged in performing the duties of a dispatcher within the past four years, and the applicant

meets all of the requirements in Section R728-403-4 and Sections 53-6-302 and 53-6-304, the applicant may take the certification examination.

(a) If the applicant passes the certification examination, the applicant shall be certified as a dispatcher in the state of Utah.

(b) If the applicant fails to pass the certification examination, the applicant shall be given one additional opportunity to pass the certification examination, which must be completed within one year of the first examination.

(c) An applicant who fails the certification examination after two attempts shall be denied certification and shall not be permitted to take the certification examination again until the applicant satisfactorily completes an approved basic training program.

(5) If the applicant fails to meet any of the requirements set forth in this rule, the applicant may not waive the training program.

#### **R728-403-7. Reactivation of Certification.**

(1) ~~[Pursuant to Section 53-6-208 or 53-6-306, the certification of a peace officer or dispatcher who has not been actively engaged in performing the duties of a peace officer or dispatcher for 18 months shall be designated "inactive".~~

~~(a) [The certification of a peace officer or dispatcher that has been suspended for more than 18 consecutive months due to disciplinary action or failure to complete in-service training shall be considered "inactive".~~

(2) An applicant whose certification has become inactive may reactivate the applicant's peace officer or dispatcher certification by submitting a completed reactivation packet to the division, which includes:

(a) a completed application packet as provided in Section R728-403-4; and

(b) evidence of the applicant's prior employment as a dispatcher or peace officer.

(3) Once the division has received a completed reactivation packet, the division shall review the packet to determine if the applicant meets all of the requirements in Sections 53-6-203 and 53-6-208, or 53-6-302 and 53-6-306.

(a) If the division does not have sufficient information to make this determination, the division may request the applicant submit additional information.

(4) If an applicant for reactivation of peace officer certification meets all of the requirements in Sections 53-6-203 and 53-6-208, the applicant may take the physical fitness test and the certification examination as provided in Section R728-403-5.

(a) If the applicant passes both the physical fitness test and the certification examination, the applicant shall be certified as a peace officer in the state of Utah.

(b) If the applicant fails to pass the certification examination, the applicant shall be given one additional opportunity to pass the certification examination, which must be completed within one year of the first examination.

(c) An applicant who fails the certification examination after two attempts shall be denied certification and shall not be permitted to take the certification examination again until the applicant satisfactorily complete an approved basic training program.

(d) If an applicant fails to pass the physical fitness test, the applicant may be given additional opportunities to pass during regularly scheduled fitness tests provided by POST.

(4) If an applicant for reactivation of dispatcher certification meets all of the requirements in Sections 53-6-302 and 53-6-306, the applicant may take the certification examination, as provided in Section R728-403-5.

(a) If the applicant passes the certification examination, the applicant shall be certified as a dispatcher in the state of Utah.

(b) If the applicant fails to pass the certification examination they will be given one additional opportunity to pass the certification examination which must be completed within one year of the first examination.

(c) An applicants who fails the certification examination after two attempts shall be denied certification and shall not be permitted to take the certification examination again until the applicant satisfactorily complete an approved basic training program.

(5) If the applicant for reactivation of peace officer or dispatcher certification fails to meet any of these requirements, the applicant's certification may not be reactivated.

(6) The certification of a peace officer or dispatcher that has been suspended or inactive for more than four consecutive years shall be considered "lapsed" and the peace officer or dispatcher shall comply with the requirements in Section 53-6-208 or 53-6-306 before certification may be reinstated.

#### **R728-403-8. Denial of Certification.**

(1) An applicant shall be denied certification for failing to satisfy any of the requirements under administrative rule R728-403.

(2) An applicant who is the subject of an ongoing investigation by the division, or who is under court supervision for a state or federal criminal offense, may not be certified until the investigation has been completed and/or the court supervision has been terminated.

(3) If the division denies an applicant certification, the division shall issue a letter of denial by mail.

(a) The letter of denial shall state the reasons for denial and indicate that the applicant may appeal the decision to the director by filing a written request for review within 30 days from the date of the division's decision as provided by Section 63G-4-301.

(b) Within a reasonable time after receiving the appeal, the director shall review the matter and determine whether the applicant may be certified.

(c) If upon further review the director denies the applicant's appeal, the director shall notify the applicant by letter and indicate that the applicant has the right to appeal the director's decision by filing a petition for judicial review within 30 days as provided in Section 63G-4-402.

(4) An applicant who has been denied certification shall meet all of the requirements in this rule before being certified.

(5) All adjudicative proceedings under this rule shall be informal according to the provisions in Sections 63G-4-202 through 63G-4-203.

**KEY: dispatchers, peace officers, certifications, waivers**

**Date of Enactment or Last Substantive Amendment:** 2021~~[August 23, 2016]~~

**Notice of Continuation:** December 13, 2016

**Authorizing, and Implemented or Interpreted Law:** 53-6-203; 53-6-205; 53-6-206; 53-6-208; 53-6-302; 53-6-303; 53-6-304; 53-6-306

#### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

**Utah Admin. Code Ref (R no.):** R850-6

**Filing ID**  
**53745**

**Agency Information**

<b>1. Department:</b>	School and Institutional Trust Lands	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	Suite 500	
<b>Street address:</b>	675 E 500 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84102-2818	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Keli Beard	801-538-5185	kelibeard@utah.gov
Lisa Wells	801-538-5154	lisawells@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>
R850-6. Government Records Access and Management
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This change amends the current GRAMA rule as necessary to fully implement Section 53C-2-102.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
This rule change eliminates the duplication language cited in the Government Records Access and Management Act. Also, proposed to include a provision prohibiting disclosure of proprietary information protected under Section 53C-2-102 and Rule R850-13. (EDITOR'S NOTE: The proposed new Rule R850-13 is under ID No. 53747 in this issue, August 1, 2021, of the Bulletin.)

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The main purposes of the amendments to this rule are: 1) to eliminate duplication of the statute; 2) to name the "records specialist" as the person designated by the director to assist the public in accessing School and Institutional Trust Lands Administration (SITLA) records; and 3) to clarify that SITLA will deny a request under GRAMA if the records are protected under Section 53C-2-102 as "proprietary information". SITLA typically shares records with other government agencies without going through the formal GRAMA process, but to the extent that the state requests "records" under GRAMA, this rule will

not increase the cost of making the request and serves only to make the process more predictable.

**B) Local governments:**

The main purposes of the amendments to this rule are: 1) to eliminate duplication of the statute; 2) to name the "records specialist" as the person designated by the director to assist the public in accessing SITLA records; and 3) to clarify that SITLA will deny a request under GRAMA if the records are protected under Section 53C-2-102 as "proprietary information". SITLA typically shares records with other government agencies without going through the formal GRAMA process, but to the extent that any local governments request "records" under GRAMA, this rule will not increase the cost of making the request and serves only to make the process more predictable.

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

One of the main purposes of the amendments to this rule is to clarify that SITLA will deny a request under GRAMA if the records are protected under Section 53C-2-102 as "proprietary information". SITLA works often with small businesses and occasionally requires these small businesses to provide SITLA with sensitive commercial information. GRAMA provides limited protection for sensitive commercial information and these businesses have been reluctant to share the information with SITLA. This amendment serves to align SITLA's responsibilities under GRAMA with its authorization to keep third-party "proprietary information" confidential under Section 53C-2-102 and make it easier for small businesses to share this kind of information with SITLA, when necessary. If anything, SITLA expects this rule to save small businesses time in producing information to SITLA, thus saving them money.

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

One of the main purposes of the amendments to this rule is to clarify that SITLA will deny a request under GRAMA if the records are protected under Section 53C-2-102 as "proprietary information". SITLA works often with non-small businesses and occasionally requires these businesses to provide SITLA with sensitive commercial information. GRAMA provides limited protection for sensitive commercial information and these businesses have been reluctant to share the information with SITLA. This amendment serves to align SITLA's responsibilities under GRAMA with its authorization to keep third-party "proprietary information" confidential under Section 53C-2-102 and make it easier for businesses to share this kind of information with SITLA, when necessary. If anything, SITLA expects this rule to save businesses time in producing information to SITLA, thus saving them money.

**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 main purposes of the amendments to this rule are: 1) to eliminate duplication of the statute; 2) to name the "records specialist" as the person designated by the director to assist the public in accessing SITLA records; and 3) to clarify that SITLA will deny a request under GRAMA if the records are protected under Section 53C-2-102 as "proprietary information". For persons doing business with SITLA, this rule may save them money by making it easier for them to provide SITLA with "proprietary information". For persons requesting records under GRAMA, this rule provides clarity about where to send the request. If SITLA does not produce a document requested under GRAMA based on Section 53C-2-102, persons may seek enforcement through appeal and litigation. While SITLA believes protection of business information under GRAMA and "proprietary information" under Section 53C-2-102 is very similar, "proprietary information" is broader and intended to protect commercially sensitive information of third parties. SITLA anticipates litigation, which will raise the costs for those persons choosing to litigate the issues.

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

To the extent that SITLA must litigate withholding "proprietary information" from a response to a GRAMA request, this rule will cost the agency money for that litigation. Otherwise, it will not cost SITLA money to adhere to this rule.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

SITLA is charged with raising money for the trust land beneficiaries and does so primarily by working with individuals and businesses. To ensure that SITLA is obtaining market rates, it often requires these individuals and businesses to produce sensitive geologic, financial, and commercial information. Businesses are reluctant to produce this information for fear that it will become public under GRAMA. The Utah Legislature anticipated these concerns by adopting Section 53C-2-102 authorizing SITLA to keep confidential this type of third-party commercially-sensitive information.

The amendments to this rule, together with the new Rule R850-13 is intended to put into effect Section 53C-2-102, making it easier for SITLA to obtain information it needs to profit from use of the trust assets. David Ure, Director

**6. A) 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	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

#### B) Department head approval of regulatory impact analysis:

The Director of the School and Institutional Trust Lands Administration, David Ure, has reviewed and approved this fiscal analysis.

#### Citation Information

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

28 Stat. 107-112, Sections 6, 8, 10, and 12, Utah Enabling Act of 1894	Section 63A-12-104	Subsection 53C-1-201(3)(a)(i)(A)
Article X	Article XX	Section 63G-2-204

#### Public Notice Information

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the

agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2021

**10. This rule change MAY become effective on:** 09/07/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	David Ure, Director	<b>Date:</b>	07/15/2021
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#### R850. School and Institutional Trust Lands, Administration.

##### R850-6. Government Records Access and Management.

##### R850-6-100. Purposes and Authority.

1. This rule provides procedures for appropriate access to agency records under the Government Records Access and Management Act.

2. This rule is authorized by Sections 6, 8, 10, and 12 of the Utah Enabling Act; Articles X and XX of the Utah Constitution; and Sections 63A-12-104, 63G-2-204, and [63G-2-603,] 53C-1-201(3)(a)(i)(A) [and 53C-2-102].

##### R850-6-200. Definitions.

[1. Terms used in this rule are] In addition to the terms defined in [Section 63G-2-103,

2. In addition:] R850-1, the term "records specialist" when used in R850-6, means the individual

[\_\_\_\_\_ (a) Records coordinators: individuals] designated by the [agency]-director to [coordinate records access requests and to] assist the public in gaining access to records maintained by the agency. [Records coordinators are located in the Salt Lake Office, 675 East 500 South, Suite 500, Salt Lake City, UT 84102.]

##### R850-6-300. [Allocation of Responsibility Within the Agency] Requests for Records.

[\_\_\_\_\_ The agency is considered a governmental entity and the director of the agency is considered the head of the government entity.

##### R850-6-400. Requests for Access.]

1. [Request for access to records shall be on a form provided by the agency or in another legible written document which contains the following information: the requester's name, mailing address, daytime telephone, a description of the records requested that identifies the record with reasonable specificity, and if the record is not public, information regarding requester's status.

2. The request shall be submitted to the records officer or coordinator. The response to the request may be delayed if not properly directed.

3. ]A person may request a record by submitting a request to the records specialist using the agency's form or as otherwise

provided in Section 63G-2-204. Failure to submit the records request on the agency's form may delay the agency's response.

2. In addition to the reasons set forth in Title 63G, Chapter 2, Part 3 of the Utah Code, t[F]he agency shall deny a request for private, controlled, protected or limited access records if the request is not made in writing and does not contain information required in this section.

4. Notwithstanding the provision of subsection 63G-2-204(1), the agency 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 providing access or copying at the time the request is made.

##### **R850-6-500. Other Requests.**

1. For research purposes:

Access requests for private or controlled records for research purposes pursuant to Section 63G-2-202(8), shall be made in writing and directed only to the records officer.

2. To amend a record:

An individual may contest the accuracy or completeness of a document pertaining to him as maintained by the agency pursuant to Section 63G-2-603.

(a) The request to amend shall be made in writing to the records officer.

(b) Appeals of requests to amend a record shall be handled as informal hearings] records that are confidential under[ the Utah Administrative Procedures Act.

3. To claim business confidentiality:

A request for protected records status based on a claim of business confidentiality may be made pursuant to Section 63G-2-309. Such a request shall be submitted in writing to the director or his designee. The request shall contain the claim of business confidentiality and a concise statement of reasons supporting the claim of business confidentiality.

4. To claim limited records status:

A lessee may claim that mineral information provided to the agency should be protected under Section] 53C-2-102 and R850-13.

(a) Such a request shall be submitted in writing to the director or his designee. The request shall contain a claim that the information provided the agency is of a proprietary nature and a concise statement of reasons supporting the claim.

(b) If the agency agrees the information is of a proprietary nature, the request shall be granted and the information shall receive limited records status until:

i) the lease is terminated and the agency believes the release of the information is not detrimental to the trust; or

ii) the lessee or its successor in interest ceases to exist as an entity and the agency believes the release of the information is not detrimental to the trust.

(c) A record granted limited records status under this section shall not be released to another party without written permission from the lessee providing the information during the period the limited records status is in effect.

(d) The agency may make information provided limited records status under this section available for inspection, but not for copying, by the Utah Geological Survey or the Division of Oil, Gas and Mining if consultation is requested by the agency, provided further that the confidentiality of such information is safeguarded.

**R850-6-600. Denials.**

1. If any access or status request is denied in whole or in part, a notice of denial shall be given to the requester in person or sent to the requester's address.

2. The notice of denial shall contain the information required in subsection 63G-2-205(2).

**R850-6-700. Appeal of Determination.**

1. Any person aggrieved by an access or status request determination including a person not a party to the agency proceeding may, within 30 days after the determination, appeal the determination to the director by submitting a notice of appeal either on a form provided by the agency or another legible written document which contains the following information: the petitioner's name, mailing address and daytime telephone number (if available); and the relief sought.

2. Upon receiving the notice of appeal and review of relevant information including that submitted with the appeal and criteria prescribed in Sections 63G-2-204, 63G-2-603, and 53C-2-102, the director may:

(a) uphold the original classification or status request determination; or,

(b) reclassify the record if he believes the original classification was incorrect; or,

(c) release the record regardless of its classification if the director believes that the interest of the public in obtaining access to the record outweighs the interest of the agency in prohibiting access to the record.

**R850-6-800. Fees.**

1. A fee schedule for the direct and indirect costs of duplicating or compiling a record may be obtained from the records officer or any records coordinator located at the addresses provided in R850-6-200, Definitions.]

**KEY:** GRAMA, government documents, public records

**Date of Enactment or Last Substantive Amendment:** 2021[August 7, 2018]

**Notice of Continuation:** June 27, 2017

**Authorizing, and Implemented or Interpreted Law:** 53C-1-201(3)(a)(i)(A)]~~53C-2-102~~

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New

<b>Utah Admin. Code Ref (R no.):</b>	<b>R850-13</b>	<b>Filing ID 53747</b>
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**Agency Information**

<b>1. Department:</b>	School and Institutional Trust Lands
<b>Agency:</b>	Administration
<b>Room no.:</b>	Suite 500
<b>Street address:</b>	675 E 500 S
<b>City, state and zip:</b>	Salt Lake City, UT 84102-2818
<b>Contact person(s):</b>	

Name:	Phone:	Email:
Keli Beard	801-538-5185	kelibeard@utah.gov
Lisa Wells	801-538-5154	lisawells@utah.gov

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

**General Information****2. Rule or section catchline:**

R850-13. Confidential Treatment of Proprietary Information

**3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):**

The rule is designed to permit the agency to treat third-party proprietary information as confidential and to more effectively transact business on trust lands.

**4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**

The proposed rule defines "proprietary information" as information owned or controlled by the provider, that provides a competitive business advantage to the provider, that SITLA could not otherwise obtain through public sources. This definition encompasses information that would otherwise be non-public which SITLA desires to review to evaluate a project or proposal. Also, it creates a process for a provider to submit proprietary information and make a request for confidential treatment and includes a requirement that SITLA hold as confidential any such information the agency agrees is proprietary.

**Fiscal Information****5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

Section 53C-2-102 requires the director to adopt rules to permit the agency to "retain, without disclosure to third parties," proprietary information received from third parties desiring to do business with the agency. The purpose of this new rule is to give effect to this statutory requirement. Implementation of the rule will not cost the state any money nor save money or generate revenue for the state. Other state agencies may continue to request information from the agency, which the agency may share under confidentiality, if appropriate. Making these requests will not cost the state any additional time or resources than is already spent by other state agencies in making informal requests or formal requests under GRAMA.

**B) Local governments:**

This rule will not create new costs or savings for local governments. Occasionally, local governments request information from the agency, which the agency freely shares on an informal basis. The agency may deny a request for documents from a local government if the document is protected under GRAMA and this rule will give agency an additional statutory basis on which to deny a request. While a local governmental agency may disagree with the agency's decision, School and Institutional Trust Lands Administration (SITLA) does not anticipate administrative or judicial proceedings. This rule does not impose any additional requirements for local governments to request information, but only permits the agency to retain third-party proprietary information.

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

One of the primary purposes of this rule is to permit the agency to more effectively do business in Utah. Under certain State Records Committee decisions, an entity submitting information that could be protected under GRAMA is only entitled to such protection if the submitting entity follows certain formal rules that are not found in rule or statute--such as the requirement that the submitting entity request protection under GRAMA at the exact time that it submits the information. Failure to make the request at the exact time that the information is provided has resulted in the State Records Committee requiring state agencies to disclose such information.

Small businesses often are not represented by legal counsel and are not aware of these stringent requirements. SITLA anticipates that this rule will save small businesses time and money by making it easier to submit proprietary information to the agency without such information being disclosed after the fact due to a technicality. This rule will also give small businesses comfort in submitting proprietary information to the agency thus encouraging more disclosure to the agency and allowing the agency to better price and compete on trust lands.

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

One of the primary purposes of this rule is to permit the agency to more effectively compete in the marketplace. Non-small businesses typically hire attorneys in making a deal with the agency. Often the attorneys advise these non-small businesses not to share proprietary information with the agency because of the risk of disclosure under GRAMA. This rule is not likely to save these non-small businesses money and the agency anticipates that their attorneys will continue to review transactions with SITLA. This rule is not likely to cost non-small businesses additional legal costs. However, this rule may give non-small businesses and their attorneys more comfort in provided the agency with third party proprietary information which will hopefully encourage these

businesses to share more information and enable the agency to more effectively compete in the marketplace.

**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**):

To the extent that persons submit proprietary information to the agency, this rule will create the same benefits as for small businesses by making it more likely that such proprietary information is not disclosed based on a technicality. To the extent that persons request records from the agency under GRAMA, this rule may frustrate such persons by giving the agency an additional ground on which to withhold information. When SITLA withholds information under GRAMA, the requesting person may appeal the decision to the state records committee. However, if SITLA withholds information under Section 53C-2-102 and this new rule, the state records committee will not have jurisdiction to review the decision. The person requesting the information will need to file a lawsuit if it believes the information has been withheld inappropriately, which will increase the cost of a GRAMA request.

Please note that the statute and this rule only protect third party information of a commercially sensitive nature it does not protect records created by the agency.

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

To the extent that SITLA must litigate withholding "proprietary information" from a response to a GRAMA request, this rule will cost SITLA money for that litigation. SITLA anticipates that this rule will encourage disclosure of proprietary information to SITLA thus allowing SITLA to more effectively compete in the marketplace and bring in more revenue for the trust.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

SITLA is charged with raising money for the trust land beneficiaries and does so primarily by working with individuals and businesses. To ensure that SITLA is obtaining market rates, it often requires these individuals and businesses to produce sensitive geologic, financial, and commercial information. Businesses are reluctant to produce this information for fear that it will become public under GRAMA. The Utah Legislature anticipated these concerns in adopting Section 53C-2-102 authorizing SITLA to keep confidential third party commercially-sensitive information.

This rule, together with the amendments to Rule R850-6, is intended to put into effect Section 53C-2-102, making it easier for SITLA to obtain information it needs to profit from



use of the trust assets. David Ure, Director (EDITOR'S NOTE: The proposed amendment to Rule R850-6 is under ID No. 53745 in this issue, August 1, 2021, of the Bulletin.)

**6. A) 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	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Director of the School and Institutional Trust Lands Administration, David Ure, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

28 Stat. 107-112, Sections 6, 8, 10, and 12, Utah Enabling Act of 1894	Subsection 53C-1-302(1)(a)(ii)	Subsection 53C-2-102(3)
Article X	Article XX	

**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. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2021

**10. This rule change MAY become effective on:** 09/07/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	David Ure, Director	<b>Date:</b>	07/15/2021
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**R850. School and Institutional Trust Lands, Administration.**

**R850-13. Confidential Treatment of Proprietary Information.**

**R850-13-100. Authorities.**

1. This rule implements Section 53C-2-102(3), which gives the agency independent authority to keep information owned by third parties confidential.

2. This rule is authorized by Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and Sections 53C-1-302(1)(a)(ii) and 53C-2-102(3) of the Utah Code.

**R850-13-200. Definitions.**

In addition to the terms defined in R850-1 and Section 53C-2-102, the terms below, when used in R850-13 are defined as follows:

1. "Propriety information" means information in any form that is owned or controlled by the provider, which the agency could not reasonably obtain through public sources, and which provides a competitive business advantage to the provider, including financial, business, engineering, and geologic information and analysis.

2. "Provider" means a prospective applicant, applicant, partner, permittee, lessee, or any other third party that provides the agency with proprietary information for the purpose of entering into a potential transaction or as required by the agency under the terms of any permit, lease, or other business arrangement.

**R850-13-300. Request for Proprietary Information.**

1. The agency may require that a provider submit proprietary information:

## NOTICES OF PROPOSED RULES

(a) to evaluate a potential or submitted application, bid, proposal, or agreement;

(b) as part of negotiating a potential agreement with a third party; or

(c) to assess the value and uses of trust lands for potential sale, lease, permit, exchange, or other business arrangement.

2. The agency may reject an application, request for proposal, or other transaction if the provider fails to submit the required proprietary information.

3. The agency may require that a lessee, permittee, or any other party in a contractual relationship with the agency submit proprietary information to the agency as the agency deems reasonable and necessary to determine the provider's compliance with the terms of the contract.

### **R850-13-400. Submitting Proprietary Information Under Confidentiality.**

1. If the agency requires and/or a provider desires to submit proprietary information to the agency under confidentiality, the provider shall make a written request for confidentiality to the director. The request for confidentiality must contain:

(a) a claim that the information is of a proprietary nature and a concise statement of reasons supporting the claim;

(b) a claim that the information has not been publicly disclosed; and

(c) a request for confidential treatment of any or all of the proprietary information.

2. The director shall notify the provider in writing of whether the director agrees that any or all of the information is of a proprietary nature. To the extent possible, the agency shall not review the substantive details of the information submitted under a confidentiality request until after the director has agreed that the information is proprietary in nature. If the director does not agree that the information is proprietary, the director shall notify the provider and upon the provider's request, return the information to the provider.

3. A provider may make a confidentiality request prior to or after submitting the proprietary information to the agency. Failure to request confidential treatment of proprietary information before the agency discloses the information to a third party constitutes waiver of a claim of confidentiality with respect to the proprietary information so disclosed.

4. The director and provider may agree in writing that certain categories of information are proprietary and such agreement means that all information previously submitted, or thereafter submitted, within the agreed-upon category will be treated as confidential pursuant to R850-13-500(1).

5. The agency may execute a confidentiality agreement with a provider consistent with these rules.

### **R850-13-500. Confidentiality Obligations of the Agency.**

1. The agency shall keep confidential all information:

(a) submitted under a request for confidentiality pursuant to R850-13-400(1) that the director agrees is of a proprietary nature; or

(b) that is proprietary information and submitted pursuant to R850-13-400(4) or R850-13-400(5).

2. The agency may not disclose proprietary information subject to confidentiality under R850-13-500(1) to third parties unless:

(a) the provider agrees to the disclosure in writing;

(b) the information becomes publicly available other than through disclosure by the agency;

(c) the information is provided to the agency by a third party that has no confidentiality obligation to the provider with respect to the disclosed information;

(d) the information is independently developed by the agency without use of the proprietary information;

(e) the information is required to be disclosed by an administrative or judicial order; or

(f) federal or state law requires the information to be of a non-proprietary nature.

### **R850-13-600. Return or Destruction of Proprietary Information.**

1. At the request of the provider, the agency shall return all proprietary information to the provider and destroy any proprietary information held in digital form, except that the agency may retain:

(a) proprietary information related to the characteristics of trust lands; and

(b) proprietary information required to be submitted under a lease or other contract through the term of the contract.

2. The agency is not required to destroy proprietary information held in digital back-up files or archives if retaining the information is consistent with the State's records retention policy so long as the agency uses reasonable efforts to ensure proprietary information remains confidential.

**KEY: proprietary information, confidential, information, confidentiality**

**Date of Enactment or Last Substantive Amendment: 2021**

**Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii); 53C-2-102(3)**

**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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

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

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends August 31, 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 November 29, 2021, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

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

**NOTICE OF CHANGE IN PROPOSED RULE**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R68-7</b>	<b>Filing ID: 53549</b>
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**Agency Information**

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Plant Industry	
<b>Street address:</b>	350 N Redwood Road	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
Rob Hougaard	801-982-2305	rhougaard@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R68-7. Utah Pesticide Control Rule
<b>3. Publication date of previous proposed rule or change in proposed rule:</b>
06/01/2021
<b>4. Reason for this change (Why is the agency submitting this filing?):</b>
Changes are needed in response to public comments received on the proposed repeal and reenactment.
<b>5. Summary of this change (What does this filing do?):</b>
Based on feedback from applicable groups, labeling restrictions referencing specific terms that may not be on a label, and associated violations, are removed from Sections R68-7-3 and R68-7-20. Additionally, the changes clarify the spill kit requirement of the rule in Subsection R68-7-19(12) to make it clear that a spill kit is required in a vehicle that carries any pesticides, rather than "any measurable amount" of pesticide. Finally, the definition of non-commercial pesticide applicator license is clarified to

ensure that non-profit entities would qualify. (EDITOR'S NOTE: The original proposed repeal and reenactment upon which this change in proposed rule (CPR) was based was published in the June 1, 2021, issue of the Utah State Bulletin, on page 6. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenactment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**Fiscal Information****6. Aggregate anticipated cost or savings to:****A) State budget:**

These changes update some sections of this rule to make them clearer and remove labeling restrictions that were put in place with the first filing. There would be no increased or decreased administration costs based on the changes so there are no anticipated costs or savings to the state budget.

**B) Local government:**

These changes update some sections of this rule to make them clearer and remove labeling restrictions. There would be no increased or decreased administration or compliance costs for local governments based on the changes.

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

These changes update some sections of this rule to make them clearer and remove labeling restrictions that were put in place with the first filing. There would be no direct increased or decreased compliance costs based on the changes and the fees charged by the Department of Agriculture and Food (Department) will be the same so there are no anticipated costs or savings to small businesses.

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

These changes update some sections of this rule to make them clearer and remove labeling restrictions that were put in place with the first filing. There would be no direct increased or decreased compliance costs based on the changes and the fees charged by the Department will be the same so there are no anticipated costs or savings to non-small businesses.

**E) Persons other than small businesses, non-small businesses, or state or local government entities ("person" means any individual, partnership, corporation,**

association, governmental entity, or public or private organization of any character other than an **agency**):

Other persons would not be affected by this change because the costs to administer the pesticide program and the cost to sell pesticides in Utah have not changed.

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

The compliance costs for affected persons will not change. Removing labeling restrictions imposed in the first filing makes the pesticide program less restrictive overall, although potential savings is not direct and measurable.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

This rule will not have a fiscal impact on businesses. Craig W. Buttars, Commissioner

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

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>Net Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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**B) Department head approval of regulatory impact analysis:**

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

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 4-14-106		
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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. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2021

**10. This rule change MAY become effective on:** 09/07/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	07/12/2021
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**R68. Agriculture and Food, Plant Industry.**

**R68-7. Utah Pesticide Control Rule.**

[ ~~For the purposes of this rule, "Department or department" means the Utah Department of Agriculture and Food.~~ ]

**R68-7-1. Authority.**

Promulgated under authority of Section 4-14-106.

**R68-7-2. Definitions.**

(1) "Commercial pesticide applicator" means any person who uses or applies pesticides for hire or compensation, or who makes pesticidal claims, remedies, or advertises for hire or compensation, or who solicits the use of pesticides for hire or compensation.

(2) "Commercial pesticide business license" means a license issued by the department to a business responsible for

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supervising commercial pesticide applicators employed to apply pesticides on a commercial basis.

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

(4[3]) "EPA WPS" means the U.S. Environmental Protection Agency (EPA) Worker Protection Standard, or the standards described in 40 CFR 170, as of January 2, 2017, which is herein incorporated by reference.

(5[4]) "EPA WPS Trainer" means a certified pesticide applicator of any type who trains workers and handlers in the WPS requirements and may also be a graduate of an EPA approved WPS Train the Trainer Program.

(6[5]) "Good standing" means a person has no outstanding infractions with the department and does not owe money to the department. A person who has resolved their infractions, entered into and complying with a settlement agreement with the department or who has not exhausted their rights to appeal are potentially excluded from this categorization with department approval.

(7[6]) "Licensee" means the holder of a pesticide applicator license or a commercial pesticide business license issued by the department or a restricted use pesticide dealer.[-]

(8[7]) "Non-commercial pesticide applicator" means any person working as an employee of any entity, firm, or government agency who uses or demonstrates the use of any restricted use pesticide on the entity's property, or any property occupied, managed, or under the direction or authority of any entity, firm, or government agency, and does not require ~~nor requires~~ a commercial pesticide applicator's license.

(9[8]) "Pesticide" means the same as the term is defined in Section 4-14-102.[-]

(10[9]) "Pesticide applicator" or "applicator" means a person who:

(a) applies or supervises the application of a pesticide; or

(b) is required by Title 4, Chapter 14, Utah Pesticide Control Act, to have a license.

(11[0]) "Person" means an individual or entity

(12[4]) "Private pesticide applicator" means any person who uses, or supervises the use of, any restricted use pesticide for the purpose of producing any agricultural commodity on private property owned, rented, or leased by the pesticide applicator, or on the private property of another, if applied without compensation.

(13[2]) "Qualifying party" means the same as the term is defined in Section 4-14-102.[-]

(14[3]) "Registrant" means the company responsible for the registration of a pesticide product.

(15[4]) "Restricted use pesticide" or "RUP" means any pesticide or pesticide use restricted by the administrator of EPA or by the department.

### R68-7-3. Registration of Products.

Pesticide products distributed in Utah shall be registered annually with the department.

(1) Application for registration shall be made to the department on the department website, or on forms prepared and provided by the department, and shall include the following information:[-]

(a) The name, address, telephone number, and email address of the registrant, and the name, address, telephone number,

and email address of the company whose name will appear on the label, if other than the registrant;

(b) the name of the pesticide product, including the EPA Registration Number;

(c) a list of the active ingredients;

(d) if the product is an RUP, a general use pesticide, or a product claiming a Federal Insecticide, Fungicide, and Rodenticide Act of 1972 (FIFRA), 7 U.S.C Section 136 *et seq* Section 25(b) exemption; and

(e) a complete copy of the pesticide product label as it will appear on the pesticide product.

(2) The burden shall be on the registrant to notify the department of any changes to their contact information within 30 days.

(3) The department may require submission of the complete formula of any pesticide if it is deemed necessary for the administration of Title 4, Chapter 14, Utah Pesticide Control Act, FIFRA, or to enforce EPA requirements and guidelines.

(4) The product shall be registered if:

(a) it appears to the department that the composition of the product warrants the proposed claims for the product; and

(b) the product, its labeling, and any other information that may be required to be submitted, complies with the requirements of Title 4, Chapter 14, Utah Pesticide Control Act, FIFRA, and EPA rules, requirements and guidelines

(5) The registrant is responsible for the accuracy and completeness of the information submitted concerning any application for the registration of a pesticide product.

(6) Once a pesticide product is registered no further state registration other than annual renewal is required, provided:

(a) the product remains in the manufacturer's or registrant's original container; and

(b) the claims made for it, the directions for its use, and other labeling information does not differ in substance from the representations made in connection with the registration.

~~[(7) Any terms, claim, or non-numerical or comparative statement that cannot be well defined, and may be misconstrued by consumers as a health or safety claim, shall not be used on a pesticide product label. This includes language such as;~~

~~(a) "organic", "natural", "all natural", "pesticide free", "chemical free", "trusted", "safe", "nonpoisonous", "non-injurious", "harmless", or "nontoxic to humans and pets"; and~~

~~(b) any similar language that infers a health or safety claim as determined by the department in its sole discretion.~~

~~(c) The only exceptions to this requirement are the terms "for organic production", "for organic gardening", "for organic lawn care", "for use in organic production", and "safe when used as directed". These exemptions are only valid if the language can be found on the department or EPA approved label.~~

~~(d) If the department identifies a product label that is not in compliance with this standard, they shall notify the registrant and issue a citation.]~~

([8]Z) If the name of a pesticide product is changed or there are changes in the product ingredients, a new registration is required. Other labeling changes do not require a new registration, but the registrant shall submit copies of any changes to the department as soon as they are effective.

([9]8) If a registered pesticide product is to be discontinued for any reason, except when suspended or canceled by the EPA, the licensee shall provide notice of discontinuation to the department.[-]

(a) The department requires that a product be registered for a two-year discontinuation period starting from the date of the notice of discontinuation.

(b) If a product is found in commercial trade after the discontinuation period, the department shall require that the registrant register the product as outlined in Section 4-14-103.

(c) If a product is suspended or canceled by the EPA, the product shall be removed as quickly as reasonably possible from sale in Utah.

([10]9) The department may exempt, in its sole discretion, any pesticide that is determined either:

(a) to be adequately regulated by a federal agency; or

(b) to be of a character that is not subject to FIFRA.

(1[4]0) A registrant who desires to register a pesticide to meet special local needs pursuant to FIFRA Section 24(c) shall comply with Section 4-14-103.

(1[2]1) No registration is required for a pesticide distributed in Utah pursuant to an experimental use permit issued by the EPA or under Section 4-14-105.

(1[3]2) A registration fee determined by the department, pursuant to Subsection 4-2-103(2), shall be paid annually for each product.

(1[4]3) Each registration is renewed for a period of one year upon payment of the annual renewal fee determined by the department, pursuant to Subsection 4-2-103(2). The renewal fee shall be paid on or before June 30 of each year. If the renewal of a pesticide registration is not received prior to July 1 of each year, an additional fee determined by the department, pursuant to Subsection 4-2-103(2), shall be assessed and added to the original registration fee, and shall be paid by the applicant before the registration renewal for that pesticide will be issued.

#### **R68-7-4. Product Labeling.**

(1) Each container of pesticide distributed in Utah shall bear a label showing the information set forth in Section 4-14-104.

(2) Each pesticide label shall contain the statements, words, graphic material, and any other information required by the EPA in 40 CFR 156.

#### **R68-7-5. Classification of Pesticides.**

(1) The department shall classify each pesticide product registered in Utah for either restricted use or general use according to standards consistent with FIFRA Section 3.

(2) The department may also classify other substances as pesticides or restrict the use of any substance as a pesticide if the department determines, in its sole discretion, that such a substance may pose a risk to the health or safety of the public or the environment.

(3) Restricted use pesticides shall not be used by any person that does not have a valid pesticide applicator license with the appropriate category for its use, except they may be used by:

(a) a pesticide handler, supervised by a certified pesticide applicator under the EPA WPS and who meets the qualifications in Subsection R68-7-6(6); or

(b) a pesticide handler acting upon an emergency use permit issued under this rule.

#### **R68-7-6. Certification of Pesticide Applicators.**

(1) A pesticide applicator shall be certified by the department as a commercial pesticide applicator, non-commercial pesticide applicator, or a private pesticide applicator.

(2) A pesticide applicator shall comply with FIFRA and Title 4, Chapter 14, Utah Pesticide Control Act.

(3) A pesticide applicator shall follow the directions on a pesticide product label.

(4) To be certified, a pesticide applicator shall be at least eighteen years of age.

(5) A commercial pesticide applicator may use restricted use, general use, or any other classification of pesticide, including FIFRA Section 25(b) products.

(6) A person who is at least 16 years of age may apply restricted use pesticides while under the direct supervision of a certified pesticide applicator, who is also an immediate family member, according to the family exemption of the EPA WPS, if they only apply pesticides on the privately owned agricultural establishment of a certified pesticide applicator who is also an immediate family member.

(7) An EPA WPS trainer is a certified pesticide applicator of any type who trains workers and handlers in the WPS requirements under 40 CFR 170.

(8) An EPA WPS trainer may also be a graduate of an EPA approved WPS Train the Trainer Program, as set forth in 40 CFR 170.

(9) Commercial and non-commercial EPA WPS trainers shall have the Agricultural Pest Control: Plant Pesticide category on their license, pursuant to Section R68-7-8.

#### **R68-7-7. Pesticide Certification Categories.**

Pesticide applicators shall also be certified by the department in one or more of the pest control categories defined below:

(1) Agricultural Pest Control.

(a) Plant. This category includes applicators applying pesticides to control pests in the production of agricultural crops including field crops, vegetables, fruits, pasture, rangelands, and non-crop agricultural lands.

(b) Animal. This category includes applicators applying pesticides on animals including beef and dairy cattle, swine, sheep, horses, goats, poultry, and to places on or in which animals inhabit. Doctors of veterinary medicine, or their employees, engaged in applying pesticides for hire, publicly representing themselves as pesticide applicators, or engaged in the use of pesticides, are included in this category.

(2) Forest Pest Control. This category includes applicators applying pesticides in forests, forest nurseries, and forest seed-producing areas.

(3) Ornamental and Turf Pest Control. This category includes applicators applying pesticides to control ornamental and turf pests in the maintenance and production of ornamental trees, shrubs, flowers and turf. This includes controlling pests on sidewalks, driveways, and other similar locations.

(4) Seed Treatment. This category includes applicators applying pesticides on seeds in seed treatment facilities.

(5) Aquatic Pest Control.

(a) Surface Water. This category includes applicators applying pesticides to control pests in standing or running water.

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This pesticide category does not include applicators engaged in public health related activities included in Subsection R68-7-8(8).

(b) Sewer Root Control. This category includes applicators applying pesticides to control roots in sewers or other related systems.

(6) Right-of-Way Pest Control. This category includes applicators applying pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way, or other similar areas.

(7) Structural and Health Related Pest Control. This category includes applicators applying pesticides in, on, or around any public or private food handling establishment; dwelling, educational institution, or medical institution; industrial building; business establishment; packing house; food-processing facility; prison; manufacturing facility; grain elevator; or any other structure or area, or immediately adjacent structure or area, to control pests. This category excludes any fumigation pesticide applications. This category includes applicators applying pesticides on vertebrate pests in buildings and structures, and immediately adjacent to, or no further than three feet from, buildings and structures. If the label for a structural pesticide permits the use of the pesticide more than three feet from the structure, then the pesticide may be used beyond three feet from the structure, but may not exceed the maximum distance permitted by the label.

(8) Public Health Pest Control.

(a) Commercial. This category is limited to commercial pesticide applicators who apply pesticides for the management and control of pests due to issues of medical and public health importance. This category is only valid when the pesticide applicator is actively contracted by a government entity, and is actively engaged in applying pesticides for that government entity.

(b) Non-Commercial. This category is limited to state and federal employees, county or city governments, or persons under their direct supervision, who apply pesticides in government-sponsored public health programs for the management and control of pests due to issues of medical and public health importance.

(9) Regulatory Pest Control. This category is limited to state and federal employees who:

(a) apply pesticides in a mechanical ejection device; or

(b) apply pesticides in a protective collar or other method to control regulated pests.

(10) Demonstration, Consultation, and Research Pest Control. This category includes individuals who demonstrate or provide instruction to the public in the proper use, techniques, benefits, and methods of applying restricted use pesticides. This category includes agricultural compliance specialists, educational and university personnel, commercial business representatives, consultants and advisors, and persons conducting field research with restricted use pesticides. In addition to certification in this pesticide category, individuals shall also meet specific standards that may be applicable to their particular pesticide category.

(11) Aerial Application Pest Control. This category includes applicators applying pesticides by airplane, drone, helicopter, or any other type of aircraft. Aerial applicators are required to be certified in the Aerial Application Pest Control category, along with any other applicable pest control category for any intended pesticide application. Aerial pesticide applicators shall also possess a valid commercial pilot license, or equivalent remote

pilot certifications, issued by the Federal Aviation Administration (FAA).

(12) Vertebrate Animal Pest Control. This category includes applicators applying pesticides for the outdoor control of vertebrate pests, such as rodents, birds, bats, predators, or domestic animal pests.

(13) Fumigation Pest Control.

(a) Stored Commodities. This category includes applicators applying fumigants to control pests in, on, or around stored grains, grain elevators, mills, structures, railroad cars, manufactured products, or similar areas or items.

(b) Structural. This category includes applicators applying fumigants to control pests while additionally tenting, sealing with filling, or completely enclosing a structure.

(c) Soil. This category includes applicators applying fumigants in and on the soil of agricultural locations.

(14) Wood Preservation Pest Control. This category includes applicators applying preservative pesticides to wood products, such as fence posts, electrical poles, railroad ties, or any other form of wood product.

(15) Wood Destroying Organisms Pest Control. This category includes applicators applying pesticides to control wood destroying pests, termites, carpenter ants, wood-boring or tunneling insects, bees, wasps, wood-decaying fungi, and any other pests destroying wood products.

### **R68-7-8. Standards of Competence for Certification of Pesticide Applicators and Pesticide Businesses.**

(1) Pesticide applicators shall be at least 18 years of age in order to obtain a commercial, non-commercial, or private pesticide applicator license.

(2) The basic standards for certification of pesticide applicators have been established by the EPA, and shall be the minimum standards required for certification of pesticide applicators in Utah.

(3) Commercial and non-commercial pesticide applicators shall demonstrate competency and practical knowledge by successfully completing the written pesticide applicator core test and any additional pesticide category tests. The pesticide applicator tests shall include core standards applicable to each pesticide category, and the standards specifically identified for each pesticide category, or subcategory, as set forth in 40 C.F.R 171.103, and the EPA-approved Utah State Pesticide Applicator Certification Plan, including:

(a) familiarity with pesticide labels and labeling and their functions, including each of the following:

(i) the general format and terminology of pesticide labels and labeling;

(ii) understanding instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels and labeling;

(iii) understanding that it is a violation of federal law to use any registered pesticide in a manner inconsistent with its labeling;

(iv) understanding labeling requirements that a certified applicator must be physically present at the site of the application;

(v) understanding labeling requirements for supervising non-certified applicators working under the direct supervision of a certified applicator;



(vi) understanding that applicators shall comply with any use restrictions and directions for use contained in pesticide labels and labeling, including being certified in the certification category appropriate to the type and site of the application;

(vii) understanding the meaning of product classification as either general or restricted use and that a product may be unclassified;

(viii) understanding and complying with product-specific notification requirements; and

(ix) recognizing and understanding the difference between mandatory and advisory labeling language;

(b) safety measures to avoid or minimize adverse health effects, including each of the following:

(i) understanding the different natures of the risks of acute toxicity and chronic toxicity, as well as the long-term effects of pesticides;

(ii) understanding that a pesticide's risk is a function of exposure and the pesticide's toxicity;

(iii) recognition of likely ways in which dermal, inhalation, and oral exposure may occur;

(iv) common types and causes of pesticide mishaps;

(v) precautions to prevent injury to applicators and other individuals in or near treated areas;

(vi) need for, and proper use of, protective clothing and personal protective equipment;

(vii) symptoms of pesticide poisoning;

(viii) first aid and other procedures to be followed in case of a pesticide mishap; and

(ix) proper identification, storage, transport, handling, mixing procedures, and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticides and pesticide containers;

(c) the potential environmental consequences of the use and misuse of pesticides, including the influence of each of the following:

(i) weather and other indoor and outdoor climatic conditions;

(ii) types of terrain, soil, or other substrate;

(iii) presence of fish, wildlife, and other non-target organisms; and

(iv) drainage patterns;

(d) the proper identification and effective control of pests, including each of the following:

(i) the importance of correctly identifying target pests and selecting the proper pesticide product for effective pest control; and

(ii) verifying that the labeling does not prohibit the use of the product to control the target pests;[-]

(e) characteristics of pesticides, including each of the following:

(i) types of pesticides;

(ii) types of formulations;

(iii) compatibility, synergism, persistence, and animal and plant toxicity of the formulations;

(iv) hazards and residues associated with use;

(v) factors that influence effectiveness or lead to problems such as pesticide resistance; and

(vi) dilution procedures;

(f) application equipment, including each of the following:

(i) types of equipment and advantages and limitations of each type; and

(ii) use, maintenance, and calibration procedures;

(g) selecting appropriate application methods, including each of the following:

(i) methods used to apply various forms and formulations of pesticides;

(ii) knowledge of which application method to use in a given situation and that use of a fumigant, aerial application, sodium cyanide, or sodium fluoroacetate requires additional certification;

(iii) how selection of application method and use of a pesticide may result in proper use, unnecessary or ineffective use, and misuse; and

(iv) prevention of drift and pesticide loss into the environment;

(h) knowledge of all applicable state, tribal, and federal laws and regulations.; and

(i) professionalism, including understanding the importance of each of the following:

(i) maintaining chemical security for restricted use pesticides;

(ii) how to communicate information about pesticide exposures and risks with customers and the public; and

(iii) appropriate product stewardship for certified applicators.

(4) The standards for commercial, non-commercial, and private applicators do not apply to the following persons for the purposes of this rule:

(a) persons conducting research involving restricted use pesticides;[-]

(b) doctors of medicine and doctors of veterinary medicine applying pesticides, drugs, or medication during the course of their normal practice, and who do not publicly represent themselves as pesticide applicators;

(c) persons using a general use disinfectant, sanitizer, or deodorizer commercially, and not for the control of insects, weeds, rodents, or similar pests, or use in settings outside of a structure; or

(d) persons using a general use fungicide for interior structural cleaning or interior structural mold remediation.

(5) Aerial Pesticide Applicator. An aerial pesticide applicator shall demonstrate competence and practical knowledge of aerial pest control in a wide variety of environments by successfully completing the aerial pesticide applicator test. Aerial pesticide applicators shall have knowledge of the significance of drift, and of the potential for non-target injury and environmental contamination. Aerial pesticide applicators shall obtain the Aerial Application Pest Control category certification, along with any additional pesticide category certifications for which they shall apply pesticides. Aerial pesticide applicators shall comply with each standard set forth by the FAA, and shall submit proof of current registration with the FAA as an additional requirement for receiving an aerial pesticide applicator certification.

(6) Private Pesticide Applicator. A private pesticide applicator shall demonstrate competence and practical knowledge by successfully completing the private pesticide applicator test, and any required additional pesticide category tests. This knowledge shall include the basic standards for certification of private applicators set forth in 40 CFR 171.105. This includes:

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(a) familiarity with pesticide labels and labeling and their functions, including each of the following:

(i) the general format and terminology of pesticide labels and labeling;

(ii) understanding instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels and labeling;

(iii) understanding that it is a violation of federal law to use any registered pesticide in a manner inconsistent with its labeling;

(iv) understanding when a certified applicator shall be physically present at the site of the application based on labeling requirements;

(v) Understanding labeling requirements for supervising non-certified applicators working under the direct supervision of a certified applicator;

(vi) understanding that applicators shall comply with each use restriction and directions for use contained in pesticide labels and labeling, including being certified in the appropriate category to use restricted use pesticides for fumigation or aerial application, or predator control devices containing sodium cyanide or sodium fluoroacetate, if applicable;

(vii) understanding the meaning of product classification as either general or restricted use, and that a product may be unclassified;

(viii) understanding and complying with product-specific notification requirements; and

(ix) recognizing and understanding the difference between mandatory and advisory labeling language;

(b) safety measures to avoid or minimize adverse health effects, including each of the following:

(i) understanding the different natures of the risks of acute toxicity and chronic toxicity, as well as the long-term effects of pesticides;

(ii) understanding that a pesticide's risk is a function of exposure and the pesticide's toxicity;

(iii) recognition of likely ways in which dermal, inhalation, and oral exposure may occur;

(iv) common types and causes of pesticide mishaps;

(v) precautions to prevent injury to applicators and other individuals in or near treated areas;

(vi) need for, and proper use of, protective clothing and personal protective equipment;

(vii) symptoms of pesticide poisoning;

(viii) first aid and other procedures to be followed in case of a pesticide mishap; and

(ix) proper identification, storage, transport, handling, mixing procedures, and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticides and pesticide containers;

(c) the potential environmental consequences of the use and misuse of pesticides, including the influence of the following:

(i) weather and other climatic conditions;

(ii) types of terrain, soil, or other substrate;

(iii) presence of fish, wildlife, and other non-target organisms; and

(iv) drainage patterns;

(d) the proper identification and effective control of pests, including each of the following:

(i) the importance of correctly identifying target pests and selecting the proper pesticide product; and

(ii) verifying that the labeling does not prohibit the use of the product to control the target pests;

(e) characteristics of pesticides, including all of the following:

(i) types of pesticides;

(ii) types of formulations;

(iii) compatibility, synergism, persistence, and animal and plant toxicity of the formulations;

(iv) hazards and residues associated with use;

(v) factors that influence effectiveness or lead to problems such as pesticide resistance; and

(vi) dilution procedures;

(f) application equipment, including each of the following:

(i) types of equipment and advantages and limitations of each type; and

(ii) uses, maintenance, and calibration procedures;

(g) selecting appropriate application methods, including each of the following:

(i) methods used to apply various forms and formulations of pesticides;

(ii) knowledge of which application method to use in a given situation and that use of a fumigant, aerial application, or predator control device containing sodium cyanide or sodium fluoroacetate requires additional certification;

(iii) how selection of application method and use of a pesticide may result in proper use, unnecessary or ineffective use, and misuse; and

(iv) prevention of drift and pesticide loss into the environment;

(h) knowledge of each applicable state, tribal, and federal laws and regulations, including understanding the WPS and the circumstances where compliance is required;

(i) certified applicator responsibilities related to supervision of non-certified applicators, including each of the following:

(i) understanding and complying with requirements in 40 C.F.R. 171.201 for private applicators who supervise non-certified applicators using restricted use pesticides;

(ii) providing use-specific instructions to non-certified applicators using restricted use pesticides under the direct supervision of a certified applicator; and

(iii) explaining appropriate state, tribal, and federal laws and regulations to non-certified applicators working under the direct supervision of a certified applicator;

(j) understanding stewardship and the importance of each of the following:

(i) maintaining chemical security for restricted use pesticides; and

(ii) how to communicate information about pesticide exposures and risks with agricultural workers and handlers and other persons;

(k) practical knowledge of pest control applications to agricultural commodities including each of the following:

(i) specific pests of relevant agricultural commodities;

(ii) how to avoid contamination of ground and surface waters;

(iii) understanding pre-harvest and restricted entry intervals and entry-restricted periods and areas;

(iv) understanding specific pesticide toxicity and residue potential when pesticides are applied to animal or animal product agricultural commodities; and

(v) relative hazards associated with using pesticides on animals or places in which animals are confined based on formulation, application technique, age of animal, stress, and extent of treatment.

(7) A licensed private pesticide applicator that functions in a supervisory role shall be responsible for the actions of any non-certified pesticide handlers under their instruction and control.

(8) A private pesticide applicator shall provide non-certified pesticide handlers under their supervision instructions on the EPA WPS pesticide handler applicator training, and keep records of having provided these instructions for a period of two years.

(9) A private pesticide applicator shall be physically present to supervise the application of any pesticide by a non-certified handler, if such presence is required by the label of the pesticide being applied.

#### **R68-7-9. Pesticide Applicator Licensing and Certification Procedures.**

(1) Commercial Pesticide Applicator and Commercial Pesticide Business License Required.

(a) Each person performing the physical act of applying a pesticide, shall be certified by the department and have a valid license issued by the department. No person shall apply, advertise for, solicit, or hold oneself out as willing to engage in the business of applying any pesticide for hire or compensation to the land or property of another at any time without becoming certified as a pesticide applicator, obtaining a commercial pesticide applicator license, and:

(i) obtaining a commercial pesticide business license, as described in Section 4-14-111 issued by the department; or

(ii) working for a company that has already obtained a commercial pesticide business license.

(b) The fees for a commercial pesticide applicator license and a commercial pesticide business license, shall be determined in accordance with Subsection 4-2-103(2) and Section 63J-1-504.

(c) A commercial pesticide applicator license is required for any individual who applies pesticides for a commercial business. No person shall purchase, use, or demonstrate the use of, any restricted use pesticide, or shall apply any pesticide for a commercial business, without becoming certified and obtaining a commercial pesticide applicator license issued by the department.

(2) An applicant for a commercial pesticide applicator license shall:

(a) complete an application on the department's website or on forms prepared and provided by the department; and

(b) pay the licensing fees.

(c) A license will only be issued after the applicant has successfully passed the required pesticide applicator tests to become certified, or after recertifying according to the Continuing Education Unit (CEU) requirements.

(d) A testing fee, retest fee, or any related fee, may be determined by department approved testing centers, according to their own individual policies.

(3) An applicant for a commercial pesticide business license shall:

(a) complete an application form provided by the department;

(b) pay the licensing fee;

(c) be in good standing with the department;

(d) demonstrate good character; and

(e) provide evidence that the owner or qualifying party:

(i) is a certified pesticide applicator in the State of Utah;

(ii) is not a designated qualifying party or employee with any other pesticide applicator business;

(iii) has been a certified pesticide applicator for at least two years out of the ten years immediately prior to the date of the commercial pesticide business application; or

(iv) holds an associate degree, or higher, in horticulture, agricultural sciences, biological sciences, pest management, or a related and relevant science degree.

(f) A person applying for a commercial pesticide business license may be exempted from the two year certification requirement if the individual's and entity's sole use of pesticides is limited to:

(i) providing ornamental and turf herbicide spot treatment services as part of a lawn maintenance service; and

(ii) using herbicides with labels that contain the signal word "caution" or "warning".

(g) A commercial pesticide business operating under more than one business identity or name, from a single business location, shall be licensed separately for each business identity or name.

(h) A commercial pesticide business with a single business identity or name, but operating from more than one business location, shall be licensed at each separate business location. Business locations that are used only for pesticide storage and mixing purposes are exempt from licensing requirements, but shall be disclosed to the department.

(i) The department may require a commercial pesticide business license applicant to change their requested business name. This may occur if the applicant requests a business name that is the same, or closely resembles, the name of a currently licensed commercial pesticide business. The department may additionally require a commercial pesticide business, or commercial pesticide business license applicant, to change their business name if the business name could reasonably cause public confusion, public alarm, or public offense. Any determination made pursuant to this subsection shall be at the sole discretion of the department in coordination with the state Division of Corporations. The purpose of this subsection is to ensure compliance with current guidance from the Division of Corporations. The department shall prioritize licensing a business name that is registered with the Division of Corporations

(j) Each licensed commercial pesticide business location shall have a minimum of one certified commercial pesticide applicator at that location who is certified in each pesticide category for which pesticide applications are made.

(k) A franchised commercial pesticide business licensee shall have a separate commercial pesticide business license and a separate certified commercial pesticide applicator at each business location. Additionally, franchised businesses shall be distinctly identifiable from one another, to avoid departmental and public confusion, by adding unique words or numbers to distinguish the different businesses.

(l) If a commercial pesticide business licensee uses a Doing Business As (DBA) name, it shall be listed on the pesticide

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business application along with the company name. A business may list more than one assumed name on a single registration application. Any DBA shall be registered and active with the Division of Corporations.

### **R68-7-10. Commercial Pesticide Applicator and Commercial Pesticide Business Testing Procedures.**

(1) Commercial Pesticide Applicator Testing. To become certified, an applicant for a commercial pesticide applicator license shall demonstrate competency and knowledge of pesticide applications, laws, and other relevant subjects by successfully completing the required pesticide applicator tests and department application forms. Each pesticide applicator test shall be proctored at a department approved testing center.

(a) An applicant shall first pay any licensing fees to the department, and obtain a receipt of license payment.

(b) An applicant shall find a testing center from a list of approved testing centers on the department's website.

(c) An applicant shall schedule each required pesticide applicator test with a testing center.

(d) Fees for testing may be established and charged by the testing center, including those operated by the department.

(e) An applicant may acquire study materials from the department website or purchase them from a separate vendor.

(f) An applicant shall present their receipt of license payment from the department, and valid government issued identification, to the proctor at the applicant's chosen testing center.

(g) Cheating, ejection from testing, or failure to follow the rules of the department or testing center shall, at the discretion of the department, constitute a violation of this rule and may serve as a basis for a denial of a license application. Applicants are subject to state and federal law and department rules and policies regardless of whether the applicant successfully passes or not.

(h) The pesticide applicator core test must be successfully completed with a minimum score of 70% before any pesticide category tests may be attempted.

(i) At least one pesticide category test shall be taken and successfully completed with a minimum score of 70% before a license may be obtained.[-]

(j) The steps to re-certify solely by testing are the same as for an initial applicant. The pesticide applicator core test must be successfully completed with a minimum score of 70% before any pesticide category tests may be attempted.

(k) Upon the successful completion of the appropriate pesticide applicator tests, the applicant shall complete the department's completion form, which can be found online in the testing program.

(l) When the completion form has been submitted, a license may be issued.

(m) The rules of a testing center, if more restrictive than those of the department, shall take precedence over those of the department during the administration of pesticide applicator tests.

(n) If the minimum score of 70% is not obtained after two attempts, the person taking the tests shall wait at least 24 hours, pay any additional retest fees to the testing center, and begin retesting on any failed tests.

(2) Commercial Pesticide Business Testing. The test shall be taken by the owner, principal agent, manager, or designated

qualifying party, and that individual shall be bound by the rules for a commercial pesticide business contained in Subsection R68-7-10(1).

(a) Business license tests may be taken on any computer with internet access.

(b) In the event the individual taking the test does not successfully pass the test with a minimum score of 70%, a commercial pesticide business license shall not be issued.

### **R68-7-11. Commercial Pesticide Applicator and Commercial Pesticide Business License Issuance.**

(1) A temporary pesticide applicator permit shall be issued automatically by email following the successful completion of the pesticide applicator core test in conjunction with each pesticide category test and provided each other department requirement is met. The temporary permit will expire 30 days from the date it was issued. The pesticide applicator core test must be successfully completed with a minimum score of 70% before any pesticide category tests may be attempted. A temporary pesticide applicator permit is invalid if only the pesticide applicator core test is successfully completed and no additional pesticide category test is successfully completed.

(2) The pesticide applicator and pesticide business is responsible for verifying that their license has been processed by the department.

(3) A commercial pesticide applicator license or a commercial pesticide business license shall be issued when the following conditions have been met:

(a) the applicant has submitted an application form to the department;

(b) any required fees have been paid;

(c) the applicant is in good standing with the department;

(d) the applicant has successfully passed the appropriate tests to apply pesticides in the classifications and categories for which they have applied; and

(e) the applicant for the qualifying party for the pesticide business license meets the requirements in Section 4-14-111.

(4) A commercial pesticide applicator license shall expire on December 31 of the third calendar year from the time of licensure, unless it has been revoked or suspended by the department for cause, which may include any combination of the unlawful acts listed in Section R68-7-20.

(5) If an application for a commercial pesticide applicator license or commercial pesticide business license is denied, the applicant shall be informed of the reason by email or mail.

(6) A pesticide applicator is required to have their license in their immediate possession when making a pesticide application.

(7) If a pesticide applicator requests a duplicate license from the department, a fee determined by the department, pursuant to Subsection 4-2-103(2), shall be paid. The pesticide applicator must be in good standing, having no unresolved violations or fines, before a replacement license shall be issued.

(8) A commercial pesticide business license shall be required for each commercial pesticide business location, other than locations used only to store and load pesticides.

(9) A new commercial pesticide applicator or commercial pesticide business license applicant who completes an application completed between November 1 and December 31 shall be licensed for the remainder of that year and the following three calendar years.

(10) Commercial Pesticide Applicator and Commercial Pesticide Business License Recertification and Renewal.

(a) Each commercial pesticide applicator and commercial pesticide business license shall expire on December 31 of the third calendar year following its issuance.[-]

(b) Commercial pesticide applicators shall recertify before their license expires, and may be subject to re-examination at any time during their valid license period.

(c) Recertification options include:

(i) completion of the original certification process by taking the required pesticide core and pesticide category tests and successfully completing each required test with a minimum score of 70%; or

(ii) participation in approved CEUs and accumulating the required amount of 24 total CEU credits during the licensure period. A minimum of two credits in law, six in safety, and ten in pesticide use are required, while any combination of the three categories may be used for the remaining six credits.

(d) The qualifying party for a commercial pesticide business shall complete the related commercial pesticide business test every three years.

(11) Records Maintained. Commercial applicators shall keep and maintain records of any pesticide applications.[-]

(a) These records shall be recorded within 24 hours after the pesticide application is made.

(b) The application records shall include the following information:

(i) the name and address of the person or entity for whom the pesticide is applied;

(ii) the address of the pesticide application location, if the pesticide application location differs from Subsection R68-7-11(11)(a)(i);

(iii) the total square footage or total size of the area to be treated with pesticides;[-]

(iv) a description of the specific target sites, crops, commodities, or stored products at the pesticide application location to which any pesticides are applied;

(v) the time and date, including the month, day, and year when the pesticide was applied;

(vi) the brand name of the pesticides, EPA registration number, and mix rate for any pesticides applied;

(vii) the total amount of pesticides, including diluted or ready-to-use (RTU) pesticides, applied per location and per application;

(viii) the purpose of the pesticide application, the pesticide target site, and pest to be treated;

(ix) the name, commercial pesticide business address, and commercial pesticide applicator license number of the certified commercial pesticide applicator who applied the pesticides; and

(c) Records shall be kept for a period of at least two years from the date of the pesticide application and shall be available for inspection by the department upon request.

(d) Records shall be furnished in a uniform format.

(12) Notwithstanding the requirements of this section, the department may give consideration to political subdivisions of the state, or a non-profit organization, regarding their need to obtain a Commercial Pesticide Business License or the requirement of their applicators to obtain a Commercial Pesticide Applicator License.

(a) Consideration shall be given to political subdivisions if their charter includes a fee for pesticide services or products.

(b) Non-profit organizations may not need to obtain the commercial pesticide business license or the commercial pesticide applicator license to receive reimbursement for applications made on public land owned by the federal government or the state.

(c) Application or distribution of restricted use pesticides shall be done in accordance with this rule.

#### **R68-7-12. Non-Commercial Pesticide Applicators.**

(1) Non-Commercial Pesticide Applicator License Required. A non-commercial pesticide applicator license is required for applying restricted use pesticides for a city, county, state, or federal government entity, or for corporations, businesses, or any other entity, that does not require a commercial pesticide applicator license. No person shall purchase, use, or demonstrate the use of any restricted use pesticide without becoming certified and obtaining a non-commercial pesticide applicator license issued by the department. Each person performing the physical act of applying restricted use pesticides shall be certified and have a valid non-commercial pesticide applicator license.

(2) Non-Commercial Pesticide Applicator Application and Fee Requirements. The fees for a non-commercial pesticide applicator license shall be determined in accordance with Subsection 4-2-103(2) and Section 63J-1-504.

(a) An application for a non-commercial pesticide applicator license shall be made on the approved department form. A non-commercial pesticide applicator license shall only be issued after the applicant has successfully passed the required pesticide applicator tests, or after recertifying according to CEU requirements. Each individual performing the physical act of applying restricted use pesticides shall be licensed as a non-commercial pesticide applicator.

(b) A testing fee, retest fee, or any related fee, may be determined by approved testing centers, according to their own individual policies.

(3) Non-Commercial Pesticide Applicator Initial Certification.

(a) Fees for testing may be established and charged by any testing center, including those operated by the department.

(b) The applicant may acquire any necessary study materials from the department website.

(c) The applicant should schedule required pesticide applicator tests with a testing center approved by the department.

(4) Non-Commercial Pesticide Applicator Testing Procedures.

(a) A new applicant for a non-commercial pesticide license shall demonstrate competency and knowledge of pesticide applications, laws, and other relevant subjects by successfully completing the approved pesticide applicator tests and department application forms. Pesticide applicator tests shall be proctored at approved testing centers.

(b) An applicant for a non-commercial pesticide applicator license shall first pay licensing fees to the department, and obtain a receipt of license payment.

(c) An applicant for a non-commercial pesticide applicator license shall find a testing center from a list of approved testing centers on the department's website.

(d) An applicant for a non-commercial pesticide applicator license shall present their receipt of license payment from the department, and valid government issued identification, to the proctor at the applicant's chosen testing center.

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(e) Cheating, ejection from testing, or failure to follow the rules of the department or testing center shall, at the discretion of the department, constitute fraud under these rules. Applicants are subject to this rule, regardless if the applicant successfully passes or not.

(f) The pesticide applicator core test must be successfully completed with a minimum score of 70%, before any pesticide category tests may be attempted.

(g) At least one pesticide category test must be taken and successfully completed with a minimum score of 70% before a non-commercial pesticide applicator license may be obtained.

(h) The steps to re-certify solely by testing are the same as for an initial applicant. The pesticide applicator core test must be successfully completed with a minimum score of 70%, before any pesticide category tests may be attempted.

(i) Upon the successful completion of the appropriate pesticide applicator tests, the applicant shall complete the department's completion form, which can be found online in the testing program.

(j) The rules of a testing center, if more restricting than those of the department, shall take precedence over those of the department during the administration of the pesticide applicator tests.

(k) If the minimum score of 70% is not obtained after two attempts, the person taking the tests must wait 24 hours, pay any additional retest fees to the testing center, and begin retesting on any failed tests.

(5) Non-Commercial Pesticide Applicator Certification Tests and Review. The pesticide applicator tests and methods of testing shall be determined and approved by the department. The review of applications shall be made by the department for determining eligibility.

(6) Non-Commercial Pesticide Applicator License Issuance.

(a) A temporary pesticide applicator permit shall be issued automatically by email for the successful completion of the pesticide applicator core test and each pesticide category test and provided each other department requirement is met. The temporary permit will expire 30 days from the date it was issued. The pesticide applicator core test must be successfully completed with a minimum score of 70%, before any pesticide category tests may be attempted. A temporary pesticide applicator permit is not valid if only the pesticide applicator core test is successfully completed, and no additional pesticide category test is successfully completed.

(b) The pesticide applicator is responsible to verify their license is processed by the department.

(c) A non-commercial pesticide applicator license shall be issued when the following conditions have been met:

(i) an application form has been submitted to the department;

(ii) any fees have been paid;

(iii) the applicant is in good standing with the department; and

(iv) the applicant has successfully passed the appropriate tests to apply pesticides in the classifications for which they have applied

(d) The non-commercial pesticide applicator license shall expire on December 31 of the third calendar year from the time of licensure, unless it has been revoked or suspended by the department for cause, which may include any combination of the unlawful acts given in Section R68-7-20.

(e) If an application for a non-commercial pesticide applicator license is denied, the applicant shall be informed of the reason by email or mail.

(f) A pesticide applicator is required to have their license in their immediate possession when making a pesticide application.

(g) If the pesticide applicator requests a duplicate license from the department, a fee determined by the department, pursuant to Subsection 4-2-103(2), shall be paid. The pesticide applicator must also be in good standing, having no unresolved violations or fines, before a replacement license shall be issued.[-]

(h) A new non-commercial pesticide applicator application completed between November 1 and December 31 of the same year shall be licensed for the remainder of that year and the following three calendar years.

(7) Non-Commercial Pesticide Applicator License Recertification and Renewal.

(a) Each non-commercial pesticide applicator license shall expire on December 31 of the third calendar year following its issuance.

(b) Non-Commercial pesticide applicators must recertify before their license expires, and may be subject to re-examination at any time during their valid license period.

(c) Recertification options include:

(i) completion of the original certification process by taking the required pesticide core and pesticide category test(s) and successfully completing each required test with a minimum score of 70%; or

(ii) participate in approved CEUs and accumulate the required amount of 24 total CEU credits during the valid license time period. A minimum of two credits in law, six in safety, and ten in pesticide use are required, while any combination of the three categories may be used for the remaining six credits.

(8) Records Maintained. Non-Commercial applicators shall keep and maintain records of any restricted use pesticide applications.

(a) These records shall be recorded within 24 hours after the pesticide application is made.

(b) The application records shall include the following information:

(i) the name and address of the person for whom the restricted use pesticide is applied;

(ii) the address of the restricted use pesticide application location, if the pesticide application location differs from the location provided pursuant to R68-7-12(8)(b)(i);

(iii) the complete square footage of the area to be treated with restricted use pesticides;

(iv) the specific sites at the pesticide application location to which any restricted use pesticides are applied;

(v) the time and date, including the month, day, and year when the restricted use pesticide was applied;

(vi) the brand name of the restricted use pesticides, EPA registration number, and mix rate for any restricted use pesticides applied;

(vii) the total amount of restricted use pesticides, including diluted or ready-to-use (RTU) pesticides, applied per application;

(viii) the purpose of the restricted use pesticide application, the pesticide target site, and pest to be treated; and

(ix) the name and non-commercial pesticide applicator license number of the certified non-commercial pesticide applicator who applied the pesticides.

(c) records shall be kept for a period of at least two years from the date of the pesticide application and shall be available for inspection by the department, upon request.

(d) Records shall be furnished in a uniform format.

#### **R68-7-13. Private Pesticide Applicators.**

(1) Private Pesticide Applicator License Required.[-]

(a) A private pesticide applicator license is required for applying restricted use pesticides on the owned, rented, or leased agricultural property of an individual. No person shall purchase, use, demonstrate the use of, or supervise the use of any restricted use pesticide without becoming certified and obtaining a private pesticide applicator license issued by the department. Each person performing the physical act of applying restricted use pesticides shall be eighteen years of age, or older, and possess a valid private pesticide applicator license, except:

(i) a person of at least 16 years of age may apply restricted use pesticides while under the direct supervision of a certified pesticide applicator, who is also an immediate family member, according to the family exemption of the EPA WPS, and only applies pesticides on the privately owned agricultural establishment of a certified pesticide applicator who is also an immediate family member; or

(ii) any person, eighteen years of age, or older, employed by, or working on, a privately owned, rented, or leased agricultural property who has been trained by an actively certified Utah pesticide applicator, or trainer that has successfully completed an EPA approved Train the Trainer course, and has been instructed on the requirements of the EPA WPS for pesticide handlers.

(b) A private pesticide applicator is considered as having each pesticide category on their license except for the Fumigation Pest Control and Aerial Application Pest Control categories. A private pesticide applicator shall successfully complete the respective pesticide applicator tests for the Fumigation Pest Control and Aerial Application Pest Control categories before applying any pesticides restricted by those categories.

(c) Issuance of a private pesticide applicator license shall be conditioned upon the applicant complying with the certification requirements determined by the department as necessary to prevent unreasonable adverse effects on the environment, and to prevent unreasonable injury to any person. A private pesticide applicator license certifies the applicator to give instructions on the EPA WPS to the workers and pesticide handlers of a private agricultural establishment.

(d) Private Pesticide Applicator Application and Fee Requirements. The fees for a private pesticide applicator license shall be determined in accordance with Subsection 4-2-103(2) and Section 63J-1-504.

(i) Applications for a private pesticide applicator license shall be made on the approved department form and shall be submitted to the department along with the required fee. A license will only be issued after the applicant has successfully passed the required pesticide applicator tests, or after recertifying according to the CEU requirements.

(ii) A testing fee, retest fee, or any related fee, may be determined by approved testing centers, according to their own individual policies.

(2) Private Pesticide Applicator Initial Certification.

(a) Fees for testing may be established and charged by any testing center, including those operated by the department.

(b) The applicant may acquire any necessary study materials from the department website.

(c) The applicant shall schedule required pesticide applicator tests with a testing center approved by the department.

(3) Private Pesticide Applicator Testing Procedures.

(a) A new applicant for a private pesticide license must be eighteen years of age, or older, and shall demonstrate competency and knowledge of pesticide applications, laws, and other relevant subjects by successfully completing the approved private pesticide applicator test and department application forms. Each pesticide applicator test shall be proctored at an approved testing center.

(b) An applicant for a private pesticide applicator license shall first pay any licensing fees to the department, and obtain a receipt of license payment.

(c) An applicant for a private pesticide applicator license shall find a testing center from a list of approved testing centers on the department's website. A test may also be proctored by a local Utah State University Extension agent.

(d) An applicant for a private pesticide applicator license shall present their receipt of license payment from the department, and valid government issued identification, to the proctor at the applicant's chosen testing center.

(e) Cheating, ejection from testing, or failure to follow the rules of the department or testing center shall, at the discretion of the department, constitute fraud under this rule. Applicants are subject to this rule, regardless if the applicant successfully passes or not.

(f) The private pesticide applicator test must be successfully completed with a minimum score of 70%, before any additional pesticide category tests may be attempted.

(g) The private pesticide applicator test must be taken and successfully completed with a minimum score of 70% before a private pesticide applicator license may be obtained.[-]

(h) Upon the successful completion of the appropriate pesticide applicator tests, the applicant shall complete the department's completion form, which can be found online in the testing program.

(i) The steps to re-certify solely by testing are the same as for an initial applicant. The private pesticide applicator test must be successfully completed with a minimum score of 70%, before any additional pesticide category tests may be attempted.

(j) Upon the successful completion of the private pesticide applicator test, the applicant shall complete the department's completion form, and the department's pesticide applicator application form, online.

(k) The rules of a testing center, if more restricting than those of the department, shall take precedence over those of the department during the administration of the pesticide applicator tests.

(l) If the minimum score of 70% is not obtained after two attempts, the person taking the tests must wait 24 hours, pay any additional retest fees to the testing center, and begin retesting on any failed tests.

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(4) Private Pesticide Applicator Certification Tests and Review. The pesticide applicator tests and methods of testing shall be determined and approved by the department. The review of applications shall be made by the department for determining eligibility.

(5) Emergency Use Permit. An individual may be able to acquire an Emergency Use Permit which allows a single individual, at a singular location, the permission to apply a restricted use pesticide in a situation determined to be an emergency by the department. Determination is at the sole discretion of the department. Any subsequent purchase of any restricted use pesticide, or additional pesticide application of any restricted use pesticide, or use of any restricted use pesticide by the individual obtaining the Emergency Use Permit is not allowed without the written consent of the department. This permit shall be issued only in an emergency as a substitute for a private pesticide applicator license.

(6) Private Pesticide Applicator License Issuance.

(a) A temporary pesticide applicator permit shall be issued automatically by email for the successful completion of the private pesticide applicator test and each pesticide category test and provided each other department requirement is met. The temporary permit will expire 30 days from the date it was issued. The private pesticide applicator test must be successfully completed with a minimum score of 70%, before any pesticide category tests may be attempted.

(b) The pesticide applicator is responsible to verify their license is approved by the department.

(c) A private pesticide applicator license shall be issued when the following conditions have been met:

(i) the applicant has successfully passed the appropriate tests to apply pesticides in the classifications for which they have applied;

(ii) any fees have been paid; and

(iii) the applicant is in good standing with the department.

(d) The private pesticide applicator license shall expire on December 31 of the third calendar year from the time of licensure, unless it has been revoked or suspended by the department for cause, as set forth in Section R68-7-20.

(e) If an application for a private pesticide applicator license is denied, the applicant shall be informed of the reason by email or mail.

(f) A pesticide applicator is required to have their license in their immediate possession when making a pesticide application.

(g) Duplicate licenses from the department are available for a fee as set forth in Subsection 4-2-103(2). The pesticide applicator shall also be in good standing with the department, and have no unresolved violations or fines, before a replacement license may be issued.

(h) A new private pesticide applicator application completed between November 1 and December 31 of the same year shall be licensed for the remainder of that year and the following three calendar years.

(7) Private Pesticide Applicator License Recertification and Renewal.

(a) Each private pesticide applicator license shall expire on December 31 of the third calendar year following its issuance.[-]

(b) Private pesticide applicators shall complete required recertifications before their license expires, and may be subject to re-examination at any time during their valid license period.

(c) Recertification options include:

(i) completion of the original certification process by taking the required pesticide core and pesticide category test(s) and successfully completing each required test with a minimum score of 70%; or

(ii) participation in approved CEUs and accumulate the required amount of six total CEU credits during the valid license time period. A minimum of one credit in Law, one in Safety, and one in Pesticide Use are required, while any combination of the three categories may be used for the remaining three credits.

(8) Records Maintained. Private pesticide applicators shall keep and maintain records of any restricted use pesticide applications, and of any pesticide applications required by WPS.

(a) These records shall be recorded within 24 hours after the pesticide application is made.

(b) The application records shall include the following information:

(i) If the licensee is subject to WPS, the location of any pesticide applications, detailing the address, the metes and bounds, GPS coordinates, or a map showing the number of applications and the sites treated;

(ii) If the licensee is not subject to the WPS, the location of any restricted use pesticide applications, detailing the address, the metes and bounds, GPS coordinates, or a map showing the number of applications and the sites treated;

(iii) the complete size description of the pesticide application area, using either acres, square footage, section, or other legally descriptive and easily understandable terms common to the industry;

(iv) the specific sites at the pesticide application location to which any restricted use pesticides are applied;

(v) the time and date of the pesticide application, including the month, day, and year when the restricted use pesticide was applied, and the pesticide application start and end times;

(vi) the pesticide product name, as it is written on the pesticide label, of the restricted use pesticides, the EPA registration number, and mix rate for any restricted use pesticides applied;

(vii) the active ingredient of the restricted use pesticide;

(viii) the total amount of restricted use pesticides, including diluted or RTU pesticides, applied per application;

(ix) the amount of restricted use pesticide used per acre or square feet;

(x) the purpose of the restricted use pesticide application, the pesticide target site, the pesticide target pest, and, if applicable, the crop to be treated;

(xi) the duration, or length of time, required for the restricted entry interval;

(xii) the name and pesticide applicator license number of the certified pesticide applicator who applied the pesticides, or who directly supervised the use of any restricted use pesticides; and

(xiii) the name of any individual who applied pesticides under the exemptions provided in Subsection R68-7-13(1)(a)(i) or Subsection R68-7-13(1)(a)(ii).

(c) Records shall be kept for a period of at least two years from the date of the pesticide application and shall be made available for inspection by the department, within 48 hours of a request.

(d) Pesticide application records provided by any commercial pesticide business to the agricultural establishment shall also be kept for two years, and will provide the same information required by Subsection R68-7-13(8).



(e) Records shall be kept recording the maintenance history of pesticide application equipment, any respirator medical information, respirator fit testing, and any other records required by the label of the product used or by EPA WPS.

(f) Records shall be kept in a uniform format.[-]

#### **R68-7-14. Other Individuals.**

(1) Employees of Federal Agencies.

(a) Federal government employees requesting to be a pesticide applicator in Utah shall be required to certify as a non-commercial pesticide applicator by successfully passing the written pesticide applicator core test and any applicable pesticide category tests. Federal government employees who possess a valid and current pesticide applicator license from another state may be exempt, and a reciprocal pesticide applicator license may be issued.[-]

(b) Any federal government agency with an EPA approved pesticide applicator certification plan that meets or exceeds the Utah pesticide applicator certification standards may qualify for reciprocal pesticide applicator certification in Utah.

(c) Federal government employees requesting reciprocal licensing status shall apply to the department and confirm that the application is approved prior to conducting any activities under this rule or Title 4, Chapter 14, Utah Pesticide Control Act.

(2) Certification of Out-of-State Applicants.

(a) An out-of-state pesticide applicator may apply as a Utah pesticide applicator by taking the applicable tests in their respective state. Out of state proctors shall be approved by the department and the pesticide applicator applicant shall bear the costs involved with out-of-state testing and licensing.

(b) If a pesticide applicator possesses a current and valid pesticide applicator certification from another state, and requests to apply pesticides in Utah, they shall complete the proper application process to the department, including:

(i) payment of any required fees;

(ii) a true copy of the applicant's credentials, both front and back, as proof of certification in the applicant's state of residence;

(iii) a front and back copy of their government issued identification; and

(iv) a letter of good standing, or other acceptable government documents, from the applicant's state pesticide licensing program, sent directly to the department by the licensing entity, specifically stating the applicant is in good standing and is currently licensed as a pesticide applicator in that state.[-]

(c) The department may, upon review of the applicant's required credentials and other materials, issue a Utah Pesticide Applicator License to the applicant in accordance with the pesticide categories or pesticide use situations for which the applicant is certified in another state, without requiring testing.

(d) Out-of-state pesticide applicators who apply pesticides in Utah shall be subject to Utah law.

(3) Changes to License Information.

(a) Each certified commercial, non-commercial, and private pesticide applicator shall notify the department of any change to the pesticide applicator's name, address, phone number, email address, or change of employer within 30 calendar days of the change. Failure to do so shall be considered a violation of this rule.

(b) Each commercial pesticide business and RUP dealer shall notify the department of any changes including ownership, company name, owner or manager's name, company address, phone

number, email address, or any other required information, within 30 calendar days of the change. Failure to do so shall be considered a violation of this rule.

(c) Business licenses are non-transferable, and in the case of a change of business ownership, a new application is required, along with the payment of any associated fees.

(i) The department shall determine if the name on the license may be retained by the new owner.

(ii) The department shall determine the necessary fees for a new license.

(iii) The new owner shall either qualify as the qualifying party or have an employee of the business that qualifies as a qualifying party. The qualifying party for the business must be an employee of the business as defined in Section 4-14-102, and not a contractor or third party. The qualifying party may not be the designated qualifying party, or employee, of another pesticide applicator business.

(d) The designated representative for a Pesticide Business License applicant shall meet the requirements of this section, including taking any applicable tests.

#### **R68-7-15. Restricted Use Pesticide Dealer Licensing.**

Restricted Use Pesticide Dealer License Required.

(1) It is unlawful for any person to act, represent, or advertise themselves as a restricted use pesticide dealer at any time without obtaining a restricted use pesticide dealer license.

(a) A separate license is required for each individual business location in the state where restricted use pesticides are sold or distributed.

(b) Any manufacturer, registrant, or distributor who has no restricted use pesticide dealer business licensed within this state, and who distributes a restricted use pesticide directly into Utah, shall obtain a restricted use pesticide dealer license for their principal out-of-state business location.

(c) Any manufacturer, registrant, or distributor who sells only through, or to, a pesticide dealer, is not required to obtain a restricted use pesticide dealer license.

(2) Restricted Use Pesticide Dealer License Issuance. Applications for a restricted use pesticide dealer license shall be on the approved department form. The fees for a restricted use pesticide dealer license shall be determined in accordance with Subsection 4-2-103(2) and Section 63J-1-504.[-]

(a) The applicant shall certify on the application that the business understands and recognizes the rules concerning the sale of restricted use pesticides and the records that shall be kept and maintained for two years.

(b) The applicant shall take online training prior to the initial issuance of their license and with every renewal. If a new manager is hired, the manager shall take online training.[-]

(b) If the department finds the applicant qualified to sell or distribute restricted use pesticides, and the applicant has paid any required licensing fees, the department may issue a Restricted Use Pesticide Dealer License. The Restricted Use Pesticide Dealer License shall expire on December 31 of the third calendar year from the time of licensure, unless it has been revoked or suspended by the department for cause, as set forth in Section R68-7-20.

(3) Restricted Use Pesticide Dealer License Renewal. Renewal fees for a restricted use pesticide dealer license shall be determined in accordance with Subsection 4-2-103(2) and Section

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63J-1-504. If a restricted use pesticide dealer fails to complete and submit the necessary renewal forms and certifications to the department before the end of their license expiration date, a late fee may be assessed and added to the renewal fee, in accordance with Subsection 4-2-103(2) and Section 63J-1-504.

(4) Records Maintained. Each licensed restricted use pesticide dealer location shall keep a recording of any restricted use pesticide sales. This restricted use pesticide sales record shall be submitted to the department on the department's website, and shall contain the following information:

- (a) the company name of the restricted use pesticide dealer;
  - (b) the store or location name of the restricted use pesticide dealer making the sale;
  - (c) the complete restricted use pesticide dealer license number;
  - (d) the expiration date of the certified pesticide applicator's certification or license;
  - (e) the categories in which the pesticide applicator is certified relevant to the pesticides sold;
  - (f) the complete date of the sale, including the month, day, and year;
  - (g) the first and last name of the individual who made the sale;
  - (h) the brand name of the restricted use pesticide sold, the complete EPA registration number of the restricted use pesticide, and the quantity sold;
    - (i) the restricted use pesticide product container size;
    - (j) the first and last name of the certified pesticide applicator who made the purchase;
    - (k) the complete pesticide applicator license number of the certified pesticide applicator who made the purchase; and
    - (l) the complete address and contact information of the certified pesticide applicator who made the purchase, including street name and house number, city, state, zip code, phone number, and email address.
  - (m) If the individual who purchased the restricted use pesticide was authorized by letter, the authorization letter shall be kept on file for a minimum of two years. The authorization letter shall contain the name, pesticide applicator license number, signature of the pesticide applicator who wrote the authorization letter, and the full name of the individual being authorized to purchase the restricted use pesticide. The authorization letter may only be used once per restricted use pesticide purchase. The restricted use pesticide dealer shall verify the information contained in the authorization letter, and shall verify the identity of the authorized individual by a government issued identification.
  - (n) If the individual who purchased the restricted use pesticide used a temporary pesticide applicator permit, a copy of the temporary pesticide applicator permit shall be kept on file for a minimum of two years.
  - (o) Records shall be kept for a period of two years from the date of the restricted use pesticide sale, and shall be made available for inspection by the department. The department, upon request and within two business days, shall be furnished a copy of any sales records completed by the restricted use pesticide dealer.
- (5) Submission of Electronic records. On or before July 1 of each year, restricted use pesticide dealers are required to submit their restricted use pesticide sales records for the period starting the previous July 1 through June 30 of the current year.

(6) Exemption. Section R68-7-15 shall not apply to a certified pesticide applicator who sells restricted use pesticides only as an integral part of their commercial pesticide application business services when the pesticides are dispensed only through their equipment used for pesticide application.

(g) Restricted Use Pesticide Dealers Responsible for the Acts of Their Employees. Each restricted use pesticide dealer shall be responsible for the acts of each person under their employ in the solicitation and sale of restricted use pesticides, and any claims and recommendations for the use of restricted use pesticides. A restricted use pesticide dealer license may be subject to denial, suspension, or revocation for any violation of Title 4, Chapter 14, Utah Pesticide Control Act or rules promulgated thereunder, whether committed by the restricted use pesticide dealer or by the dealer's officer, agent, or employee.

### **R68-7-16. Responsibilities of Pesticide Applicator Businesses and Pesticide Applicators.**

(1) Pesticide Applicator Business Duties and Responsibilities.

(a) A pesticide applicator business shall ensure the qualifying party of the business, as described in Section 4-14-111, receives the training the qualifying party requires to comply fully with state law, individual pesticide label restrictions, and any applicable labeling directions.

(b) Evidence of any pesticide training and attendance shall be recorded and kept on file, and shall include the name of the employee, their respective pesticide applicator license number, the pesticide topics and specific products covered, and the signatures of the trainees and the trainer. The agenda and copies of the pesticide training material shall be retained for two years after the termination of any employee.

(c) It is the business owner's responsibility to verify that each employed pesticide applicator is properly certified in the appropriate pesticide categories.

(d) Each pesticide service vehicle shall carry complete, appropriate, legible, and up-to-date labels for each pesticide applied directly from that pesticide service vehicle.

(i) Original labels are preferred, and it is prohibited to remove any label from any container still containing any pesticide concentrate.

(ii) If any pesticide labels are printed from an internet source, the revision number or date should be verified with the label on the container to ensure the correct version is used.

(iii) Electronic copies of labels are not acceptable.

(2) Responsibilities of the pesticide business and employees.

(a) A pesticide business, their qualifying party, or their pesticide applicator may be held responsible for the acts or omissions of an employee of the pesticide business. It is the responsibility of the pesticide business to properly train, equip, and prepare their employees, and to maintain records of employee training and equipment.

(b) Failure to respond to or fully disclose information pursuant to any requests by the department within two business days, for information relating to the training and equipment of a pesticide business and their employees shall be evidence of a failure to properly train or equip. The pesticide business owner, qualifying party, or designated pesticide business supervisor has the burden of

proof by a preponderance of the evidence that the pesticide business, qualifying party, or pesticide business employee has fulfilled the required duties as prescribed by this rule or a written order of the department.

(3) Use of pesticide business name and license number.

(a) A pesticide business shall prominently display the pesticide business license issued by the department at the primary pesticide business office and at each branch office.

(b) In addition to the requirements of Subsection R68-7-16(3)(a), a pesticide business shall prominently display the pesticide business name and corresponding license number, as recorded on the license issued by the department, on:

(i) customer proposals or contracts that include pest management services;

(ii) service records and service notifications; and

(iii) pesticide business service vehicles and trailers used in providing pest management services.

(c) Pesticide business names and corresponding license numbers displayed on a pesticide business service vehicle or trailer used in providing pest management services shall conform to the following:

(i) are affixed to the service vehicle or trailer used in providing pest management services within 30 days after the department issues the license, or issues a business license change, or after the service vehicle or trailer is acquired, whichever is sooner;

(ii) are in a color that contrasts with the color of the service vehicle and trailer;

(iii) are prominently displayed on both sides of the service vehicle or trailer;

(iv) use at least two-inch letters for the principal words in the pesticide business name and at least one and one-half inch letters for other words in the pesticide business name;

(v) use at least two-inch numbers for the pesticide business license number; and

(vi) use letters and numbers that are weatherproof.

(d) A pesticide business that always uses a pesticide business service vehicle and trailer together is required to only mark either the service vehicle or trailer as described in Subsection R68-7-16(3)(c). A pesticide business that uses a vehicle only for sales, solicitations, or solely for inspections, and does not carry a pesticide or pesticide application equipment, and does not otherwise use the vehicle to provide a pest management service, is not required to mark the vehicle as described in Subsection R68-7-16(3)(c).

(e) When complying with Subsection R68-7-16(3)(c), a pesticide business may use a slogan, trade name, or trade mark in addition to the pesticide business name and corresponding license number. When complying with Subsection R68-7-16(3)(c), a pesticide business may use a word or phrase to indicate its formerly licensed pesticide business name.

(4) Pesticide Application Notification.

(a) Prior to the time of each application of a restricted use pesticide with a Danger or Danger-Poison signal word, the certified commercial pesticide applicator, or an employee of the licensed pesticide business shall provide the customer with a written statement containing the following information:

(i) the pesticide business name, pesticide business license number, and telephone number;

(ii) the name and pesticide applicator license number of the licensed pesticide applicator who will make the application;

(iii) the date and time of the pesticide application;

(iv) the type of pesticide application service and brand name and EPA registration number of pesticides applied; and

(v) instructions to the customer to contact the pesticide business telephone number if more specific information is desired regarding the pesticide product applied.

(b) The written statement required in Subsection R68-7-16(4)(a) shall be provided to the customer by any of the following means:

(i) leave statement at the residence;

(ii) in the case of a multi-unit residence, leave the statement with the property manager or their authorized representative; or

(iii) mail to the property manager or their authorized representative if management is located at a location other than the pesticide application site, at least seven calendar days prior to the date of the pesticide application.

#### **R68-7-17. Termiticide Record Keeping: Additional Requirements.**

(1) In addition to the recordkeeping requirements contained in Section R68-7-12, any pesticide applicator shall retain a record of a diagram of the structure treated for termites with termiticide that includes the dimensions of the structure, including the depth to the footer that the foundation rests upon.

(2) For post construction pesticide treatments, the diagram shall also illustrate the area where termites or termite activity was found.

(3) Any records of pesticide applications shall be maintained for a period of two years and organized separately for each individual structure.

(4) If a termiticide distribution system is used:

(a) the system shall meet the standards listed on the label and the use of the system shall be allowed only as stated on the label; and

(b) installation, design, and manufacture of the system shall be allowed by the termiticide label and manufacturer. If no mention of a system is on the label, a distribution application system shall not be used.

#### **R68-7-18. Minimum Standards for Fumigant Applications.**

(1) Application of fumigant products require strict adherence to the label, and when required by the label, a verified and written Fumigation Management Plan (FMP) shall be prepared in advance of treatment. An FMP shall provide details regarding the information prescribed by the label. Utah standards for fumigation treatments of any space that can be occupied by a person, or non-target species, require the following:

(a) at least two persons present at the time of releasing the fumigant and during the initial ventilation, one of whom shall be a certified pesticide applicator with the fumigation category, present at the time of the releasing of the fumigant and during the initial ventilation. During the interim, the premises shall be adequately safeguarded against entry by any other person;

(b) notification of local fire department or first responder prior to fumigation of any building or enclosed space, other than a fumigating vault, the with the address of the fumigation job, time of

## NOTICES OF CHANGES IN PROPOSED RULES

gas release, kind of gas to be used, and the beginning time of the aeration of the premises.

(c) Premises sealed. Premises to be fumigated shall be sealed in a manner that confines the fumigant to the space intended to be fumigated.

(d) Inspection of premises prior to releasing fumigant. Immediately before releasing the fumigant, the certified pesticide applicator shall conduct a thorough inspection of the premises to verify that no person or non-target animals remain, and that effective precautions have been taken to safeguard occupants of neighboring buildings as set forth below.

(e) Fumigation of apartments within a multiple unit apartment building.

(i) Fumigation of apartments within a multiple unit apartment building may be fumigated only after the apartments are vacated and the area to be fumigated is properly sealed.

(ii) The adjacent units shall be properly ventilated during the entire exposure period.

(f) Notification of dwellings or places of business within 100 feet of the building being fumigated.

(i) Dwellings or places of business within 100 feet of the building being fumigated shall be notified in writing in advance of the fumigation.

(ii) Premises within 10 feet shall be vacated during the fumigation and aeration periods.

(g) Warning signs.

(i) Warning signs shall be posted conspicuously at entrances of the premises to be fumigated and at the entrances of adjacent multiple units and structures within ten feet and kept there during the entire fumigation and ventilation period. Signs shall be in a bright and conspicuous color with a minimum size of 8 1/2 inches by 11 inches, bearing the word "poison", displaying the skull and crossbones, the name of the fumigant used, and the name, address, and telephone number of the certified pesticide applicator.

(ii) Before the fumigant is released, entrances leading directly to the fumigated space shall be closed, sealed, and locked, except exits to be used by the fumigating crew. These exits shall be closed, sealed, and locked promptly after the fumigant has been released.

(h) Masks worn.

(i) Each member of the fumigating crew shall be equipped with a serviceable mask of a type approved by the U.S. Mines, Safety, and Health Administration with the correct canister for the type of gas used.

(ii) Masks shall be worn while in the enclosed space during and after release of the fumigant, and until initial ventilation is completed.

(i) Re-entering fumigated premises.

(i) No one other than the certified pesticide applicator shall be permitted to re-enter the fumigated premises until the certified pesticide applicator has ascertained by personal inspection, with gas mask and with a chemical appropriate test, that the premises are safe for occupancy.

(ii) Aeration shall be conducted according to the product labeling and re-entry allowed according to levels specified on the label.

(j) [-] Subsections R68-7-18(1)(a) through R68-7-18(1)(i) may not apply to fumigants used to control insects or other pests

outside of buildings, or for spot fumigations, or restrictive treatments inside a building, such as grain bins.

(i) Strict adherence to the label instructions shall be adhered to during these applications.

(ii) During the ventilation period of a spot or restrictive fumigation, the premises shall not be occupied by anyone except the certified pesticide applicator.

(iii) A warning gas is recommended where the fumigant is comparatively odorless.

(2) Fumigation of burrowing rodents requires strict adherence to the label as well as a Fumigation Management Plan (FMP) that shall contain the following information:

(a) the purpose of the pesticide application indicating the exact pest to be controlled, and the type of burrow system to be treated;

(b) the pesticide used, stating the name of the pesticide, the EPA registration number, and dosage used;

(c) the property treated information recording the property or facility name and address, and verifying the manager's or property owner's name and contact information;

(d) the certified pesticide applicator information recording the certified pesticide applicator's name, company, pesticide applicator license number, phone numbers, and verifying with valid government issued identification;

(e) any emergency agency contact information, recording the phone numbers for the nearest hospital, fire department, police department, poison control center, and the registrant of the fumigant; and

(f) instructions given to personnel, verifying by written signatures that personnel have been instructed to:

(i) report any accident or incident related to exposure, provide a telephone number for emergency response reporting;

(ii) report to the proper authorities any theft of fumigant or equipment related to fumigation; and

(iii) follow label directions, paying particular attention to the Monitoring, Notification, Sealing, Application Procedures, Fumigation Period, and Use Restrictions portions of the label instructions.

(g) Burrowing Rodent Fumigation Record Keeping: Additional Standards. In addition to the recordkeeping requirements contained in Section R68-7-12, the applicator shall keep as part of the record a scaled diagram of the property treated that includes dimensions of the property, any structures present, and mark each burrow treated on the diagram.

### **R68-7-19. Transportation, Storage, Handling, Usage, and Disposal of Pesticides and Pesticide Containers.**

Any pesticide applying person shall provide a secure pesticide and device storage area. The storage area may include an area on a service vehicle. Any pesticide applying entities shall also have, at a minimum, a pesticide spill kit in each pesticide service vehicle, pesticide service trailer, and at each pesticide business location.

(1) No person shall transport, store, or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, other non-target species, or the environment.

(2) Pesticide containers shall be secured during transport by use of side or end racks, bracing, chocks, tie downs, or other means to prevent their sliding, falling, tipping, rolling, or falling off

the vehicle with normal vehicle acceleration, deceleration, or change in direction.

(3) Portable tanks shall be secured to prevent their sliding, falling, tipping, or rolling with normal vehicle acceleration, deceleration, or change in direction. Stacking or wedging against ends, sidewalls, or doors of van bodies shall not be relied upon for securement.

(4) Pesticides in leaking, broken, corroded, or otherwise damaged containers shall not be displayed, offered for sale or transported, and shall be handled or disposed of in a manner that would not damage or injure humans, other non-target species, or the environment. Pesticides with obscured, illegible, or damaged labels shall not be displayed, offered for sale, or sold.

(5) No person shall distribute or sell any pesticide unless it is in the registrant's or manufacturer's unopened, original container, and the registered pesticide label is affixed to the container.

(6) No person shall transport, handle, store, load, apply, or dispose of any pesticide, pesticide container, apparatus, or rinsate in such a manner as to pollute water supplies or waterways, or cause damage or injury to land, humans, desirable plants and animals, or wildlife, except that a pesticide labeled for aquatic use and used as directed shall not be considered a violation of this subsection. Disposing of pesticides at disposal sites approved by the appropriate agency complies with the requirements of this subsection. Toxicity, volatility, and mobility of pesticides shall be considered in complying with this subsection.

(7) No person shall pollute streams, lakes, or other water supplies during pesticide loading, mixing, and application and shall use appropriately functioning devices and procedures to prevent back siphoning.

(8) No pesticides shall be applied by aircraft or air blast sprayers to property abutting or adjacent to schools in session, hospitals, nursing homes, or other similar establishments, when occupied, under conditions that may result in contamination of these establishments or their premises.

(9) No person shall apply pesticides if physical drift or volatilization may cause damage to adjacent land, injure humans or other species, or the environment.

(10) Requirements for unattended pesticides and their containers:

(a) Pesticides and their containers shall be maintained in accordance with generally accepted industry standards and practices.

(b) The provisions of Subsection 68-7-19(10)(d) and (e) and Subsection 68-7-19(11) shall not apply to empty pesticide containers once decontaminated.

(c) For the purposes of Subsection 68-7-19(10)(d) and (e) and Subsection 68-7-19(11), pesticides and their containers at the loading area shall not be considered unattended if the operator maintains either visual control or repeatedly returns at closely spaced intervals to ensure safe monitoring of the pesticides and containers.

(d) Unattended pesticides labeled with the signal word "danger/poison" and their containers shall be constructed, stored and locked to prevent children, unauthorized persons, livestock, or other animals from gaining entry.

(e) Pesticides labeled with the signal word "danger" when not accompanied by the signal word "poison", pesticides labeled with the signal word "warning", pesticides labeled with the signal word "caution", and their containers, shall be stored in secured storage, out of the reach of children, in an enclosure as described in Subsection

68-7-19(10)(d). Metal containers, twenty-eight gallons and larger, with tight screw-type bungs or secured or locked valves shall be considered secured storage.

(11) Requirements for posting of storage area for pesticides and their containers labeled with the signal words "danger/poison":

(a) For purposes of this subsection, warning signs shall show the skull and crossbones symbol and the words: "Danger/Poison (Pesticide or Chemical) Storage Area/Keep Out" in at least two-inch tall letters.

(b) Warning signs shall be posted:

(i) at each entrance or exit from a storage area and on each exterior wall, so that the sign is visible from any direction; and

(ii) if the pesticide storage area is contained in a larger, multipurpose structure, warning signs shall be clearly visible on each entrance of the storage area.

(12) Each service vehicle and business location operated by a commercial pesticide business that carries, transports, or stores any ~~measurable amount of~~ any pesticide concentrate or mixed pesticide solution must have, at minimum, a spill kit containing:

(a) a dustproof five-gallon bucket with a lid;

(b) waterproof gloves;

(c) three spill socks, each approximately three feet by four inches;

(d) ten medium weight absorbent pads, each approximately 15"x18"; and

(e) one medium weight trash bag to contain used absorbent material.

#### **R68-7-20. Unlawful Acts.**

Any person who has committed any of the following acts is in violation of Title 4, Chapter 14, Utah Pesticide Control Act, or rules promulgated thereunder, and is subject to the penalties provided in Section 4-2-301 through Section 4-2-305:

(1) been convicted under Section 14(b) of FIFRA;

(2) been subject to a final order imposing a civil penalty under Section 14(a) of FIFRA;

(3) been found in violation of a final state enforcement action for violations of state law;

(4) made false, fictitious, or fraudulent claims, including any written or spoken misrepresentation of the use or effect of pesticides, the certification of any pesticide applicator, or the methods or manner in which pesticides may be applied or utilized;

(5) applied any known ineffective or improper pesticides;

(6) applied any pesticides in a faulty, careless, or negligent manner;

(7) failed to comply with the provisions of Title 4, Chapter 14, Utah Pesticide Control Act, these rules, or any lawful order of the department;

(8) failure to keep or maintain records required by these rules, or to make reports when and as required, or to notify the department within 30 days of any changes required under Section R68-7-4

(9) proffered false or fraudulent records, invoices, or reports to the department;

(10) engaged in the business, solicitation, advertisement, or representation of applying a pesticide for hire or compensation on the lands or property of another without having a valid commercial pesticide applicator license;

## NOTICES OF CHANGES IN PROPOSED RULES

(11) purchased, used, or supervised the use of, a pesticide which is labeled for restricted use without having qualified as a certified pesticide applicator;

(12) used fraud, deceit, or misrepresentation in any portion of the application process for, or renewal of, a registration, license, permit, or certification with the department;

(13) refused or neglected to comply with any limitations or restrictions on or in a duly issued license or permit;

(14) used, or caused to be used, any pesticide in a manner inconsistent with its labeling or rules of the department, if those rules further restrict the uses provided on the labeling;

(15) impersonated any federal, state, county, or other government official;

(16) distributed any pesticide labeled for restricted use to any person unless that person or their agent: has a valid pesticide applicator license, permit to use or supervise the use of, or distribute a restricted use pesticide;

(17) applied any pesticides on or in any building, structure, or property without the consent of the owner, manager, or responsible party, with the exception of any government agency that applies a pesticide to abate a public health problem under the direction of the department;

(18) for a pesticide applicator, applied a termiticide at less than the label rate;

(19) for an employer of a commercial or non-commercial pesticide applicator, to allow an employee to apply pesticide before that individual has successfully completed the required pesticide applicator certification process;

(20) a certified pesticide applicator failed to possess a current pesticide applicator license on their person during a pesticide application;

(21) allowed a pesticide application to run off, or drift, from the target pesticide application area, whether or not damage or injury occurred;

(22) failed to register a pesticide business with the department, or follow the rules set forth in this rule for the licensing of a commercial pesticide business;

(23) handled or applied any pesticide for which a person does not have an appropriate, complete, legible, and current label at hand or affixed to the pesticide;

(24) Failed to comply with the federal pesticide container and containment regulations found in 40 CFR 156 and 165;

(25) Failed to perform fumigation applications according to the standards required by this rule;

(26) Failed to display the pesticide business license name and pesticide business license number in accordance with this rule;

(27) Failed to notify a customer of the application of a restricted use pesticide and the information detailed in Section R68-7-16;

(28) The qualifying party of a commercial pesticide business licensee failed to train or prepare a commercial pesticide applicator to comply fully with the following:

- (a) any Utah pesticide statute;
- (b) any Utah pesticide rule;
- (c) any pesticide label;
- (d) any pesticide labeling directions; and
- (e) any equipment they will be using.[-]

(29) Failure to timely and fully respond to requests by the department for information relating to training and equipping of pesticide applicators;

(30) transported, stored, handled, used, or disposed of a pesticide or pesticides container that is inconsistent with this rule;

(31) cheated on any pesticide test required by the department or otherwise failed to comply with testing requirements;

(32) refused or neglected to change contact and employment information within 30 days;[-] or

(33) violated the EPA WPS[; or].

~~[-] (34) misrepresented or made deceptive claims regarding pesticides and the use of the word or term "organic". This includes terms, claims, and non-numerical or comparative statements that cannot be well defined, and may be misconstrued by consumers as a health or safety claim. These terms are prohibited in any form. This includes language such as:~~

~~(a) "organic", "natural", "all-natural", "pesticide-free", "chemical-free", "trusted", "safe", "nonpoisonous", "non-injurious", "harmless", or "nontoxic" to humans and pets; and~~

~~(b) any similar language that infers a health or safety claim.~~

~~(c) The only exceptions to this unlawful act are: "For Organic Production", "For Organic Gardening", "For Organic Lawn Care", "For Use in Organic Production", and "Safe when used as directed". These exemptions are only valid if the language can be found on the department or EPA approved label.]~~

### R68-7-21. Penalty Matrix.

In the disposition of administrative cases, the department shall use a penalty matrix to determine appropriate penalties. The penalty amount shall be from \$50-500 per violation. The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effects at the time of the incident giving rise to the violation. The median penalty shall be assessed unless a proportionate adjustment is warranted or there are aggravating or mitigating factors present.

(1) The department may also choose to issue a warning, in lieu of penalty, where the penalty matrix allows. Any warning in lieu of penalty shall be issued in the department's sole discretion.[-]

(2) The department may consider circumstances enhancing or reducing the penalty based on the seriousness of the violation. Aggravating and mitigating factors include the following:

(a) the number of separate alleged violations for a given inspection or incident date;

(b) the magnitude of the harm, or potential harm, including quantity or degree, to humans, non-target species, property, or the environment caused by the violation;

(c) the similarity of the current alleged violation to violations committed by the pesticide applicator or business; and

(d) the extent to which the alleged violation is part of a pattern of the same or substantially similar conduct.

(3) The department will review past violation trends and update the penalty matrix based on compliance history annually. A copy of the penalty matrix shall be made available from the department upon request.

### KEY: inspections, pesticides

Date of Enactment or Last Substantive Amendment: 2021

Notice of Continuation: February 3, 2021

Authorizing, and Implemented or Interpreted Law: 4-14-106

**NOTICE OF CHANGE IN PROPOSED RULE**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R68-29</b>	<b>Filing ID: 53567</b>
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**Agency Information**

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Plant Industry	
<b>Street address:</b>	350 N Redwood Road	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
Cody James	801-982-2376	codyjames@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R68-29. Quality Assurance Testing on Cannabis
<b>3. Publication date of previous proposed rule or change in proposed rule:</b>
07/01/2021
<b>4. Reason for this change (Why is the agency submitting this filing?):</b>
Two small changes are needed to testing standards to ensure product safety.
<b>5. Summary of this change (What does this filing do?):</b>
The unit of measure requirement for cannabis concentrate testing is expanded to include cannabis isolate, which is measured in grams rather than milliliters. In addition, the foreign matter standard is clarified to specify that if a product is discovered to have foreign matter (in any amount) considered to be harmful, the product would fail quality assurance testing. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2021,

issue of the Utah State Bulletin, on page 9. 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:**

There should be no cost or savings to the state budget because the changes provide minor clarifications to testing requirements and do not alter the testing requirements of the program.

**B) Local government:**

There is no fiscal impact to local governments because they do not regulate or manufacture medical cannabis products in Utah.

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

There should be no fiscal impact to small businesses because the changes clarify but do not expand or reduce testing requirements for cannabis products.

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

There should be no fiscal impact to non-small businesses because the changes clarify but do not expand or reduce testing requirements for cannabis products.

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

There should be no fiscal impact to other persons because the changes clarify but do not expand or reduce testing requirements for cannabis products.

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

Compliance costs for affected persons will not change because testing requirements and fees charged by the Department of Agriculture and Food will not change.

**G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):**

## NOTICES OF CHANGES IN PROPOSED RULES

This rule change will not have a fiscal impact on business in Utah. Craig Butters, Commissioner

**6. A) 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	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Commissioner of the Department of Agriculture and Food, Craig Butters, has reviewed and approved the regulator impact analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 4-41-701

**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. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2021

**10. This rule change MAY become effective on:** 09/07/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Craig W. Butters, Commissioner	<b>Date:</b>	07/09/2021
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**R68. Agriculture and Food, Plant Industry.**
**R68-29. Quality Assurance Testing on Cannabis.**
**R68-29-1. Authority and Purpose.**

1) Pursuant to Subsection 4-41a-701(3), this rule establishes the standards for cannabis and cannabis product potency testing and sets limits for water activity, foreign matter, microbial life, pesticides, residual solvents, heavy metals, and mycotoxins.

**R68-29-2. Definitions.**

1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

- pesticides;
- heavy metals;
- solvents;
- microbial life;
- toxins; or
- foreign matter.

2) "Analyte" means a substance or chemical component that is undergoing analysis.

3) "Batch" means a quantity of:

a) cannabis concentrate produced on a particular date and time, following clean up until the next clean up during which the same lots of cannabis are used;

b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis concentrate is used; or

c) cannabis flower from a single strain and growing cycle packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.

4) "Cannabinoid" means any:

a) naturally occurring derivative of cannabigerolic acid (CAS 25555-57-1); or

b) any chemical compound that is both structurally and chemically similar to a derivative of cannabigerolic acid.



- 5) "Cannabis" means any part of the marijuana plant.
- 6) "Cannabinoid concentrate" means:
  - a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; or
  - b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.
- 7) "Cannabis cultivation facility" means a person that:
  - a) possesses cannabis;
  - b) grows or intends to grow cannabis; and
  - c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.
- 8) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.
- 9) "Cannabis derivative product" means a cannabis product made using cannabis concentrate.
- 10) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.
- 11) "Cannabis processing facility" means a person that:
  - a) acquires or intends to acquire cannabis from a cannabis production establishment;
  - b) possesses cannabis with the intent to manufacture a cannabis product;
  - c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or cannabis concentrate; and
  - d) sells or intends to sell a cannabis product to a medical cannabis pharmacy.
- 12) "Cannabis product" means a product that:
  - a) is intended for human use; and
  - b) contains cannabis or delta 9-tetrahydrocannabinol.
- 13) "CBD" means cannabidiol (CAS 13956-29-1).
- 14) "CBDA" means cannabidiolic acid, (CAS 1244-58-2).
- 15) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for the performed testing.
- 16) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS #1972-08-03, the primary psychotropic cannabinoid in cannabis.
- 17) "Department" means the Utah Department of Agriculture and Food.
- 18) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert a naturally occurring cannabinoid into another cannabinoid.
- 19) "Final product" means a reasonably homogenous cannabis product in its final packaged form created using the same standard operating procedures and the same formulation.
- 20) "Foreign matter" means:
  - a) any matter that is present in a cannabis lot that is not a part of the cannabis plant; or
  - b) any matter that is present in a cannabis or cannabinoid product that is not listed as an ingredient, including seeds.
- 21) "Industrial hemp" means a cannabis plant that contains less than 0.3% total THC by dry weight.
- 22) "Industrial hemp waste" means:
  - a) a cannabinoid extract above 0.3% total THC derived from verified industrial hemp biomass; or
  - b) verified industrial hemp biomass with a total THC concentration of less than 0.3% by dry weight.
- 23) "Lot" means the quantity of:
  - a) flower from a single strain of cannabis and growing cycle produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or
  - b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.
- 24) "Pest" means:
  - a) any insect, rodent, nematode, fungus, weed; or
  - b) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other microorganisms that are injurious to health or to the environment or that the department declares to be a pest.
- 25) "Pesticide" means any:
  - a) substance or mixture of substances, including a living organism, that is intended to prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed, or other forms of plant or animal life that are normally considered to be a pest or that the commissioner declares to be a pest;
  - b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and
  - c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, or emulsifying agent with deflocculating properties of its own used with a pesticide to aid in the application or effect of a pesticide.
- 26) "Sampling technician" means a person tasked with collecting a representative sample of a cannabis plant product, cannabis concentrate, or cannabis product from a cannabis production establishment who is:
  - a) an employee of the department;
  - b) an employee of an independent cannabis laboratory that is licensed by the department to perform sampling; or
  - c) a person authorized by the department to perform sampling.
- 27) "Standard operating procedure" (SOP) means a document providing detailed instruction for the performance of a task.
- 28) "Synthetic cannabinoid" means any cannabinoid that:
  - a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and
  - b) is not a derivative cannabinoid.
- 29) "THC" means delta-9-tetrahydrocannabinol (CAS 1972-08-3).
- 30) "THCA" means delta-9-tetrahydrocannabinolic acid (CAS 23978-85-0).
- 31)(a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.
  - (b) "THC analog" does not include the following substances or their naturally occurring acid forms:
    - (i) cannabichromene (CBC), CAS# 20675-51-8;
    - (ii) cannabicyclol (CBL), CAS# 21366-63-2;
    - (iii) cannabidiol (CBD), CAS# 13956-29-1;
    - (iv) cannabidivanol (CBDV), CAS# 24274-48-4;
    - (v) cannabielsoin (CBE), CAS# 52025-76-0;
    - (vi) cannabigerol (CBG), CAS# 25654-31-3;
    - (vii) cannabigerovarin (CBGV), CAS# 55824-11-8;

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(viii) cannabitol (CBN), CAS# 521-35-7; or

(ix) cannabivarin (CBV), CAS# 33745-21-0.

32) "Total CBD" means the sum of the determined amounts of CBD and CBDA.

33) "Total THC" means the sum of the determined amounts of delta-9-THC and delta-9-THCA, according to the formula: Total THC = delta-9-THC + (delta-9-THCA x 0.877).

34) "Unit" means each individual portion of an individually packaged product.

35) "Water activity" is a dimensionless measure of the water present in a substance that is available to microorganisms; calculated as the partial vapor pressure of water in the substance divided by the standard state partial vapor pressure of pure water at the same temperature.

### **R68-29-3. Required Cannabis, Cannabis Product, and Industrial Hemp Waste Tests.**

1) Prior to the transfer of cannabis biomass from a cannabis cultivation facility to a cannabis processing facility, the cultivation facility shall make a declaration to the department that the biomass to be transferred is either a cannabis plant product or a cannabis cultivation byproduct.

2) A representative sample of each batch or lot of cannabis plant product shall be tested by an independent cannabis testing laboratory to determine: [-]

a) the water activity of the sample;

b) the amount of total [~~delta-9~~]THC, total CBD, and any THC analog known to be present in the sample; and

c) the presence of adulterants in the sample, as specified in table 1.

3) Required testing shall be performed either:

a) prior to the transfer of the cannabis plant product to a cannabis processing facility; or

b) following the transfer of the cannabis plant product to a cannabis processing facility.

4) If cannabis plant product is tested prior to being transferred to a cannabis processing facility, repeat testing for microbial contaminants and foreign matter shall be performed following the transfer. [-]

5) Cannabis cultivation byproduct shall either be:

a) chemically or physically processed to produce a cannabis concentrate for incorporation into cannabis derivative product; or

b) destroyed pursuant to Section 4-41a-405.

6) Prior to its incorporation into a cannabis derivative product, cannabis concentrate shall be tested by an independent cannabis testing laboratory to determine:

a) the amount of total THC, total CBD, and any THC analog known to be present in the sample; and

b) the presence of adulterants in the sample, as specified in table 1.

c) Any derivative or synthetic cannabinoids present in the cannabis concentrate shall be isolated to a purity of greater than 95%, with a 5% margin of error, as determined by an independent cannabis testing laboratory using liquid chromatography-mass spectroscopy or an equivalent method.

7) Prior to the transfer of a cannabis product to a medical cannabis pharmacy a representative sample of the product shall be tested by an independent cannabis testing laboratory to determine:

a) the water activity of the sample, as determined applicable by the department;

b) the quantity of any cannabinoid or terpene to be listed on the product label; and

c) the presence of adulterants in the sample, as specified in table 1.

8) Testing results for cannabis [~~cannabis~~]concentrate may be applied to cannabis product derived therefrom, provided that the processing steps used to produce the product are unlikely to change the results of the test, as determined by the department.

9) Mycotoxin testing of a cannabis plant product, cannabis concentrate, or cannabis product may be required if the department has reason to believe that mycotoxins may be present.

10) A cannabis plant product, cannabis concentrate, or cannabis product that fails any of the required adulterant testing standards may be remediated by a cannabis cultivation facility or cannabis processing facility after submitting and gaining approval for a remediation plan from the department.

11) A remediation plan shall be submitted to the department within 15 days of the receipt of a failed testing result.

12) A remediation plan shall be carried out and the cannabis plant product or cannabis concentrate shall be prepared for resampling within 60 days of department approval of the remediation plan.

13) Resampling or retesting of a cannabis lot or batch that fails any of the required testing standards is not allowed until the lot or batch has been remediated.

14) A cannabis lot or cannabis product batch that is not or cannot be remediated in the specified time period shall be destroyed pursuant to Section 4-41a-405.

15) In the event that tests results cannot be retained in the Inventory Control System, the laboratory shall:

a) keep a record of test results;

b) issue a certificate of analysis for required tests; and

c) retain a copy of the certificate of analysis on the laboratory premises.

16) Plant product that has been classified as industrial hemp waste may enter the state and be held by a medical cannabis cultivation facility until required testing is completed by an independent cannabis testing laboratory. A cannabis cultivation facility may not take ownership of the industrial hemp plant product until testing requirements have been met.

17) Industrial hemp waste purchased by a cannabis cultivation facility in the form of a plant product or a concentrate must meet department cannabis testing standards as determined by an independent cannabis testing laboratory prior to its transfer to a cannabis cultivation facility.

18) Industrial hemp waste that is transferred to a cannabis cultivation facility shall be considered to be cannabis for all testing and regulatory purposes of the department.

TABLE 1  
Required Tests by Sample Type

Test	Cannabis Plant Product	Cannabis Concentrate	Cannabis Product
Moisture Content	Required	X	X
Water Activity	Required	X	X
Foreign Matter	Required	Required	Required
Potency	Required	Required	Required

Microbial	Required	Required	Required
Pesticides	Required	Required	Required
Residual Solvents	X	Required	Required
Heavy Metals	Required	Required	Required
Mycotoxins	X	Required	X

**R68-29-4. Sampling Cannabis and Cannabis Products.**

1) The entity that requests testing of a cannabis plant product lot or cannabis concentrate batch, or cannabis product batch shall make the entirety of the lot or batch available to the sampling technician.

2) The lot or batch being sampled shall be contained in a single location and physically separated from other lots or batches.

3) The sample shall be collected by a sampling technician who is unaffiliated with the entity that requested testing of the cannabis lot or cannabis product batch unless an exception is granted by the department.

4) The owner of the cannabis lot or cannabis product batch and any of their employees shall not assist in the selection of the sample.

5) The sampling technician shall collect the representative sample in a manner set forth in a SOP, that is ISO 17025 compliant, maintained by the laboratory that will perform the testing.

6) When collecting the representative sample, the sampling technician shall:

- a) use sterile gloves, instruments, and a glass or plastic container to collect the sample;
- b) place tamper proof tape on the container; and
- c) appropriately label the sample pursuant to Section R68-30-6.

7) For cannabis plant product lots the minimum representative sample shall be taken according to the following schedule:

- a) 10 subunits with an average weight of one gram each for lots weighing 5 kilograms or less;
- b) 16 subunits with an average weight of one gram each for lots weighing 5.01-9 kilograms;
- c) 22 subunits with an average weight of one gram each for lots weighing 9.01-14 kilograms;
- d) 28 subunits with an average weight of one gram each for lots weighing 14.01-18 kilograms;
- e) 32 subunits with an average weight of one gram each for lots weighing 18.01-23 kilograms.

8) For cannabis concentrate the minimum representative sample shall be taken according to the following schedule:

- a) 10 mL or grams for batches of one liter or kilogram or less; or
- b) 20 mL or grams for batches of four liters or kilograms o[£]r less.

9) For cannabis products in their final product form the following minimum number of sample units must be taken, the combined total weight of which must be at least 10 grams, not including packaging materials:

- a) four units for a sample product batch with 5-500 products;
- b) six units for a sample product batch with 501-1000 products;
- c) eight units for a sample product batch with 1,001-5,000 products; and
- d) ten units for a sample product batch with 5,001-10,000 products.

10) Additional material may be included in the representative sample if the material is necessary to perform the required testing.

**R68-29-5. Moisture Content Testing and Water Activity Standards.**

1) The moisture content of a sample and related lot of cannabis shall be reported on the COA as a mass over mass percentage.

2) A sample and related lot of cannabis fail quality assurance testing if the water activity of the representative sample is found to be greater than 0.65.

3) A sample and related cannabis or cannabinoid product batch intended for human consumption fail quality assurance testing if the water activity of the representative sample is greater than 0.65, unless water is a component of the product formulation and is listed as an ingredient.

**R68-29-6. Foreign Matter Standards.**

1) A sample and related lot or batch of cannabis, cannabis product, or cannabinoid product fail quality assurance testing if:

a) the sample contains foreign matter visible to the unaided human eye;

b) the sample is found to contain microscopic foreign matter considered to be harmful or estimated to comprise greater than 3% of the mass of the representative sample as determined by the testing laboratory; or

c) foreign matter is found that is suspected to have been intentionally added to the sample to increase its visual appeal or market value.

**R68-29-7. Potency Testing.**

1) A lot or batch of cannabis plant product, cannabis concentrate, or cannabis product shall have their its potency determined and listed on a COA as total THC, total CBD, and the total concentration of any THC analog known to be present.

**R68-29-8. Microbial Standards.**

1) A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for microbiological contaminants if the results exceed the limits as set forth in Table 2.

TABLE 2  
Microbial Analytes and Action Levels

Material	Microbial Limit Requirement (cfu)
Flower	Total Aerobic Microbial Count ≤100,000 Absence of E. Coli and Salmonella spp. Absence of Aspergillus
Concentrated oil	Total Aerobic Microbial Count ≤10,000
Wax	Total Combined Yeast and Mold Count ≤1,000
Resin	Absence of STEC Absence of Pseudomonas Absence of Staph
Tablet	Total Aerobic Microbial Count ≤10,000
Capsule	Total Combined Yeast and Mold Count ≤1,000
Liquid Suspension	Absence of E. Coli and Salmonella spp.
Gelatinous cube	Absence of Staph

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Transdermal	Total Aerobic Microbial Count ≤100
	Total Yeast and Mold ≤100
	Absence of Pseudomonas
	Absence of Staph
	Absence of E. coli

## R68-29-9. Pesticide Standards.

1) Only pesticides allowed by the department may be used in the cultivation of cannabis.

2) If an independent cannabis laboratory identifies a pesticide that is not allowed under Subsection R68-29-5(1) and is above the action levels provided in Subsection R68-29-5(3) that lot or batch from which the sample was taken has failed quality assurance testing.

3) A sample and related lot or batch of cannabis, cannabis product, or cannabinoid product fail quality assurance testing for pesticides if the results exceed the limits as set forth in Table 3.

TABLE 3  
Pesticide Analytes and Action Levels

Analyte	Chemical Abstract Service (CAS) Registry number	Action Level ppm
Abamectin	71751-41-2	0.5
Acephate	30560-19-1	0.4
Acequinocyl	57960-19-7	2
Acetamiprid	135410-20-7	0.2
Aldicarb	116-06-3	0.4
Azoxystrobin	131860-33-8	0.2
Bifenazate	149877-41-8	0.2
Bifenthrin	82657-04-3	0.2
Boscalid	188425-85-6	0.4
Carbaryl	63-25-2	0.2
Carbofuran	1563-66-2	0.2
Chlorantraniliprole	500008-45-7	0.2
Chlorfenapyr	122453-73-0	1
Chlorpyrifos	2921-88-2	0.2
Clofentezine	74115-24-5	0.2
Cyfluthrin	68359-37-5	1
Cypermethrin	52315-07-8	1
Daminozide	1596-84-5	1
DDVP (Dichlorvos)	62-73-7	0.1
Diazinon	333-41-5	0.2
Dimethoate	60-51-5	0.2
Ethoprophos	13194-48-4	0.2
Etofenprox	80844-07-1	0.4
Etoxazole	153233-91-1	0.2
Fenoxycarb	72490-01-8	0.2
Fenpyroximate	134098-61-6	0.4
Fipronil	120068-37-3	0.4
Flonicamid	158062-67-0	1
Fludioxonil	131341-86-1	0.4
hexythiazox	78587-05-0	1
imazalil	35554-44-0	0.2
Imidacloprid	138261-41-3	0.4
Kresoxim-methyl	143390-89-0	0.4
Malathion	143390-89-0	0.2
Metalaxyl	57837-19-1	0.2
Methiocarb	2032-65-7	0.2
Methomyl	16752-77-5	0.4
Methyl parathion	298-00-0	0.2
MGK-264	113-48-4	0.2
Myclobutanil	88671-89-0	0.2
Naled	300-76-5	0.5
Oxamyl	23135-22-0	1
Paclobutrazol	76738-62-0	0.4
Permethrins	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl butoxide	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4

Propoxur	114-26-1	0.2
Pyrethrins	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	203313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2
Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

4) Permethrins should be measured as cumulative residue of cis- and trans-permethrin isomers (CAS numbers 54774-45-7 and 51877-74-8).

5) Pyrethrins should be measured as the cumulative residues of pyrethrin [±]I (CAS 121-21-1), pyrethrin II (CAS 121-29-9), cinerin I (CAS 25402-06-6), and jasmolin I (CAS 4466-14-2).

6) Abamectin is a composite of the amounts of avermectin B1a and avermectin B1b.

## R68-29-10. Residual Solvent Standards.

1) A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fails quality assurance testing for residual solvents if the results exceed the limits provided in Table 4 unless the solvent is:

- a component of the product formulation;
- listed as an ingredient; and
- generally considered to be safe for the intended form of use.

TABLE 4  
List of Solvents and Action Levels

Solvent	Chemical Abstract Service (CAS) Registry number	Action level ppm
1,2 Dimethoxyethane	110-71-4	100
1,4 Dioxane	123-9	380
1-Butanol	71-36-3	5,000
1-Pentanol	71-41-0	5,000
1-Propanol	71-23-8	5,000
2-Butanol	78-92-2	5,000
2-Butanone	78-93-3	5,000
2-Ethoxyethanol	110-80-5	160
2-methylbutane	78-78-4	5,000
2-Propanol (IPA)	67-63-0	5,000
Acetone	67-64-1	5,000
Acetonitrile	75-05-8	410
Benzene	71-43-2	2
Butane	106-97-8	5,000
Cumene	98-82-8	70
Cyclohexane	110-82-7	3,880
Dichloromethane	75-09-2	600
2,2-dimethylbutane	75-83-2	290
2,3-dimethylbutane	79-29-8	290
1,2-dimethylbenzene	95-47-6	See Xylenes
1,3-dimethylbenzene	108-38-3	See Xylenes
1,4-dimethylbenzene	106-42-3	See Xylenes
Dimethyl sulfoxide	67-68-5	5,000
Ethanol	64-17-5	5,000
Ethyl acetate	141-78-6	5,000
Ethylbenzene	100-41-4	See Xylenes
Ethyl ether	60-29-7	5,000
Ethylene glycol	107-21-1	620
Ethylene Oxide	75-21-8	50
Heptane	142-82-5	5,000
n-Hexane	110-54-3	290
Isopropyl acetate	108-21-4	5,000
Methanol	67-56-1	3,000
Methylpropane	75-28-5	5,000

2-Methylpentane	107-83-5	290
3-Methylpentane	96-14-0	290
N,N-dimethylacetamide	127-19-5	1,090
N,N-dimethylformamide	68-12-2	880
Pentane	109-66-0	5,000
Propane	74-98-6	5,000
Pyridine	110-86-1	100
Sulfolane	126-33-0	160
Tetrahydrofuran	109-99-9	720
Toluene	108-88-3	890
Xylenes	1330-20-7	2,170

2) Xylenes is a combination of the following:

- a) 1,2-dimethylbenzene;
- b) 1,3-dimethylbenzene;
- c) 1,4-dimethylbenzene; and
- d) ethyl benzene.

#### R68-29-11. Heavy Metal Standards.

A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for heavy metals if the results exceed the limits provided in Table 5.

TABLE 5  
Heavy Metals

Metals	Natural Health Products Acceptable limits in parts per million
Arsenic	<2
Cadmium	<0.82
Lead	<1.2
Mercury	<0.4

#### R68-29-12. Mycotoxin Standards.

A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for mycotoxin if the results exceed the limits provided in Table 6.

TABLE 6  
Mycotoxin

Test	Specification
The total of Aflatoxin B1, Aflatoxin B2, Aflatoxin G1, and Aflatoxin G2	<20 ppb of substance
Ochratoxin A.	<20 ppb of substance

**KEY: cannabis testing, quality assurance, cannabis laboratory**  
**Date of Enactment or Last Substantive Amendment: 2021**  
**Authorizing, and Implemented or Interpreted Law: 4-41a-701(3)**

### End of the Notices of Changes in Proposed Rules Section



## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at [adminrules.utah.gov](http://adminrules.utah.gov). The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R70-920	Filing ID: 50177
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#### Agency Information

1. Department:	Agriculture and Food	
Agency:	Regulatory Services	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
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Kelly Pehrson	801-982-2202	kwpehrson@utah.gov

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

#### General Information

2. Rule catchline:
R70-920. Packaging and Labeling of Commodities

### 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 Section 4-9-103 that allows the Department of Agriculture and Food to adopt rules to administer Title 4, Chapter 9, Weights and Measures.

### 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 needs to continue because it provides for adoption of uniform guidelines regarding the packaging and labeling and commodities which protect consumer safety and allow for transparency in commodity sales in Utah.

#### Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	07/06/2021
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### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R70-930	Filing ID: 50187
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**Agency Information**

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Regulatory Services	
<b>Street address:</b>	350 N Redwood Road	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R70-930. Methods of Sale of Commodities
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is enacted under the authority of Section 4-9-103 which allows the Department of Agriculture and Food (Department) to make rules to administer Title 4, Chapter 9, Weights and Measures.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule should continue because it allows the Department to follow uniform standards related to the method of sale of commodities in the state and provides for capacities for specific commodities.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Craig W. Butters, Commissioner	<b>Date:</b>	07/06/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R70-940</b>	<b>Filing ID: 50184</b>
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**Agency Information**

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Regulatory Services	
<b>Street address:</b>	350 N Redwood Road	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R70-940. Standards and Testing of Motor Fuel
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is enacted under the authority of Title 4, Chapter 33, the Motor Fuel Inspection Act (Act), and Section 4-33-104, which allows the Department of Agriculture and Food to make rules necessary to administer the Act. The purpose of the Act is to promote the safety and welfare of users of motor fuel in the state and promote the orderly marketing of motor fuel.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule should continue because it provides motor fuel performance specifications and monitoring standards that



protect consumer safety and ensure consumer confidence in the quality of fuel purchased in Utah.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	07/06/2021
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R156-55a</b>	<b>Filing No. 52921</b>
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#### Agency Information

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Occupational and Professional Licensing	
<b>Building:</b>	Heber M. Wells Building	
<b>Street address:</b>	160 E 300 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111-2316	
<b>Mailing address:</b>	PO Box 146741	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6741	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Allyson Pettley	801-530-6720	apettley@utah.gov
Please address questions regarding information on this notice to the agency.		

#### General Information

<b>2. Rule catchline:</b>
R156-55a. Utah Construction Trades Licensing Act Rule
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Title 58, Chapter 55, provides for the licensure and regulation of contractors, other various construction-related professions outlined in the statute and handyman exemption registration. 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 58-55-103(1)(b)(i) provides that the Construction Services Commission's duties, functions, and responsibilities includes, with the concurrence of the Division Director, making reasonable rules to administer and enforce Title 58, Chapter 55. This rule was enacted to clarify the provisions of Title 58, Chapter 55, with respect to contractors, other various construction-related professions and handyman exemption registration.

#### 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 August 2016, the rule has been amended five times. 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/registrants of the requirements for licensure/registration as allowed under statutory authority provided in Title 58, Chapter 55. This rule should also be continued as it provides information to ensure applicants for licensure/registration are adequately trained and meet minimum licensure/registration requirements and provides licensees/registrants with information concerning unprofessional conduct, definitions, and ethical standards relating to the professions.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Mark B. Steinagel, Director	<b>Date:</b>	02/18/2021
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R156-55b</b>	<b>Filing No. 52310</b>
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#### Agency Information

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Occupational and Professional Licensing	
<b>Building:</b>	Heber M. Wells Building	
<b>Street address:</b>	160 E 300 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111-2316	
<b>Mailing address:</b>	PO Box 146741	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6741	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Duncombe	801-530-6235	sduncombe@utah.gov
Please address questions regarding information on this notice to the agency.		

#### General Information

<b>2. Rule catchline:</b>
R156-55b. Electricians Licensing 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 55, provides for the licensure and regulation of various classifications of electricians. 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 Electricians 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 55, with respect to various classifications of electricians.

**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 August 2016, the rule has been amended three times. The Division received the following comments regarding proposed amendments filed in December 2019. A December 13, 2019 written comment/email received from Ken Adams (IEC of Utah), Carl Brailsford (Electrical Training Alliance) and Will Pierce (Southwest Tech) commented on amendments being made in Section R156-55b-302c and Subsection R156-55b-302a(5). A December 6, 2019 email from Royston Adam Boling regarding proposed rule amendments was also received. Mr. Boling was concerned about increasing the number of electricians being licensed to practice in Utah. Both written comments were reviewed by the Division, Electricians Licensing Board, and the Construction Services Commission and the proposed rule amendments filed in December 2019 were made effective in January 2020 with no further amendments.

**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 55. 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**

<b>Agency head or designee, and title:</b>	Mark B. Steinagel, Director	<b>Date:</b>	05/12/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R156-55c</b>	<b>Filing No. 52311</b>
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**Agency Information**

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Occupational and Professional Licensing	
<b>Building:</b>	Heber M. Wells Building	
<b>Street address:</b>	160 E 300 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111-2316	
<b>Mailing address:</b>	PO Box 146741	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6741	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Duncombe	801-530-6235	sduncombe@utah.gov

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

**General Information**

<b>2. Rule catchline:</b>
R156-55c. Plumbers Licensing Act Rule
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Title 58, Chapter 55, provides for the licensure and regulation of various classifications of plumbers. 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 Plumber's 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 55, with respect to various classifications of plumbers.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
Since this rule was last reviewed in August 2016, the rule has been amended three times. The Division has received no written comments with respect to this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>

This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 55. 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

<b>Agency head or designee, and title:</b>	Mark B. Steinagel, Director	<b>Date:</b>	05/12/2021
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R251-108</b>	<b>Filing ID:</b>	<b>50358</b>
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#### Agency Information

<b>1. Department:</b>	Corrections	
<b>Agency:</b>	Administration	
<b>Street address:</b>	14717 S Minuteman Dr	
<b>City, state and zip:</b>	Draper, UT 84020	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Matt Anderson	801-545-5589	mattanderson@utah.gov
Please address questions regarding information on this notice to the agency.		

#### General Information

<b>2. Rule catchline:</b>
R251-108. Adjudicative Proceedings
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Sections 63G-3-201, 63G-4-202, 63G-4-203, and 64-13-10 of the Utah Code. The purpose of this rule is to establish a procedure in which informal adjudicative proceedings shall be conducted as a result of a notice of agency action, or a request by a person for agency action regarding the Department of Corrections (Department) rules, orders, policies or procedures. This rule shall not apply to internal personnel actions within the Department.

#### 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 comments on this rule have been received since the last five-year review.

#### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The purpose of this rule is to establish a procedure in which informal adjudicative proceedings shall be conducted as a result of a notice of agency action, or a request by a person for agency action regarding Department rules, orders, policies, or procedures. This rule shall not apply to internal personnel actions within the Department. Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Brian Nielson, Executive Director	<b>Date:</b>	06/15/2021
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-605</b>	<b>Filing ID:</b>	<b>50508</b>
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#### Agency Information

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

#### General Information

<b>2. Rule catchline:</b>
R277-605. Coaching Standards and Athletic Clinics
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>

This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53E-3-401(4) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and Subsection 53E-3-501(1)(b) which directs the Board to adopt rules regarding access to programs.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

There were no written comments received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule continues to be necessary because it specifies standards for school athletic and activity coaches and standards for athletic clinics and workshops. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	06/30/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-923</b>	<b>Filing No. 53282</b>
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**Agency Information**

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

**General Information**

<b>2. Rule catchline:</b>
R277-923. American Indian and Alaskan Native Education State Plan Programs

**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 Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Section 53F-5-603 which provides that the Board may make rules related to the programs; and Subsection 53E-3-401(4) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

There were no written comments received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule continues to be necessary because it provides criteria for evaluating grant applications; and procedures for: a school district to apply to the Board to receive grant money; and the review of the use of grant money. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	07/12/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R315-319</b>	<b>Filing ID: 50771</b>
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**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room no.:</b>	Second Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	801-536-0251	tball@utah.gov

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

## General Information

### 2. Rule catchline:

R315-319. Coal Combustion Residuals Requirements

### 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 19-6-104(1)(c) requires the Waste Management and Radiation Control Board to meet the requirements of federal law related to solid and hazardous wastes to ensure that the solid and hazardous wastes program provided for in this part is qualified to assume primacy from the federal government in control over solid and hazardous waste.

Section 19-6-108 requires a person who plans to own and operate a facility that receives waste generated primarily from the combustion of coal or other fossil fuels to submit a request to and receive the approval of the director for an operation plan for that facility site prior to purchasing, constructing, modifying, or operating such a facility.

This rule sets out the procedures and information that must be submitted to meet the requirements of the statute.

### 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:

Rule R315-319 was first adopted with an effective date of September 1, 2016. This is the first five-year review of this rule and no comments have been received since it became effective.

### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R315-319 contains the permit requirements, scope and applicability, definitions, restrictions, design and operating criteria, environmental monitoring requirements, closure requirements, and recordkeeping requirements for a coal combustion residuals facility. This rule forms the basis of the coal combustion residuals facility permitting program required by the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

## Agency Authorization Information

<b>Agency head or designee, and title:</b>	Douglas J. Hansen, Director	<b>Date:</b>	07/08/2021
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## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R362-4</b>	<b>Filing ID: 53145</b>
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## Agency Information

<b>1. Department:</b>	Governor	
<b>Agency:</b>	Energy Development (Office of)	
<b>Street address:</b>	60 E South Temple, 3rd Floor	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Richard Bell	801-538-8682	Rbell1@utah.gov
Matt Anderson	801-910-3458	Manderson2@utah.gov

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

## General Information

### 2. Rule catchline:

R362-4. High Cost Infrastructure Tax Credit Act

### 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 63M-4-606. Administrative rules.

The Office of Energy Development (OED) may establish, by rule made in accordance with Title 63G, Chapter 3, requirements and procedures for the implementation of this part.

Tax incentive program is still available and the OED is still administering it.

### 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:

One comment received requested information about how OED will determine the tax credit amount through which this rule would help determine.

### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The administrative rule is valid and needs to be renewed because tax incentive program is still available, and OED is still administering it. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Matt Anderson, Deputy Director	<b>Date:</b>	07/01/2021
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The Department will continue this rule because it requires government entities to document intergovernmental fund transfers, specifies the correct form to use, and specifies the content to be included.

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R414-513</b>	<b>Filing ID: 52528</b>
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**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Nate Checketts, Executive Director	<b>Date:</b>	07/08/2021
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**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R414-513. Intergovernmental Transfers
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26-18-3 requires the Department of Health (Department) to implement the Medicaid program through administrative rules while Section 26-1-5 authorizes the Department to adopt rules as necessary for program implementation.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department did not receive any written comments regarding this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R444-14</b>	<b>Filing ID: 53363</b>
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**Agency Information**

Agency information

<b>1. Department:</b>	Health	
<b>Agency:</b>	Disease Control and Prevention, Laboratory Improvement	
<b>Street address:</b>	4431 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84041	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kristin Brown	801-965-2540	kristinbrown@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R444-14. Rule for the Certification of Environmental Laboratories
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26-1-30 authorizes this rule by is establishing and enforcing standards for laboratory services which are provided by any laboratory in the state when the purpose of the service to protect the public health.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No comments were received during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>

For Utah to maintain primacy under United States Environmental Protection Agency (EPA), there must exist a laboratory certification program within the state. State primacy under the EPA is outlined in 40 CFR 142 Subpart B. As outlined in 40 CFR 142, the state must have a program that will certify laboratories that will analyze water samples required by the regulations. This rule allows the program to certify laboratories to perform testing acceptable to state regulations. Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Nathan Checketts, Interim Executive Director	<b>Date:</b>	07/09/2021
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R477-14</b>	<b>Filing ID:</b>	<b>53460</b>
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#### Agency Information

<b>1. Department:</b>	Government Operations		
<b>Agency:</b>	Human Resource Management		
<b>Room no.:</b>	2100		
<b>Building:</b>	Taylorsville State Office Building		
<b>Street address:</b>	4315 S 2700 W		
<b>City, state and zip:</b>	Taylorsville, UT 84129-2128		
<b>Mailing address:</b>	PO Box 141531		
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1531		
<b>Contact person(s):</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Bryan Embley	801-618-6720	bkembley@utah.gov	

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

#### General Information

<b>2. Rule catchline:</b>
R477-14. Substance Abuse and Drug-Free Workplace
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 63A-17-1002 establishes the authority for the Division of Human Resource Management (DHRM) to make rules to implement the drug free workplace program

for employees as outlined in Sections 63A-17-1001 through 63A-17-1007.

#### 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:

DHRM has not received any comment regarding this rule in the last five years.

#### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary in order to enable management in state agencies to prohibit the influence of drugs and alcohol in the workplace and forms the basis upon which those who violate the prohibitions may be detected and punished. Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	John Barrand, Director	<b>Date:</b>	07/06/2021
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R590-178</b>	<b>Filing ID:</b>	<b>51383</b>
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#### Agency Information

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov

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

#### General Information

<b>2. Rule catchline:</b>
R590-178. Securities Custody

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Section 31A-2-201 authorizes the Insurance Commissioner to write rules to implement the provisions of Title 31A, Insurance Code. Section 31A-2-206 authorizes the Insurance Commissioner to write rules regarding the receipt and handling of deposited securities. Section 31A-4-108 authorizes the Insurance Commissioner to write rules to safeguard and ensure that securities are not loaned to other insurers.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Department 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 allows domestic insurance companies to use modern systems for holding and transferring securities without the physical delivery of securities certificates. It also sets standards for national banks, state banks, trust companies, and broker/dealers to qualify and operate as custodians for insurance company securities. Without this rule, insurers could place their investments under risky custodial arrangements or in situations that could threaten the security of the company's assets and, in the end, the security of its insureds. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	07/14/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R651-612</b>	<b>Filing ID: 51650</b>
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**Agency Information**

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	Parks and Recreation
<b>Room no.:</b>	Ste 116
<b>Street address:</b>	1594 W North Temple
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 146001

<b>City, state and zip:</b>	Salt Lake City, UT 84114-6001	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tammy Wright	801-538-7359	tammywright@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information****2. Rule catchline:**

R651-612. Veteran's With Disabilities Honor Pass

**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 established as required by Section 79-4-304 as amended by H.B. 135 as passed during the 2016 General Session of the Utah Legislature.

**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:**

State Parks has received some written comments regarding benefits for veterans. There was no direct opposition to this rule, but rather those commenting wanted the benefits provided to be expanded to include all veterans, active duty military, or disabled veterans with a lesser degree of disability.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

State Parks feels the current rule provides a great benefit to disabled veterans. This rule coincides with our management paradigm, which includes operating on the revenues the Division of Parks and Recreation (Division) generates at the parks. Therefore, this rule should be continued.

In 2011, the legislature required State Parks to become self-sufficient and to stop relying on tax dollars for operating costs. If the Division provided more benefits to veterans, active duty military, and disabled veterans at less than 50% disability, it would greatly reduce funding available to provide clean, safe, and friendly parks and world-class recreational experiences.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	07/07/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R655-17	Filing ID: 51727

#### Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Water Rights	
<b>Room no.:</b>	220	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Marianne Burbidge	801-538-7370	marianneburbidge@utah.gov
Please address questions regarding information on this notice to the agency.		

#### General Information

<b>2. Rule catchline:</b>
R655-17. Water Use Data Reporting and Verification
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is issued pursuant to Subsection 73-2-1(5)(b), Section 73-5-4, and Section 73-5-8 which provides that the Division of Water Rights (Division) shall adopt rules that specify what water use data a person shall report and how the Division shall validate data submitted.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No comment has been received in the past five years.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is still required for processing and acceptance by the State Engineer. Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Teresa Wilhelmsen, State Engineer/Director	<b>Date:</b>	07/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R657-9	Filing ID: 53242

#### Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Wildlife Resources	
<b>Room no.:</b>	2110	
<b>Building:</b>	DNR Salt Lake Complex	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146301	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6301	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

#### General Information

<b>2. Rule catchline:</b>
R657-9. Taking Waterfowl, Wilson's Snipe and Coot
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate and prescribe the means by which protected wildlife may be taken.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments supporting or opposing Rule R657-9 were received since August 2016, when this rule was last reviewed.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Rule R657-9 provides the procedures and standards necessary to manage the waterfowl, Wilson's snipe and coot program for the Division of Wildlife Resources. The provisions adopted in this rule are effective in administering the state's waterfowl management program and the continuation of this rule is necessary for its future success.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rory Reynolds, Division Director	<b>Date:</b>	07/02/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R657-10</b>	<b>Filing ID:</b>	<b>53058</b>
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**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Wildlife Resources	
<b>Room no.:</b>	2110	
<b>Building:</b>	DNR Salt Lake Complex	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146301	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6301	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R657-10. Taking Cougar
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate and prescribe the means by which protected wildlife may be taken.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments supporting or opposing Rule R657-10 were received since August 2016, when this rule was last reviewed.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>

Rule R657-9 provides the procedures and standards for taking and pursuing cougar. The provisions adopted in this rule are effective in administering the state's cougar management program and the continuation of this rule is necessary for its future success.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rory Reynolds, Division Director	<b>Date:</b>	07/02/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R657-26</b>	<b>Filing ID:</b>	<b>51746</b>
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**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Wildlife Resources	
<b>Room no.:</b>	2110	
<b>Building:</b>	DNR Salt Lake Complex	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146301	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6301	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R657-26. Adjudicative Proceedings for a License, Permit, or Certificate of Registration
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Under Subsection 23-19-9(14), the Wildlife Board is authorized and required to provide rules to regulate and prescribe the procedures and standards for the suspension of the privilege of applying for, purchasing, and exercising the benefits conferred by a license or permit, and the suspension of a certificate of registration.

**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 supporting or opposing Rule R657-26 were received since August 2016, when this rule was last reviewed.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Rule R657-26 provides the procedures and standards for the suspension of the privilege of applying for, purchasing, and exercising the benefits conferred by a license or permit, and the suspension of a certificate of registration. The continuation of this rule is necessary for its future success.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rory Reynolds, Division Director	<b>Date:</b>	07/02/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R714-163</b>	<b>Filing ID: 51920</b>
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**Agency Information**

<b>1. Department:</b>	Public Safety	
<b>Agency:</b>	Highway Patrol	
<b>Building:</b>	Calvin Rampton Complex	
<b>Street address:</b>	4501 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84119-5994	
<b>Mailing address:</b>	PO Box 141100	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1100	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tim Kincaid	801-580-9931	tkincaid@utah.gov

Kim Gibb	801-556-8198	kgibb@utah.gov
Matt Spillman	801-698-2186	mspillman@utah.gov

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

**General Information**

<b>2. Rule catchline:</b>
R714-163. Street-Legal All-Terrain Vehicles

**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 Subsections 53-8-204(5) and 41-6a-1601(2), which require the Department of Public Safety to make rules setting minimum standards covering the design, construction, condition, and operation of vehicle equipment for safely operating a motor vehicle on the highway.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

There have been no written comments received since the last five-year review of this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule is necessary in order to establish minimum standards for the inspection of a street legal all-terrain vehicle. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tim Kincaid, Captain Utah Highway Patrol	<b>Date:</b>	07/12/2021
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**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Communications Authority Board (Utah)

#### Administration

No. 53362 (Repeal and Reenact) R174-1: Utah Communications Authority, Administration  
Published: 04/15/2021  
Effective: 07/07/2021

### Education

#### Administration

No. 53545 (New Rule) R277-320: Grow Your Own Teacher and School Counselor Pipeline Program  
Published: 06/01/2021  
Effective: 07/20/2021

No. 53546 (Amendment) R277-404: Requirements for Assessments of Student Achievement  
Published: 06/01/2021  
Effective: 07/20/2021

No. 53547 (Amendment) R277-477: Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program  
Published: 06/01/2021  
Effective: 07/20/2021

No. 53548 (Amendment) R277-491: School Community Councils  
Published: 06/01/2021  
Effective: 07/20/2021

### Government Operations

#### Administration

No. 53466 (New Rule) R13-4: In-State Work Location Rule  
Published: 05/15/2021  
Effective: 07/01/2021

### Human Resource Management

No. 53447 (Amendment) R477-1: Definitions  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53448 (Amendment) R477-2: Administration  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53449 (Amendment) R477-3: Classification  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53450 (Amendment) R477-4: Filling Positions  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53451 (Amendment) R477-5: Employee Status and Probation  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53452 (Amendment) R477-6: Compensation  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53453 (Amendment) R477-7: Leave  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53454 (Amendment) R477-8: Working Conditions  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53455 (Amendment) R477-9: Employee Conduct  
Published: 05/15/2021  
Effective: 07/01/2021

## NOTICES OF RULE EFFECTIVE DATES

No. 53456 (Amendment) R477-10: Employee Development  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53457 (Amendment) R477-11: Discipline  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53458 (Amendment) R477-12: Separations  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53459 (Amendment) R477-13: Volunteer Programs  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53460 (Amendment) R477-14: Substance Abuse and Drug-Free Workplace  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53461 (Amendment) R477-15: Workplace Harassment Prevention  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53462 (Amendment) R477-16: Abusive Conduct Prevention  
Published: 05/15/2021  
Effective: 07/01/2021

No. 53463 (Amendment) R477-101: Administrative Law Judge Conduct Committee  
Published: 05/15/2021  
Effective: 07/01/2021

### Governor

Economic Opportunity  
No. 53542 (Amendment) R357-3: Economic Development Tax Increment Financing Rule  
Published: 06/01/2021  
Effective: 07/12/2021

No. 53544 (New Rule) R357-39: Talent Development Grant Rule  
Published: 06/01/2021  
Effective: 07/12/2021

### Health

Health Care Financing, Coverage and Reimbursement Policy  
No. 53442 (Amendment) R414-401: Assessment  
Published: 05/15/2021  
Effective: 07/01/2021

Family Health and Preparedness, Emergency Medical Services

No. 53436 (Amendment) R426-8: Emergency Medical Services Ground Ambulance Rates and Charges  
Published: 05/15/2021  
Effective: 07/01/2021

### Natural Resources

Wildlife Resources

No. 53474 (Amendment) R657-41: Conservation and Sportsman Permits  
Published: 06/01/2021  
Effective: 07/09/2021

No. 53475 (Amendment) R657-60: Aquatic Invasive Species Interdiction  
Published: 06/01/2021  
Effective: 07/09/2021

### Regents (Board of)

Administration

No. 53422 (Amendment) R765-134: Informal Adjudicative Procedures Under the Utah Administrative Procedures Act  
Published: 06/01/2021  
Effective: 07/15/2021

No. 53423 (Amendment) R765-604: New Century Scholarship  
Published: 06/01/2021  
Effective: 07/15/2021

No. 53424 (Amendment) R765-621: Terrell H. Bell Education Scholarship Program  
Published: 06/01/2021  
Effective: 07/15/2021

No. 53425 (Amendment) R765-622: Career and Technical Education Scholarship Program  
Published: 06/01/2021  
Effective: 07/15/2021

### Workforce Services

Employment Development

No. 53464 (Amendment) R986-700: Child Care Assistance  
Published: 05/15/2021  
Effective: 07/01/2021

Housing and Community Development

No. 53437 (Amendment) R990-8: Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance  
Published: 05/15/2021  
Effective: 07/01/2021

## End of the Notices of Rule Effective Dates Section