

UTAH STATE BULLETIN

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Nancy L. Lancaster, Managing Editor

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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TABLE OF CONTENTS

NOTICES OF PROPOSED RULES	1
AGRICULTURE AND FOOD	
Horse Racing Commission (Utah)	
R52-7. Horse Racing	2
Plant Industry	
R68-27. Cannabis Cultivation	25
R68-28. Cannabis Processing	31
R68-30. Independent Cannabis Testing Laboratory	38
Regulatory Services	
R70-560. Inspection and Regulation of Cottage Food Production Operations	43
COMMERCE	
Occupational and Professional Licensing	
R156-28. Veterinary Practice Act Rule	47
EDUCATION	
Administration	
R277-419. Pupil Accounting.....	52
R277-427. LEA Financial Information Systems	61
R277-703. Centennial Scholarship for Early Graduation.....	63
ENVIRONMENTAL QUALITY	
Waste Management and Radiation Control, Waste Management	
R315-307. Landtreatment Disposal Standards	66
HEALTH	
Family Health and Preparedness, Children with Special Health Care Needs	
R398-2. Newborn Hearing Screening: Early Hearing Detection and Intervention (EHDI) Program	69
R398-4. Cytomegalovirus Public Health Initiative.....	72
R398-5. Birth Defects and Critical Congenital Heart Disease Reporting	75
Health Care Financing, Coverage and Reimbursement Policy	
R414-524. American Rescue Plan Act, Home and Community-Based Services Enhanced Funding.....	78
INSURANCE	
Administration	
R590-132. Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection.....	80
R590-142. Continuing Education Rule	84

TABLE OF CONTENTS

R590-166. Home Protection Service Contract Rule 90

R590-182. Risk Based Capital Instructions 94

R590-283. Defrayal of State-Required Benefits 95

NATURAL RESOURCES

Oil, Gas, and Mining; Non-Coal

R647-1-106. Definitions 99

Oil, Gas, and Mining; Oil and Gas

R649-3-23. Well Workover and Recompletion 103

R649-5-3. Noticing and Approval of Injection Wells 105

R649-8-11. Form 10, Monthly Oil and Gas Production Report..... 107

R649-8-17. Form 15, Designation of Workover or Recompletion..... 108

HIGHER EDUCATION (UTAH BOARD OF)

University of Utah, Administration

R805-2. Government Records Access and Management Act Procedures..... 110

University of Utah, Commuter Services

R810-6. Permit Prices and Refunds 113

NOTICES OF 120-DAY (EMERGENCY) RULES..... 115

COMMERCE

Occupational and Professional Licensing

R156-37f-203. Submission, Collection, and Maintenance of Data 115

HEALTH

Administration

R380-65. Public Health Emergency Protocols..... 118

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION 123

AGRICULTURE AND FOOD

Administration

R51-2. Administrative Procedures for Informal Proceedings Before the Utah
Department of Agriculture and Food 123

COMMERCE

Occupational and Professional Licensing

R156-37. Utah Controlled Substances Act Rule..... 124

EDUCATION

Administration

R277-419. Pupil Accounting..... 124

R277-499. Seal of Biliteracy 125

R277-615. Standards and Procedures for Student Searches 126

R277-702. Procedures for the Utah High School Completion Diploma..... 126

R277-915. Work-based Learning Programs 127

FINANCIAL INSTITUTIONS

Banks

R333-13. Rule Designating Applicable Federal Law for Banks Subject
to the Jurisdiction of the Department of Financial Institutions 127

Industrial Loan Corporations

R339-12. Rule Designating Applicable Federal Law for Industrial Loan
Corporations Subject to the Jurisdiction of the Department of Financial
Institutions 128

HEALTH

Health Care Financing, Coverage and Reimbursement Policy

R414-1. Utah Medicaid Program 129

R414-10A. Transplant Services Standards..... 129

R414-21. Physical Therapy and Occupational Therapy 130

R414-38. Personal Care Services 130

HUMAN SERVICES

Administration

R495-810. Government Records Access and Management Act 131

INSURANCE

Administration

R590-102. Insurance Department Fee Payment Rule 132

R590-103. Security Deposits 132

R590-121. Rate Modification Plan Rule..... 133

R590-126. Accident and Health Insurance Standards..... 133

R590-133. Variable Contracts..... 134

R590-143. Life And Health Reinsurance Agreements 135

PUBLIC SAFETY

Administration

R698-1. Public Petitions for Declaratory Orders..... 135

R698-2. Government Records Access and Management Act Rule..... 136

R698-3. Americans With Disabilities Act (ADA) Complaint Procedure 137

Peace Officer Standards and Training

R728-401. Training Academy Requirements 137

R728-403. Procedures for Certification 138

R728-409. Suspension, Revocation, or Relinquishment of Certification..... 138

R728-410. Guidelines Regarding Annual Statutory Training 139

TABLE OF CONTENTS

R728-411. Guidelines for Administrative Action Against Individuals Functioning
As Peace Officers Without Valid Peace Officer Certification..... 139

PUBLIC SERVICE COMMISSION

Administration

R746-348. Interconnection..... 140

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS 141

INSURANCE

Administration

R590-142. Continuing Education Rule 141

R590-147. Annual and Quarterly Statement Filing Instructions..... 142

R590-150. Commissioner's Acceptance of Examination Reports 142

Title and Escrow Commission

R592-14. Unfair or Deceptive Acts or Practices Affecting Title to
Real Property 142

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between December 02, 2021, 12:00 a.m., and December 15, 2021, 11:59 p.m. are included in this, the January 01, 2022, 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 January 31, 2022. 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 May 01, 2022, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R52-7	Filing ID 54180

Agency Information

1. Department:	Agriculture and Food	
Agency:	Horse Racing Commission (Utah)	
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
Leann Hunting	801-982-2242	leannhunting@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R52-7. Horse Racing
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Changes are needed due to issues that have arisen with split samples. Language has been added to clarify that split samples are not available for hair testing. Additionally, clarification is added to allow the Horse Racing Commission to take enforcement action based on a hair sample. A requirement is added that only an official or track veterinarian may administer Lasix (Furosemide) in hopes that this will reduce incidence of cheating on the race track. Additional minor clarifications are added to this rule as well.
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):
Section R52-7-3 is amended to clarify that notification does not have to be by certified mail. Section R52-7-5 is amended to remove fee requirements for certain individuals. Section R52-7-8 related to testing is amended to clarify requirements regarding hair testing-specifying

that split samples are not available and enforcement action can be taken based on hair test results. Section R52-7-8 is also amended to require an official veterinarian or track veterinarian to administer Furosemide.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
These changes make minor clarifications to this rule and testing requirements and will not result in a fiscal impact to the state. The cost to administer the horse racing program will remain the same.
B) Local governments:
Local governments will not be impacted by the changes because they are minor clarifications to this rule. Local governments do not administer the program or participate in horse racing.
C) Small businesses ("small business" means a business employing 1-49 persons):
Small businesses will not be impacted because the changes just make minor clarifications to testing requirements. General testing requirements will remain the same.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
Non-small businesses will not be impacted because the changes just make minor clarifications to testing requirements. General testing requirements will remain the same.
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):
Other persons will not be impacted because the general testing requirements for horse racing will not change.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
Compliance costs will not be impacted. Fees charged by the department 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):
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			
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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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 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 4-38-104		
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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: 01/31/2021

10. This rule change MAY become effective on: 02/07/2021

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

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	12/07/2021
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R52. Agriculture and Food, Horse Racing Commission (Utah).

R52-7. Horse Racing.

R52-7-1. Authority.

Promulgated under authority of Section 4-38-104.

R52-7-2. Definitions.

The following definitions shall apply in these rules unless otherwise indicated.

1. "Act" means the Utah Horse Regulation Act.
2. "Added money" means [aH]monies added to the fees paid by the horsemen into the purse for a race.
3. "Age" of a horse is reckoned as beginning on the first day of January in the year in which the horse is foaled.
4. "Also Eligible" pertains to:
 - [{A.}] a number of eligible horses, properly entered, that were not drawn for inclusion in a race, but that become eligible according to preference or lot if an entry is scratched [~~prior to~~]before scratch time deadline; or
 - [{B.}] the next preferred non-qualifier for the finals or consolation from a set of elimination trials that will become eligible in the event a finalist is scratched by the stewards for a rule violation or is otherwise eligible if written race conditions permit.
5. "Arrears" means money past due for entrance fees, jockey fees, or nomination or supplemental fees in nomination races, and therefore in default incidental to [~~these Rules~~]this rule or the conditions of a race.
6. "Authorized Agent" means a person appointed by a written instrument, signed and acknowledged before a notary public by the owner in whose behalf the [A]agent will act. The instrument shall be on file with the Commission and its authorized representatives.
7. "Bleeder" means a horse which during or following exercise or the race is observed to be shedding blood from one or both nostrils, or the mouth, or hemorrhaging in the lumen of the respiratory tract.
8. "Breeder" of a horse is the owner or lessee of its dam at the time of breeding.
9. "Closing" means the time published by the organization after which nominations or entries will not be accepted for a race.
10. "Commission" means the Utah Horse Racing Commission.
11. "Commissioner" means a member of the Commission.
12. "Conditions of a race" are the qualifications that determine a horse's eligibility to enter.

NOTICES OF PROPOSED RULES

- 13. "Day" is a period of 24 hours beginning at midnight.
- 14. "Race day" is a day during which horse races are conducted.
- 15. "Declaration" means the act of withdrawing an entered horse from a race before the closing of overnight entries.
- 16. "Drug or Medication" means a substance foreign to the normal physiology of the horse.
- 17. "Enclosure" means areas of the property of an organization licensee to which admission can be obtained only by payment of an admission fee or upon presentation of proper credentials and parking areas designed to serve the facility are owned or leased by the organization licensee.
- 18. "Entry" means a horse made eligible to run in a race.
- 19. "Family" means a husband, wife, and any dependent children.
- 20. "Field" means horses competing in a race.
- 21. "Financial Interest" means an interest that could result in directly or indirectly receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a business entity, or as a result of salary, gratuity, or other compensation or remuneration from any person.
- 22. "Foreign Substances" are any substances, except those ~~which~~ that exist naturally in the untreated horse at normal physiological concentration, and shall include narcotics, stimulants, or depressants.
- 23. "Foul" means an action by any horse or jockey that hinders or interferes with another horse or jockey during the running of a race.
- 24. "Horse" means an equine of any breed and includes a stallion, gelding, mare, colt, filly, spayed mare or ridgeling.
- 25. "Horse Racing" means any type of horse racing, including Arabian, Appaloosa, Paint, Pinto, Quarter Horse, and Thoroughbred horse racing.
- 26. Horse Racing Types:
 - A. "Appaloosa Horse Racing" means the form of horse racing in which each participating horse is an Appaloosa horse registered with the Appaloosa Horse Club or any successor organization and mounted by a jockey.
 - B. "Arabian Horse Racing" means the form of horse racing in which each participating horse is an Arabian horse registered with the Arabian Horse Club Registry of America and approved by the Arabian Horse Racing Association of America or any successor organization, mounted by a jockey, and engaged in races on the flat over a distance of not less than one-quarter mile or more than four miles.
 - C. "Paint Horse Racing" means the form of horse racing in which each participating horse is a Paint horse registered with the American Paint Horse Association or any successor organization and mounted by a jockey.
 - D. "Pinto Horse Racing" means the form of horse racing in which each participating horse is a Pinto horse registered with the Pinto Horse Association of America, Inc., or any successor organization and mounted by a jockey.
 - E. "Quarter Horse Racing" means the form of horse racing in which each participating horse is a Quarter Horse registered with the American Quarter Horse Association or any successor organization, mounted by a jockey, and engaged in a race over a distance of less than one-half mile.
 - F. "Thoroughbred Horse Racing" means the form of horse racing in which each participating horse is a Thoroughbred horse registered with the Jockey Club or any successor organization, mounted by a Jockey, and engaged in races on the flat.

- 27. "Inquiry" means the stewards immediate investigation into the running of a race which may result in the disqualification of one or more horses.
- 28. "Jockey" means the rider licensed to race.
- 29. "Jockey Agent" means a licensed authorized representative of a jockey.
- 30. "Lessee" means a licensed owner whose interest in a horse is by virtue of a completed Commission-approved lease form attached to the registration certificate and on file with the Commission.
- 31. "Lessor" means the owner of the horse that is leased.
- 32. "Maiden" means a horse that has never won a race recognized by the official race records of the particular horse's breed registry. A maiden which has been disqualified after finishing first is still a maiden.
- 33. "Minor" means any individual under 18 years of age.
- 34. "Nominator" means the person who nominated the horse as a possible contender in a race.
- 35. "Objection" means:
 - A. a written complaint made to the Stewards concerning a horse entered in a race and filed ~~[not later than two hours prior to]~~ two hours before the scheduled post time for the first race on the day which the questioned horse is entered; or
 - B. a verbal claim of foul in a race lodged by the horse's jockey, trainer, owner, or the owners licensed Authorized Agent before the race is declared official.
- 36. "Occupation License" means a requirement for any person acting in any capacity within the enclosure during the race meeting.
- 37. "Occupation Licensee" means a person who has obtained an occupation license.
- 38. "Utah Bred Horse" means a horse that is sired by a stallion standing in Utah.
- 39. "Organization License" means a requirement of any person desiring to conduct a race meeting within ~~[the state of]~~ Utah.
- 40. "Organization Licensee" means any person receiving an organization license.
- 41. "Owner" means any person who holds, in whole or in part, any rights, title, or interest in a horse, or any lessee of a horse who has been ~~[duly]~~ issued a currently valid owner's license as a person responsible for such horse.
- 42. "Person" means any individual, corporation, partnership, syndicate, another association or entity.
- 43. "Post Position" means the position in the starting gate assigned to the horse for the race.
- 44. "Post Time" means the advertised time for the arrival of the horses at the start of the race.
- 45. "Protest" means a written complaint, signed by the protester, against any horse which has started in a race and shall be made to the Stewards within 48 hours after the running of the race, except as noted in Subsection R52-7-10(8).
- 46. "Race Meeting" means the entire period ~~[of time]~~ not to exceed 20 calendar days separating any race days for which an organization license has been granted to a person by the Commission to hold horse racing.
- 47. "Allowance" means a race in which eligibility or the weight to be carried are based upon the horse's past performance over a specified time.
- 48. "Handicap" means a race in which the weights to be carried by the entered horses are assigned according to the Racing Secretary's evaluation of each horse's potential ~~[for the purpose of equalizing]~~ to equalize their respective chances of winning.

49. "Invitational" means a race in which the competing horses are selected by inviting their owners to enter specific horses.

50. "Match" means a race contest between two horses with ~~prior~~ earlier consent by the Commission under conditions agreed to by the owners.

51. "Nomination" means a race in which the subscription to a payment schedule nominates and sustains the eligibility of a particular horse. Nominations shall close at least 72 hours before the first post time of the day the race is originally scheduled to be run.

52. "Progeny" means a race restricted to the offspring of a specific stallion or stallions.

53. "Purse Race (Overnight)" means any race in which entries close less than 72 hours ~~prior to~~ before its running.

54. "Schooling Race" means a preparatory race for entry qualification in official races that conform to requirements adopted by the Commission.

55. "Stakes" means a race which is eligible for stakes or "black-type" recognition by the particular breed registry.

56. "Trials" means a set of races in which eligible horses compete to determine the finalists for a purse in a nominated race.

57. "Restricted Area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include the barn area, paddock, test barn, Stewards Tower, race course, or any other area designated restricted by the organization licensee or the Commission. Signs giving notice of restricted access shall be prominently displayed at each entry point.

58. "Rules" means the rules herein prescribed and any amendments or additions.

59. "Scratch" means the act of withdrawing an entered horse from a race after the closing of overnight entries.

60. "Scratch Time" means the deadline set by the organization licensee for the withdrawing of entered horses.

61. "Starter" means the horse whose stall door of the starting gate opens in front of such horse ~~at the time~~ when the starter dispatches the horses.

62. "Subscription" means the act of nominating a horse to a nomination race.

63. "Week" means a period of seven days beginning at 12:01 a.m., Monday during which races are conducted.

R52-7-3. Commission Powers and Jurisdiction.

1. Description and Powers. The Utah Horse Racing Commission is an administrative body created by Section 4-38-103. The Commission consists of five members that are appointed by the governor, and whose powers and duties are prescribed by the legislature. The Commission appoints an executive director who is the administrative head of the agency, and the Commission determines the duties of the executive director. The Commission shall have supervision of any sanctioned race meetings held in ~~the State of~~ Utah, any occupation and organization licensees in the State, and any persons on the property of an organization licensee.

2. Jurisdiction. Without limitations by specific mention hereof, the stated purposes of the ~~[R]rules [and Regulations hereby]~~ promulgated are:

A. to encourage agriculture and breeding of horses in this ~~[S]state~~;

B. to maintain race meetings held in the ~~[S]state~~ of the highest quality and free of any horse racing practices that are corrupt, incompetent, dishonest or unprincipled;

C. to maintain the appearance as well as the fact of complete honesty and integrity of horse racing in this ~~[S]state~~; and

D. to generate public revenues.

E. Commission jurisdiction of a race meet commences one hour ~~prior to~~ before post time and ends one hour following the last posted race.

3. Controlling Authority. The law, the rules, and the orders of the Commission supersede the conditions of a race meeting and govern Thoroughbred, Quarter Horse, Appaloosa, Arabian, Paint and Pinto racing, except in the event they can have no application to a specific type of racing. In the latter case, the Stewards may enforce rules or conditions of The Jockey Club for Thoroughbred racing, the American Quarter Horse Association for Quarter Horse racing; the Appaloosa Horse Club for Appaloosa racing; the Arabian Horse Racing Association of America for Arabian racing; the American Paint Horse Association for Paint racing; and the Pinto Horse Association of America, Inc., for Pinto racing; if such rules or conditions are not inconsistent with the Laws of ~~the State of~~ Utah and the Rules of the Commission.

4. Commission Meetings. The following provisions govern any meeting at which a voting majority of Commission members appear at the anchor location, by telephone, or electronically pursuant to ~~Utah Code~~ Section 52-4-207:

A. If enough Commission members to constitute a voting majority intend to participate electronically or by telephone, public notices of the meeting shall be posted. In addition, the notice shall specify the anchor location where the members of the ~~[e]Commission~~ not participating electronically or by telephone will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

B. Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be posted on the Public Notice Website. These notices shall be provided at least 24 hours before the meetings.

C. Notice of the possibility of an electronic meeting shall be given to the Commission members at least 24 hours before the meeting. In addition, the notice shall describe how a Commission member may participate in the meeting electronically or by telephone.

D. When notice is given of the possibility of a member appearing electronically or by telephone, any Commission member 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 ~~[e]Commission~~. At the commencement of the meeting, or at such time as any Commission member initially appears electronically or by telephone, the chair shall identify for the record those who are appearing by telephone or electronically. Votes by members of the Commission who are not at the physical location of the meeting shall be confirmed by the chair.

E. The anchor location, unless otherwise designated in the notice, shall be at the offices of the Department of Agriculture and Food, 350 N Redwood Road, Salt Lake City, Utah. The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. In addition, the anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

5. Punishment by The Commission. Violation of the act and rules promulgated by the Commission, whether or not a penalty is fixed therein, is punishable in the discretion of the Commission by denial, revocation or suspension of any license; by fine; by exclusion from racing enclosures under the jurisdiction of the Commission; or by any combination of these penalties. Fines imposed by the Commission shall not exceed \$10,000 against individuals for each violation of any rules promulgated by the Commission, any Order of the Commission, or for any other action which, in the discretion of the Commission, is a

NOTICES OF PROPOSED RULES

detriment or impediment to horse racing, according to Subsection 4-38-301(4).

6. Extension for Compliance. If a licensee fails to perform an act or obtain required action from the Commission within the time prescribed therefore by these rules, the Commission, at some subsequent time, may allow the performance of such act or may take the necessary action with the same effect as if the same were performed within the prescribed time.

7. Notice to Licensee. When~~ever~~ notice is required to be given by the Commission or the Stewards, the notice shall be given in writing by personal delivery to the person to be notified or by mailing ~~Certified Mail, Return Receipt Requested~~, to the last known address furnished to the Commission; or may be given as is provided for service of process in a civil proceeding in ~~the State of~~ Utah and pursuant to Title 63G, Chapter 4, Administrative Procedures Act.

8. Location for Information or Filing with Commission. When information is requested or a notice in any matter is required to be filed with the Commission, such notice shall be delivered to an authorized representative of the Commission at an ~~e~~Office of the Commission on or before the filing deadline. Offices of the Commission are currently located at: Utah Department of Agriculture and Food, 350 North Redwood Road, Salt Lake City, UT 84116.

9. Public Inspection of Documents. Forms adopted by the Commission together with any rules and other written statements of policy or interpretation; and any final orders, decisions, and opinions, formulated, adopted, or used by the Commission in the discharge of its functions are available for public inspection at the ~~above~~office.

10. Forms and Instruction. The following forms and instructions for their use have been adopted by the Commission:

- A. Apprentice Jockey Certificate;
- B. Authorized Agent Agreement;
- C. Fingerprint Card;
- D. Identifier's Daily Report;
- E. Lease Agreement;
- F. Occupation Licensee Application~~(s)~~;
- G. Occupation License Renewal Application~~(s)~~;
- H. Open Claim Certificate;
- I. Organization's Daily Report;
- J. Organization Licensee Application;
- K. Petition for Declaratory Ruling;
- L. Petition for Promulgation, Amendment or Repeal of Rule;
- M. Petition in and before the Utah Horse Commission;
- N. Postmortem Examination Report;
- O. Stable Name, Corporation, Partnership or Syndicate Registration Form;
- P. Stewards' Daily Report;
- Q. Stewards' Hearing Notice;
- R. Stewards' Hearing Reports;
- S. Subpoena, ~~(f)~~[Steward and Commission~~(y)~~]; and
- T. Test Barn Diuretic Approval Form.

11. Forms for substituting petitions for promulgating or repealing of rules, and for requests for declaratory ruling are available at the Utah Department of Agriculture and Food.

R52-7-4. Racing Organization.

1. Allocation of Racing Dates. The Commission shall allocate racing dates for the conduct of horse race meetings within this State for such time periods and at such racing locations as the Commission determines will best serve the interests of the people of Utah in accordance with Title 4, Chapter 38, the Utah Horse Regulation Act. Upon a finding by the Commission that the allocation of racing dates for any year is completed, the racing dates allocated shall be

subject to reconsideration or amendment only for conditions unforeseen at the time of allocation.

2. Application for License and Days to Conduct a Horse Race Meeting. Each person who intends to conduct a horse race meeting shall file ~~such~~an application with the Commission no later than August 1 of the preceding calendar year. Any prospective applicant for license and days to conduct a horse race meeting failing to timely file the application for license may be disqualified and its application for license refused summarily by the Commission.

3. Commission may Demand Information. The Commission may require any racing organization or prospective racing organization to furnish the Commission with a detailed proposal and disclosures as to its proposed racing program, purse, program, financial projections, racing officials, principals or shareholders, plants, premises, facility, finances, lease arrangements, agreements, contracts, and such other information as the Commission may require to determine the eligibility and qualification of the organization to conduct a race meeting, in addition to that required in the application form set forth in Subsection R52-7-4(4) and as required by Section 4-38-4.

4. Application for Organization License. Any person desiring to conduct a horse race meeting where the public is charged an admission fee shall apply to the Commission for an organization license. The application shall be made on a form prescribed and furnished by the Commission. The application shall contain the following information:

- A. the dates on which and location where the applicant intends to conduct the race meeting;
- B. the name and mailing address of the person making the application;
- C. if the applicant is a corporation, a certified copy of the Articles of Incorporation and Bylaws, the names and mailing addresses of any stockholders who own at least 3% of the total stock issued by the corporation, officers, and directors, and the number of shares of stock owned by each;
- D. if the applicant is a partnership, a copy of the partnership agreement, and the names and mailing addresses of general and limited partners with a statement of their respective interest in the partnership;
- E. a description of photographic equipment, video equipment, and copies of any proposed lease or purchase contract or service agreement~~in connection therewith~~;
- F. copies of any agreements with concessionaires or lessees, together with schedules of rates charged for performance of any service or for sale of any article within the enclosure, whether directly or through the concessionaire;
- G. schedule of admission price~~(s)~~ to be charged;
- H. ~~applicants shall submit~~balance sheets and profit and loss statements for each of the three fiscal years immediately preceding the application, or for the period of organization if less than three years. If the applicant has not completed a full fiscal year since its organization, or if it acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year, the financial information shall be given for the current fiscal year. Financial information shall be accompanied by an unqualified opinion of a Certified Public Accountant, or if the opinion is given with qualifications, the reasons for the qualifications shall be stated;

I. a schedule of stall rent, entry fees, or any other charges to be made to the horsemen or public not mentioned ~~above~~in this section; and

J. any other information the Commission may require. For applicants requesting to conduct non pari-mutuel racing, the licensee fee shall not be less than \$25~~-00~~.

5. A separate application upon a form prescribed and furnished by the Commission shall be filed for each race meeting which

such person proposes to conduct. The application, if made by a person, shall be signed and verified under oath by the person; and if made by more than one person or by a partnership, shall be signed and verified under oath by at least two of the persons or members of the partnership; and if made by an association, a corporation, or any other entity, shall be signed by the President, attested to by the Secretary under the seal of such association or corporation, if it has a seal, and verified under oath by one of the signing officers.

6. No person shall own any silent or undisclosed interest in any entity requesting an organization license. No organization license shall be issued to any applicant that fails to comply with ~~[provisions of]~~ this rule. No incomplete license application shall be considered by the Commission.

7. In considering the granting or denying of an organization's application for a license to conduct horse racing with the non pari-mutuel system of wagering, the following criteria, standards, and guides should be considered by the Commission:

- A. public interest;
 - a. safety;
 - b. morals;
 - c. security;
 - d. municipal comments; and
 - e. state and local revenues;
- B. track location;
 - a. traffic flow;
 - b. support services such as hotels~~[-]~~ or restaurants~~[-ete-]~~;
 - c. labor supply;
 - d. public services such as police~~[-]~~ or fire~~[-ete-]~~; and
 - e. proximity to competition;
- C. number of tracks running or making application;
 - a. size;
 - b. type of racing; and
 - c. days;
- D. adequacy of track facilities;
- E. experience in racing of applicant and management;
 - a. length;
 - b. type; and
 - c. success or failure;
- F. financial qualifications of applicant, applicant's partners, officers, associates, and shareholders, including contract services;
 - a. financial history;
 - (1) records; and
 - (2) net worth;
- G. qualifications of applicant, applicant's partners, officers, associates, and shareholders including contract services;
 - a. arrest record;
 - b. conviction record;
 - c. litigation record, civil or criminal; and
 - d. law enforcement intelligence;
- H. official attitude of local government involved;
- I. anticipated effect upon breeding and horse industry in Utah;
 - J. effect on saturation of non pari-mutuel market;
- K. anticipated effect upon state's economy;
 - a. general economy;
 - (1) tourism;
 - (2) employment; and
 - (3) support industries;
 - b. government revenue;
 - (1) direct or indirect tax; and
 - (2) direct or indirect income;
- L. attitude of local community involved;

M. the written attitude of horse industry associations;

N. experience and credibility of consultants, advisors, and professionals;

a. feasibility; and

b. credibility and integrity of feasibility study;

O. financial and economic integrity of financial plan;

a. equity;

(1) source;

(2) amount;

(3) position; and

(4) type;

b. debt;

(1) source;

(2) amount;

(3) terms; and

(4) repayment;

c. equity to debt ratio;

(1) integrity of financing plan;

i. identity of participants;

ii role of participants;

iii history of participants; and

iv. law enforcement intelligence; and

P. apparent or non-apparent hope of financial success.

8. List of Shareholders. Each organization shall, if a corporation or partnership, maintain a current list of shareholders and the number of shares held by each. The list shall be available for inspection upon demand by the Commission or its representatives. The organization shall immediately inform the Commission of any change of corporate officers or directors, general or managing partners, or of any change in shareholders. If the organization is a publicly-held entity, it shall disclose the names and addresses of shareholders who own 3% of the outstanding shares of the organization. The organization shall immediately notify the Commission of any stock options, tender offers, and any anticipated stock offerings. The Commission may refuse to issue a license to, or suspend the license of, any organization that fails to disclose the real name of any shareholders.

9. Denial of License. The Commission may deny a license to conduct a horse racing meeting when in its judgment it determines the proposed meeting is not in the public interest, or fails to serve the purposes of Title 4, Chapter 38, the Utah Horse Regulation Act, or fails to meet any requirements of ~~Utah State~~ state law or the Commission's rules. The Commission shall refuse to issue a license to any applicant who fails to provide the Commission with evidence of its ability to meet its estimated financial obligations for the conduct of the meeting.

10. Duty of Licensed Organization. Each organization shall observe and enforce the rules of the Commission. The license is granted on the condition that the organization, its officials, its employees, and its concessionaires shall obey the decisions and orders of the Commission. The organization shall not allow any wagering within the enclosure of the racing facility that might be construed as being in violation of the laws of ~~the State of~~ Utah.

11. Conditions of A Race Meeting. The organization may impose conditions for its race meeting as it may ~~deem~~ consider necessary; ~~provided, however, except~~ that ~~such~~ conditions may not conflict with any requirements of Utah State Law or the rules, regulations and orders of the Commission. Such conditions shall be published in the Condition Book or otherwise made available to licensees participating in its race meeting. A copy of the conditions and nomination race book shall be published no later than 45 days ~~prior to~~ before the commencement of the race meeting. A proof of such conditions and nomination race book shall be filed with the Commission no later than 45 days ~~prior to~~ before printing. The conditions and

NOTICES OF PROPOSED RULES

nomination race book is subject to the approval of the Commission. The organization may impose requirements, qualifications, requisites, and track rules for its race meeting as it may ~~deem~~ consider necessary; provided ~~such~~ requirements, qualifications, and track rules do not conflict with Utah State Law or the rules, regulations, and orders of the Commission. Such information shall be published in the Condition Book, posted on the organization's bulletin boards, or otherwise made available to licensees participating at its race meeting. [

_____]. Any requirements, qualifications, requisites or track rules imposed by the organization require ~~prior~~ earlier review and approval by the Commission, that reserves the right of final decision in matters pertaining to the conditions of a race meeting.

12. Right of Commission to Information. The organization may be asked to furnish the Commission, on forms approved by the Commission, a daily itemized report of the receipts of attendance, parking, concessions, commissions, and any other requested information. The organization shall also provide a corrected official program, completed race results charts approved by the Commission, and any other information the Commission may require. Such daily reports shall be filed with the Commission within 72 hours of the race day.

13. Duty to Compile Official Program. The organization shall compile an official program for each racing day that shall contain the names of the horses that are to run in each race together with their respective post positions, post time for first race, age, color, sex, breeding, jockey, trainer, owners or stable name, racing colors, weight carried, conditions of the race, the order in which each race shall be run, the distance to be run, the value of each race, a list of Racing Officials and track management personnel, and any other information the Commission may require. The Commission may direct the organization to publish in the program any other information and notices to the public as it deems necessary.

14. Duty to Maintain Racing Records. The organization shall maintain a complete record of races of each authorized race meeting of the same type of racing being conducted by the organization, and such records shall be maintained and retained for a period of five years. This requirement may be met by race records of Triangle Publications, the American Quarter Horse Association, the Appaloosa Horse Club, the American Paint Horse Association, other breed registry associations' racing records department, or other racing publications approved by the Commission.

15. Horsemen's Bookkeeper. The organization shall employ a Horsemen's Bookkeeper who shall maintain records as the organization and Commission shall direct. The records shall include the name, address, social security or federal identification number, and the state or country of residence of each horse owner, trainer, or jockey participating at the race meeting who has funds due or on deposit in the horseman's account. The Horsemen's Bookkeeper shall keep the riding accounts of the jockeys and shall disburse the received fees to the proper claimants. It shall be the duty of the Horsemen's Bookkeeper to receive and disburse the purses of each race and any stakes, entrance money, jockey fees, and other monies that properly come into ~~his~~ their possession, and make disbursements within 48 hours of receipt of notification from the testing laboratory that drug tests have cleared unless an appeal or protest has been filed with the Stewards or the Commission. The Horsemen's Bookkeeper may accept monies due belonging to other organizations or recognized meetings, provided prompt return is made to the organization to which the money is due. Upon written request, the Horsemen's Bookkeeper shall, within 30 days after the meeting, disburse any monies to the persons entitled to receive them. The Horsemen's Bookkeeper shall maintain a file of required statements of partnerships, syndicates, corporations, assignments of

interest, lease agreements, and registrations of authorized agents. Records and monies of the Horsemen's Bookkeeper shall be kept separate and apart from any other of the organization and are subject to inspection by the Commission at any time.

16. Accounting Practices and Responsibility. The organization and its managing officers shall ensure that purse monies, disbursements, and appropriate nomination race monies are available to make timely distribution in accordance with the state law, the rules ~~and regulations~~ of the Commission, the organization rules, and race conditions. Copies of nomination payment race contracts, agreements, and conditions shall be submitted to the Commission and related reporting requirements fulfilled as specified by the Commission. Subject to approval of the Commission, the organization shall maintain on a current basis a bookkeeping and accounting program under the guidance of a Certified Public Accountant. The Commission may require periodic audits to determine that the organization has funds available to meet those distributions for the purposes required by state law, the rules ~~and regulations~~ of the Commission, the conditions and nomination race program of the race meeting, and the obligations incurred in the daily operation of the race meeting. Annually, the organization shall file a copy of ~~all~~ tax returns, a balance sheet, and a profit and loss statement.

17. Electronic Photo Finish Device. Each organization shall install and maintain in good service an electronic photo finish device for photographing the finishes of races and recording the time of each horse in hundredths of a second, when applicable, to assist the placing judges and the Stewards in determining the finishing positions and time of the horses. ~~Prior to~~ Before first use, the electronic photo finish device must be approved by the Commission, and a calibration report shall be filed with the Commission by January 1 of each year. A photograph of each finish shall be promptly posted for public view in at least one conspicuous place in the public enclosure.

18. Videotape Recording of Races. Each organization shall install and operate a system to provide a videotape recording of each race so that such recording clearly shows the position and action of the horses and jockeys at close enough range to be easily discernible. A video monitor shall be located in the Stewards' Tower to assist in reviewing the running of the races. ~~Prior to~~ Before first use, the videotape recording system and location and placement of its equipment shall be approved by the Commission. Each race other than a race run solely on a straight course may be recorded by use of at least two cameras to provide panoramic and head-on views of the race. Races run solely on the straight course shall be recorded by the use of at least one camera to provide a head-on view. Except with ~~prior~~ earlier approval of the Commission, organizations shall maintain an auxiliary videotape recording camera and player in case of breakdown or malfunction of a primary videotape recording camera or player.

19. Identification of Photo Finish Photographs and Videotape Recordings. Photo finish photographs and video[-]tape recordings required by these rules shall be identified by indicating thereon, the date, number of the race, and the name of the racetrack at which the race is held.

20. Altering Official Photographs or Recordings. No person shall cut, mutilate, alter, or change any photo finish photograph or videotape recording for ~~the purpose of~~ deceit or fraud of any type.

21. Preservation of Official Photographs and Recordings. Organizations shall ~~preserve~~ keep any photographic negatives and videotape recordings of races for at least 180 days after the close of their meeting. Upon request of the Commission, the organization shall furnish the Commission with a clear, positive print of any photograph of any race, or a kinescope print or copy of the videotape recording of any race.

22. Viewing Room Required. The organization shall maintain a viewing room for ~~the purpose of~~ screening the videotape recording of the races for viewing by Racing Officials, jockeys, trainers, owners, and other interested persons authorized by the Stewards.

23. Office Space for The Commission. The organization shall provide within the enclosure adequate office space for use by the Commission and its authorized representatives, and shall provide such necessary office furniture and utilities as may be required for the conduct of the Commission's business and the collection of the public revenues at the organization's meetings.

24. Duty to Receive Complaints. The organization shall maintain a place where written complaints or claims of violations or objections of racetrack rules, regulations, and conditions; Commission ~~Rules and Regulations~~ rules; or Utah State Laws may be filed. A copy of any written complaint or claim filed with the organization shall be filed by the organization with the Commission or Commission representatives within 24 hours of receipt of the complaint or claim.

25. Bulletin Boards Required. The organization shall erect and maintain a glass enclosed bulletin board close to the Racing Secretary's Office in a place where access is granted to licensees, upon which official notices of the Commission shall be posted. The organization shall also erect and maintain a glass enclosed bulletin board in the grandstand area where access is granted to race day patrons, upon which official notices of the Commission shall be posted.

26. Communication Systems Required. The organization shall install and maintain in good service a telephonic communication system between the Stewards' stand, racing office, jockey room, paddock, testing barn, starting gate, video camera locations, and other designated places. The organization shall also install and maintain in good service a public address communication system for ~~the purpose of~~ announcing the racing program, the running of the races, and any public service notices, as well as maintaining communications with the barn area for ~~the purpose of~~ paddock calls and the paging of horsemen.

27. Ambulance Service. Subject to the approval of the Commission, the organization shall provide the services of an approved medical ambulance and its properly qualified attendants during the running of the race program at its meeting and, except with ~~prior~~ earlier permission of the Commission, during the hours the organization permits the use of its race course for training purposes. The organization shall also provide the service of a horse ambulance during the same hours. A means of communication shall be provided by the organization between a staffed observation point such as the Stewards' Tower and Clocker's Stand for the race course and the place where the required ambulances and their attendants are posted for prompt response in the event of accident to any person or horse. In the event an emergency necessitates the departure of a required ambulance, the race course shall be closed until an approved ambulance is again available within the enclosure.

28. Safety of Race Course and Premises. The organization shall take cognizance of any complaint regarding the safety or uniformity of its race course or premises, and shall maintain in safe condition the race course and rails and other equipment required for the conduct of its races.

29. Starting Point Markers and Distance Poles. Permanent markers shall be located at each starting point to be utilized in the organization's racing program. The starting point markers and distance poles shall be of a size and in a position where they can be seen clearly from the ~~s~~ Stewards' stand. The starting point markers and distance poles shall be marked with the appropriate distance and be the following colors:

TABLE

1/16 poles . . .	black and white horizontal stripes
1/8 poles . . .	green and white horizontal stripes
1/4 poles . . .	red and white horizontal stripes
220 yards . . .	green and white horizontal stripes
250 yards . . .	blue
300 yards . . .	yellow
330 yards . . .	black and white horizontal stripes
350 yards . . .	red
400 yards . . .	black
440 yards . . .	red and white horizontal stripes
550 yards . . .	black and white horizontal stripes
660 yards . . .	green and white horizontal stripes
770 yards . . .	black and white horizontal stripes
870 yards . . .	blue and white horizontal stripes

30. Grade and Distance Survey. A survey by a licensed surveyor of the race course, including starting chutes, indicating the grade and measurement of distances to be run shall be filed with the Commission ~~prior to~~ before the first race meeting.

31. Physical Requirements for Non pari-Mutuel Racing Facility. In order for an organization to be granted a license to conduct non pari-mutuel racing, the facility shall meet the following physical requirements:

A. A regulation track shall be a straightaway course of 440 yards in length. The straightaway shall connect with an oval not less than one-half mile in circumference; except that the width may vary according to the number of horses started in a field, but a minimum of ~~twenty~~ 20 feet shall be allowed for the first two horses with an additional five feet for each added starter.

B. The inner and outer rails shall extend the entire length of the straightaway and around the connecting oval; it shall be at least ~~thirty~~ 30 inches and not more than ~~forty two~~ 42 inches in height. A racetrack not approved by the Commission ~~prior to~~ before January 1, 1993, shall otherwise have inner and outer rails of at least ~~thirty eight~~ 38 inches and not more than ~~forty two~~ 42 inches in height. It shall be constructed of metal not less than two inches in diameter, wood not less than two inches in thickness and six inches in width, or other construction material approved by the Commission. Whatever construction material is used must provide for the safety of both horse and rider. It shall be painted white and maintained at all times.

C. Stabling facilities should be adequate for the number of horses to be on hand for the meet. In no case will a track with less than 200 stalls be acceptable, without Utah Horse Commission approval.

D. Stands for Stewards and Timers shall be located exactly on the finish line and provide a commanding and uninterrupted view of the entire racing strip.

E. The paddock shall be spacious enough to provide adequate safety. The jockey's room shall be in or adjacent to the paddock enclosure and shall be equipped with separate but equal complete sanitation facilities including showers for both male and female riders. This area shall be fenced to keep out unauthorized persons and provide maximum security and safety. The fence shall be at least four feet high of chain link, v-mesh or similar construction.

F. A Test Barn with a minimum of two stalls shall be provided for purpose of collecting urine specimens. The Test Barn and a walking ring large enough to accommodate several horses cooling out at the same time shall be completely enclosed by a fence at least eight feet high of chain link, v-mesh or similar construction. There shall be only one entrance into the Test Barn enclosure that shall remain locked or guarded. Provisions shall be made in this area for an office to accommodate the needs of the Official Veterinarian and from which ~~he~~ they can observe the stalls and the entrance into the Test Barn enclosure. The organization shall provide facilities for the immediate

NOTICES OF PROPOSED RULES

cooling and freezing of urine specimens, and shall make provisions for the specimens to be shipped to the laboratory packed in dry ice.

G. A grandstand or bleachers shall be provided for the spectators and shall provide for the comfort and safety of the spectators. Facilities shall include rest rooms and a public water supply.

32. Organization as the Insurer of the Race Meeting. Approval of a race meeting by the Commission does not establish the Commission as the insurer or guarantor of the safety or physical condition of the organization's facilities or purse of any race. The organization does thereby agree to indemnify, save and hold harmless the Utah Horse Commission from any liability[~~-, if any,~~] arising from unsafe conditions of track facilities or grandstand and default in payment of purses. The organization shall provide the Commission with a certificate of adequate liability insurance.

R52-7-5. Occupation Licensing and Registration.

1. Occupation Licenses. No person required to be licensed shall participate in a race meeting without their holding a valid license authorizing participation. Licenses shall be obtained [~~prior to~~]before the time persons engage in their vocations upon racetrack grounds at any time during the calendar year for which the organization license has been issued. Each applicant will be required to provide one form of photo identification.

A. A person whose occupation requires acting in any capacity within any area of an enclosure shall pay the required fee and procure the appropriate license or licenses.

B. A person acting in any of the following capacities shall pay the required fee and procure the appropriate license or licenses. A list of required fees shall be available at the Utah Department of Agriculture and Food.

- a. owner trainer combination;
- b. owner;
- c. trainer;
- d. assistant trainer;
- e. jockey;
- f. veterinarian;

~~g. jockey room attendant;~~

~~h. paddock attendant;~~

~~i. pony rider;~~

~~j. concessionaire;~~

~~k. valet; or~~

~~l. groom;~~

C. A person whose license[-]identification badge is lost or destroyed shall procure a replacement license[-]identification badge and shall pay the required fee.

D. The date of payment of required fees, as recorded by the Commission, shall be the effective date of issuance of a continuous occupation license. A person may have the option of a one or three[-]year license. The license fee shall be the annual fee for each category in which the person is licensed, the fee for a three[-]year license shall be three times the annual fee for each category in which the person is licensed. The license shall expire on December 31.

E. Each license applicant may be required to provide two complete sets of fingerprints on forms provided by or acceptable to the Commission and pay the required fee for processing the fingerprint cards through [~~S~~]state and [~~F~~]federal [~~L~~]law [~~E~~]enforcement [~~A~~]agencies. If the fingerprints are of a quality not acceptable for processing, the licensee may be required to be re-fingerprinted.

F. Applicants for occupation licenses must be a minimum of 16 years of age. However, this shall not preclude dependent children under the age of 16 from working for their parents or guardian if their parents or guardian are licensed as a trainer or assistant trainer and

permission has been obtained from the organization licensee. A trainer or [~~his~~]their authorized representative signing a Test Barn Sample Tag shall be licensed and a minimum of 18 years of age.

2. Employment of Unlicensed Person. No organization, owner, trainer, or other licensee acting as an employer within the enclosure at an authorized race meeting shall employ or harbor within the enclosure any person required to be licensed by the Commission until the organization, owner, trainer, or other employer determines that the person required to be licensed has been issued a valid license by the Commission. No organization shall permit any owner, trainer, or jockey to own, train, or ride on its premises during a recognized race meeting unless the owner, trainer, or jockey has received a license to do so from the Commission. The organization or prospective employer may demand for inspection the license of any person participating or attempting to participate at its meeting, and the organization may demand for inspection the documents relating to any horse on its grounds.

3. Notice of Termination. Any organization, owner, trainer, or other licensee acting as an employer within the enclosure at an authorized race meeting shall be responsible for the immediate notification to the Commission and the organization conducting the race meeting of a termination of employment of a licensee. The employer shall make every effort to obtain the license badge from the employee and deliver the license badge to the Commission.

4. Application for License. An applicant for license shall apply in writing on the application forms furnished by the Commission.

5. License Identification Badge Requirements. The license identification badge may consist of the following information concerning the licensee:

- A. full name;
- B. permanent address;
- C. license capacity;
- D. date of issue;
- E. passport-type color photograph; and
- F. date of birth.

G. License identification badges may be color coded as to capacity of occupation and eligibility for access to restricted areas. License holders, except jockeys riding in a race, shall wear a current identification badge while present in restricted areas of the enclosure or as otherwise specified in Subsection R52-7-5(1).

6. Honoring Official Credentials. Credentials issued by the Commission may be honored for admission at any gates and entrances and to any places within the enclosure. Automobiles with vehicle decals issued by the Commission to its members and employees shall be permitted ingress and egress at any point. Credentials issued by the National Association of State Racing Commissioners to its members, past members, and staff shall be honored by the organization for admission into the public enclosure when presented therefore by such persons.

7. License Subject to Conditions and Agreements.

A. Each license is subject to the conditions and agreements contained in the application and to state law.

B. Each license issued to a licensee by the Commission remains the property of the Commission.

C. Possession of a license does not confer any right upon the holder to employment at or participation in a race.

D. The Commission may restrict, limit, place conditions on, or endorse for additional occupational classes, any license, pursuant to Subsection R52-7-5(9).

8. Changes in Application Information. Each licensee or applicant for license shall file with the Commission [~~his~~]their permanent

and ~~his~~ current mailing address and shall report in writing to the Commission any changes in application information.

9. Grounds for Denial, Refusal, Suspension or Revocation of License. The Commission, in addition to any other valid ground or reason, may deny, refuse to issue, suspend or revoke an occupation license for any person:

A. who has been convicted of a felony of this State, any other state, or the United States of America;

B. who has been convicted of violating any law regarding gambling or controlled dangerous substance of this State, any other state, or of the United States of America;

C. who is unqualified to perform the duties required of the applicant;

D. who fails to disclose or states falsely any information required in the application;

E. who has been found guilty of a violation of ~~[any provision of]~~ the Utah Horse Act or of the ~~[R]rules [and Regulations]~~ of the Commission;

F. whose license for any racing occupation or activity requiring a license has been or is currently suspended, revoked, refused, or denied for just cause in any other competent racing jurisdiction; or

G. who has been or is currently excluded from any racing enclosure by a competent racing jurisdiction.

10. Examinations. The Commission may require the applicant for any license to demonstrate ~~his~~ their knowledge, qualifications, and proficiency for the license applied for by examination as the Commission may direct.

11. Refusal Without Prejudice. A refusal to issue a license, as distinguished from a denial of a license to an applicant by the Commission at any race meeting is without prejudice, and the applicant refused may reapply for a license at any subsequent or other race meeting, or ~~he~~ they may appeal the refusal to the Commission for hearing upon ~~his~~ their qualifications and fitness for the license.

12. Hearing After Denial of License. Any person who has had ~~his~~ their license denied may petition the Commission to reopen the case and reconsider its decision upon a sufficient showing that there is now available evidence which could not, with the exercise of reasonable diligence, have been previously presented to the Commission. Any ~~such~~ petition shall be filed with the Commission no later than 30 days after the effective date of the Commission's decision in the matter. Any person who has been denied a license by the Commission may not refile a similar application for license until one year from the effective date of the decision to deny the license.

13. Financial Responsibility of Applicants. Applicants for license as horse owner or trainer shall submit satisfactory evidence of their financial ability to care for and maintain the horses owned or trained by them when such evidence is requested by the Commission.

14. Physical Examination. The Commission or the Stewards may require that any jockey be examined at any time, and the Commission or the Stewards may refuse to allow any jockey to ride until ~~he has~~ they have successfully passed such examination.

15. Qualifications for Jockey. No person under 16 years of age shall be granted a jockey's license. A person who has never ridden in a race at a recognized meeting shall not be granted a license as jockey unless ~~he has~~ they have satisfactorily worked a horse from the starting gate in company, before the Stewards or their representatives. Upon the recommendation of the Stewards, the Commission may issue a jockey's license granting permission to a person ~~for the purpose of~~ to ride ~~riding~~ in not more than four races to establish the qualifications and ability of the person for the license. Subsequently, the Stewards may recommend the granting of a jockey's license.

16. Jockey Agent. A jockey agent is the authorized representative of a jockey if ~~he is~~ they are registered with the Stewards and licensed by the Commission as the Jockey's representative. No jockey agent shall represent more than two jockeys at the same time.

17. Workers' Compensation Act Compliance. No person may be licensed as a trainer, owner, or in any other capacity in which the person acts as the employer of any other licensee at any authorized race meeting, unless ~~his~~ their liability for Workers' Compensation has been secured in accordance with Title 34A, Chapter 2, the Workers' Compensation Act of Utah and until evidence of security for liability is provided the Commission. Should any required security for liability for Workers' Compensation be canceled or terminated, any license held by such person shall be automatically suspended and shall be grounds for revocation of the license. If a license applicant certifies that they have no employees that would subject them to liability for Workers' Compensation, they may be licensed, but only for the period they have no employees.

18. Program Trainer Prohibited. No licensed trainer, ~~for the purpose of avoiding his~~ to avoid their responsibilities or insurance requirements as set forth in these rules, shall place any horse in the care or attendance of any other trainer.

19. Qualifications for License as Horse Owner. No person may be licensed as a horse owner who is not the owner of record of a properly registered race horse that ~~he intends~~ they intend to race in Utah and which is in the care of a licensed trainer, or who does not have an interest in such race horse as a part owner or lessee, or who is not the responsible managing owner of a corporation, syndicate, or partnership that is the legal owner of such horse.

20. Horse Ownership by Lease. Horses may be raced under lease provided a completed ~~Utah Horse~~ Commission, breed registry, approved pari-mutuel, or other lease form acceptable to the Commission, is attached to the Registration Certificate and on file with the Commission. The lessor and lessee shall be licensed as horse owners. No lessor shall execute a lease ~~for the purpose of avoiding~~ to avoid insurance requirements.

21. Statements of Corporation, Partnership, Syndicate or Other Association or Entity. Any organizational documents of a corporation, partnership, syndicate, or other association or entity, and the relative proportion of ownership interest, the terms of sales with contingencies, arrangements, or leases, shall be filed with the Horsemen's Bookkeeper of the organization and with the Commission. The documents shall declare to whom winnings are payable, in whose names the horses shall be run, and the name of the licensed person who assumes any responsibilities as the owner. The part owner of any horse shall not assign ~~his~~ their share or any part of it without the written consent of the other partners, and consent shall be filed with the Horsemen's Bookkeeper and the Commission. A person conducting racing operations as a corporation, partnership, syndicate, or other association or entity shall register the information required by this rule and pay the required fee for the appropriate entity.

22. Stable Name Registration. A person electing to conduct racing operations by use of a stable name shall register the stable name and shall pay the required fee.

A. The applicant shall disclose the identity or identities of persons comprising the stable name.

B. Changes in identities shall be reported to and approval shall be obtained from the Commission immediately.

C. No person shall register more than one stable name at the same time nor use their real name for racing purposes so long as they have a registered stable name.

NOTICES OF PROPOSED RULES

D. Any person who has registered under a stable name may cancel the stable name after they have given written notice to the Commission.

E. A stable name may be changed by registering a new stable name and by paying the required Fee.

F. No person shall register a stable name ~~[which]~~that has been registered by any other person with any organization conducting a recognized race meeting.

G. A stable name shall be clearly distinguishable from that of another registered stable name.

H. The stable name, and the name of the owner or managing owner, shall be published in the official program. If the stable name consists of more than one person, the official program will list the name of the managing owner along with the phrase "et al."

I. If a partnership, corporation, syndicate, or other association or entity is involved in the identity comprising a stable name, the rules covering a partnership, corporation, syndicate or other association or entity shall be complied with and the usual fees paid therefore in addition to the fees for the registration of a stable name.

23. Ownership Licensing Required. The ownership licensing procedures required by the Commission shall be completed ~~[prior to]~~before the horse starting in a race and shall include any registrations, statements, and payment of fees.

24. Knowledge of Rules. Each licensee, ~~[in order]~~to maintain their qualifications for any license held by them, shall be familiar with and knowledgeable of the rules, including any amendments. Each licensee is presumed to know the rules.

25. Certain Prohibited Licenses. Commission-licensed jockeys, veterinarians, organizations' security personnel, vendors, and other licensees designated by the [s]Stewards with approval of the Commission, shall not hold any other license. The Commission may refuse to issue a license to a person whose spouse holds a license and which, in the opinion of the Commission, would create a conflict of interest.

R52-7-6. Racing Officials and Commission Racing Personnel.

1. Racing Officials. The racing officials of a race meeting, unless otherwise ordered by the Commission, are as follows:

- A. the [s]Stewards;
- B. the associate judges;
- C. the paddock judge;
- D. the starter;
- E. the identifier or tattooer; and
- F. the racing secretary.

2. No racing official may serve in that capacity during a race in which is entered a horse owned by them or by a member of their family or in which they have any financial interest except for the identifier or tattooer, and the racing secretary. Being the lessee or lessor of a horse shall be construed as having a financial interest.

3. Responsibility to the Commission. The racing officials shall be strictly responsible to the Commission for the performance of their duties, and they shall promptly report to the Commission or its stewards any violation of the rules of the Commission coming to their attention or of which they have knowledge. Any racing official who fails to exercise due diligence in the performance of their duties shall be relieved of their duties by the [s]Stewards and the matter referred to the Commission.

4. Racing Officials Subject to Approval. Each racing official is subject to ~~[prior]~~earlier approval by the Commission before being eligible to act as a racing official at the meeting. At the time of making application for an organization license, the organization shall nominate the racing officials other than the racing officials appointed by the

Commission After issuance of license to the organization, there shall be no substitution of any racing official except with approval of the [s]Stewards or the Commission.

5. Racing Officials Appointed by The Commission. The Commission shall appoint the following racing officials for a race meeting: The board of three [s]Stewards and the identifier or tattooer. The Commission may appoint from the approved [s]Stewards list one steward to serve as [s]State [s]Steward.

6. Racing Personnel Employed by the Commission. The Commission shall employ the services of the licensing person for a race meeting.

7. General Authority of Stewards. The [s]Stewards have general authority and supervision over licensees and other persons attendant on horses, and also over the enclosures of any recognized meeting. Stewards have the power to interpret the rules and to decide questions not specifically covered by them. The [s]Stewards ~~[shall have the power to]~~may determine questions arising with reference to entries, eligibility, and racing; and entries, declarations, and scratches shall be under the supervision of the [s]Stewards. The [s]Stewards shall be strictly responsible to the Commission for the conduct of the race meeting in every particular.

8. Vacancy Among Racing Officials. Where a vacancy occurs among the racing officials, the [s]Stewards shall fill the vacancy immediately. The appointment is effective until the vacancy is filled in accordance with the rules.

9. Jurisdiction of Stewards to Suspend or Fine. The [s]Stewards' jurisdiction in any matter commences 72 hours before entries are taken for the first day of racing at the meeting and extends until 30 days after the close of such meeting. In the event a dispute or controversy arises during a race meeting that is not settled within the stewards' thirty-day jurisdiction, then the authority of the [s]Stewards may be extended by authority of the Commission for the period necessary to resolve the matter, or until the matter is referred or appealed to the Commission. The stewards may suspend for not more than one year per violation, the license of anyone whom they have the authority to supervise; or they may impose a fine not to exceed \$2,500 per violation; or they may exclude from enclosures in this state; or they may suspend and fine or exclude. Any suspensions, fines, or exclusions shall be reported immediately to the Commission. The [s]Stewards may suspend a horse from participating in races if the horse has been involved in a violation of the rules of the Commission or ~~[the provisions of]~~Title 4, Chapter 38, the Utah Horse Act under the following circumstances:

A. a horse is a confirmed bleeder as determined by the Official Veterinarian, and the Official Veterinarian recommends to the [s]Stewards that the horse be suspended from participation;

B. a horse is involved with:

- a. any violation of medication laws and rules;
- b. any suspension or revocation of an occupation license by the [s]Stewards or the Commission or any racing jurisdiction recognized by the Commission; or
- c. any violation of prohibited devices, laws, and rules.

10. Referral to the Commission. The [s]Stewards may refer, with or without recommendation, any matter within their jurisdiction to the Commission.

11. Payment of Fines. Any fines imposed by the [s]Stewards or Commission shall be due and payable to the Commission within 72 hours after imposition, except when the imposition of the fine is ordered stayed by the [s]Stewards, the Commission, or a court having jurisdiction. However, when a fine and suspension is imposed by the [s]Stewards or Commission, the fine shall be due and payable ~~[at the time]~~when the suspension expires. Nonpayment of the fine when due

and payable may result in immediate suspension pending payment of the fine.

12. Stewards' Reports and Records. The [s]Stewards shall maintain a record that shall contain a detailed, written account of questions, disputes, protests, complaints, and objections brought to the attention of the [s]Stewards. The [s]Stewards shall prepare a daily report concerning their race day activities which shall include fouls and disqualifications, disciplinary hearings, fines and suspensions, conduct of races, interruptions and delays, and condition of racing facility. The [s]Stewards shall submit the signed original of their report and record to the [E]executive [D]director of the Commission within 72 hours of the race day.

13. Power to Order Examination of Horse. The [s]Stewards ~~shall have the power to~~ may have tested, or cause to be examined by a qualified person, any horse entered in a race, that has run in a race, or that is stabled within the enclosure; and may order the examination of any ownership papers, certificates, documents of eligibility, contracts or leases pertaining to any horse.

14. Calling Off Race. When, in the opinion of the [s]Stewards, a race cannot be conducted in accordance with the rules of the Commission, they shall cancel and call off ~~such~~ the race. In the event of mechanical failure or interference during the running of a race that affects the horses in ~~such~~ the race, the Stewards may declare the race a "no contest." A race shall be declared "no contest" if no horse covers the course.

15. Substitution of Jockey or Trainer.

A. In the event a jockey who is named to ride a mount in a race ~~is unable to~~ cannot fulfill their engagement and is excused by the [s]Stewards, the trainer of the horse may select a substitute jockey; or, if no substitute jockey is available, the [s]Stewards may scratch the horse from the race. However, the responsibility to provide a jockey for an entered horse remains with the trainer, and the scratching of the horse by the [s]Stewards shall not be grounds for the refund of any nomination, sustaining, penalty payments, or entry fees.

B. In the absence of the trainer of the horse, the [s]Stewards may place the horse in the temporary care of another trainer of their selection; however, ~~such~~ the horse may not be entered or compete in a race without the approval of the owner and the substitute trainer. The substitute trainer ~~must~~ shall sign the entry card.

16. Stewards' List. The [s]Stewards may maintain a ~~stewards~~ list of those horses that, in their opinion, are ineligible to be entered in any race because of poor or inconsistent performance due to the inability to maintain a straight course, or any other reason considered a hazard to the safety of the participants. The horse shall be refused entry until it has demonstrated to the [s]Stewards or their representatives that it can race safely and can be removed from the ~~stewards~~ list.

17. Duties of the Starter. The starter shall have complete jurisdiction over the starting gate, the starting of horses, and the authority to give orders not in conflict with the rules as may be required to ensure participants have an equal opportunity to a fair start. The starter shall appoint assistants; however, ~~he~~ they shall not permit assistants to handle or take charge of any horse in the starting gate without ~~his~~ their expressed permission. ~~In the event that~~ If organization starter assistants are unavailable to head a horse, the responsibility to provide qualified individuals to head or tail a horse in the starting gate shall rest with the trainer. The starter may establish qualification for and maintain a list of qualified individuals approved by the [s]Stewards. No assistant starter or any individual handling a horse at the starting gate shall in any way impede, whether intentionally or otherwise, the start of the race; nor may an assistant starter or other individual, except the jockey handling the horse at the starting gate, apply a whip or other device in an attempt to load any horse in the

starting gate. No one other than the jockey shall slap, boot, or otherwise ~~attempt~~ try to dispatch a horse from the starting gate.

18. Starter's List. The starter may maintain a ~~starter's~~ list of horses that, in their opinion, are ineligible to be entered in any race because of poor or inconsistent performance in the starting gate. ~~Such~~ Each horse shall be refused entry until it has demonstrated to the starter or their representatives that it has been satisfactorily schooled in the gates and can be removed from the starter's list. Schooling shall be under the direct supervision of the starter or their representatives.

19. Duties of the Paddock Judge. The paddock judge shall supervise the assembling of the horses scheduled to race, the saddling of horses in the paddock, the saddling equipment and changes ~~thereof~~, the mounting of the jockeys, and their departure for the post. The paddock judge shall provide a report on saddling equipment to the [s]Stewards at their request.

20. Duties of Patrol Judges. The patrol judges, when utilized, shall be subject to the orders of the [s]Stewards and shall report to the [s]Stewards any facts occurring under their observation during the running of a race.

21. Duties of Placing Judges and Timers. The placing judges, timers, or [s]Stewards shall occupy the judges' stand ~~at the time~~ when the horses pass the finish line. Their duties shall be to hand time, place the horses in the correct order of finish, and report the results. In case of a dead heat or a disagreement as to the correct order of finish, the decision of the [s]Stewards shall be final. In placing the horses at the finish, the position of the horses' noses only shall be considered the most forward point of progress.

22. Duties of The Clerk of Scales. The clerk of scales is responsible for the presence of jockeys in the jockey's room at the appointed time and to verify that jockeys have a current Utah jockey's license. The clerk of scales shall verify the correct weight of each jockey ~~at the time of~~ when weighing out and when weighing in, and shall report any discrepancies to the [s]Stewards immediately. In addition, they shall be responsible for the security of the jockey's room and the conduct of the jockeys and their attendants. they shall promptly report to the [s]Stewards any infraction of the rules with respect to weight, weighing, riding equipment, or conduct. They shall be responsible for accounting of data required on the scale sheet and submit that data to the horsemen's bookkeeper at the end of each race day.

23. Duties of the Racing Secretary. The racing secretary shall write and publish conditions of races and distribute them to horsemen as far in advance of the closing of entries as possible. They shall be responsible for the safekeeping of registration certificates and the return of same to the trainers on request or at the conclusion of the race meeting. They shall record winning races on the form supplied by the breed registry, which shall remain attached to or part of the registration certificate. The racing secretary shall be responsible for the taking of entries, checking eligibility, closing of entries, selecting the races to be drawn, conducting the draw, posting the overnight sheet, compiling the official program, and discharging other duties of their office as required by the rules or as directed by the [s]Stewards.

24. Duties of Associate Judge. An associate judge may perform any of the duties that are performed by any racing official at a meeting, provided ~~such~~ the duties are assigned or delegated to them by the Commission or by the [s]Stewards presiding at that meeting.

25. Duties of the Official Veterinarian. The Official Veterinarian ~~must~~ shall be a graduate veterinarian and licensed to practice in ~~the State of~~ Utah. They shall recommend to the [s]Stewards any horse that is deemed unsafe to be raced, or a horse that it would be inhumane to allow to race. They shall supervise the taking of specimens for testing according to procedures approved by the Commission. They shall provide proper safeguards in the handling of laboratory specimens

NOTICES OF PROPOSED RULES

to prevent tampering, confusion, or contamination. Specimens collected shall be sent in locked and sealed cases to the laboratory. They shall have the authority and jurisdiction to supervise the practicing licensed veterinarians within the enclosure. The Official Veterinarian shall report to the Commission the names of horses humanely destroyed or that otherwise expire at the meeting, and the reasons therefore. The [e]Official [v]Veterinarian may place horses on a veterinarian's list, and may remove from the list those horses that, in their opinion, cannot satisfactorily compete in a race.

26. Veterinarian's List. The Official Veterinarian may maintain a list of horses who, in their opinion, are incapable of safely performing in a race and are, therefore, ineligible to be entered or started in a race. [Such ~~h~~]Horses may be removed from the [Veterinarian's List]list when, in the opinion of the Official Veterinarian, the horse has satisfactorily recovered the capability of performing in a race. The reasons for placing a horse on the veterinarian's list shall include the shedding of blood from one or both nostrils following exercise or the performance in a race and the running of a temperature unnatural to the horse.

27. Duties of the Identifier. The identifier shall identify horses starting in a race. The identifier shall inspect documents of ownership, eligibility, registration, or breeding as may be necessary to ensure proper identification of each horse eligible to compete at a race meeting provide assistance to the [s]Stewards in that regard. The identifier shall immediately report to the paddock judge and the [s]Stewards any horse that is not properly identified or any irregularities reflected in the official identification records. The identifier shall report to the [s]Stewards and to the Commission on general racing practices observed, and perform other duties as the Commission may require. The identifier shall report to the racing secretary before the close of the race day business.

R52-7-7. Entries and Declarations.

1. Control Over Entries and Declarations. Entries and declarations are under the supervision of the [s]Stewards or their designee; and they, without notice, may refuse the entries any person or the transfer of entries.

2. Racing Secretary to Establish Conditions. The racing secretary may establish the conditions for any race, the allowances or handicaps to be established for specific races, the procedures for the acceptance of entries and declarations, and other conditions as are necessary to provide and conduct the organization's race meeting. The racing secretary is responsible for the receipt of entries and declarations for races. The racing secretary, employees of their department, or racing officials shall not disclose any pertinent information concerning entries which have been submitted until all entries are closed. After an entry to a race for which conditions have been published has been accepted by the racing secretary or their delegate, no condition of the race shall be changed, amended or altered, nor shall any new condition for the race be imposed.

3. Entries. No horse shall be entered in more than one race on the same day. No person shall enter or [attempt]try to enter a horse for a race unless such entry is a bona fide entry made with the intention that [such]the horse is to compete in the race for which entry is made except, if racing conditions permit, for entry back in finals or consolations involving physically disabled or dead qualifiers for purse payment purposes. Entries shall be in writing on the entry card provided by the organization and [must]shall be signed by the trainer or assistant trainer of the horse. Entries made by telephone are valid properly confirmed by the track when signing the entry card. No horse shall be allowed to start unless the entry card has been signed by the trainer or [his]their assistant trainer.

4. Determining Eligibility. Determination of a horse's eligibility, penalty or penalties, and the right to allowance or allowances for races shall be from the date of the horse's last race unless the conditions specify otherwise. The trainer is responsible for the eligibility of their horse and to properly enter [his]their horse in condition. In the event the records of the [R]racing [S]secretary or the appropriate breed registry do not reflect the horse's most recent starts, the trainer or owner shall accurately provide [such]the information. If a horse is not eligible under the first condition of any race, [he]they cannot be eligible under subsequent conditions. If the conditions specify nonwinners of a certain amount, it means that the horse has not won a race in which the winner's share was the specified amount or more. If the conditions specify nonearners of a stated amount, it means that the horse has not earned that stated amount in any total number of races regardless of the horse's placing.

5. Entries Survive with Transfer. Entries and rights of entry are valid and survive when a horse is sold with [his]their engagements [duly]transferred. If a partnership agreement is properly filed with the Horsemen's Bookkeeper, subscriptions, entries, and rights of entry survive in the remaining partners. Unless written notice to the contrary is filed with the [s]Stewards, the entries, rights of entry, and engagements remain with the horse and are transferred [therewith]to the new owner. No entry or right of entry shall become void on the death of the nominator unless the conditions of the race state otherwise.

6. Horses Ineligible to start in Race. In addition to any other valid ground or reason, a horse is ineligible to start any race if:

A. the horse is not registered by The Jockey Club if a Thoroughbred; the American Quarter Horse Association if a Quarter Horse; the Appaloosa Horse Club if an Appaloosa; the Arabian Horse Club Registry of America if an Arabian; the American Paint Horse Association if a Paint; the Pinto Horse Association of America, Inc., if a Pinto; or any successors to any of the foregoing or other registry recognized by the Commission;

B. the Certificate of Foal Registration, eligibility papers, or other registration issued by the official registry for the horse is not on file with the racing secretary one hour [prior to]before post time for the race in which the horse is scheduled to race;

C. the horse has been entered or raced at any recognized race meeting under any name or designation other than the name or designation [duly]assigned by and registered with the official registry;

D. the Win Certificate, Certificate of Foal Registration, eligibility papers or other registration issued by the official registry has been materially altered, erased, removed, or forged;

E. the horse is ineligible to enter the race, is not [duly]entered for [such]the race, or remains ineligible to time of starting;

F. the trainer of the horse has not completed the prescribed licensing procedures required by the Commission before entry and the ownership of the horse has not completed the prescribed licensing procedures [prior to]before the horse starting or the horse is in the care of an unlicensed trainer;

G. the horse is owned in whole or in part or trained by any person who is suspended or ineligible for a license or ineligible to participate under the rules of any Turf Governing Authority or Stud Book Registry;

H. the horse is a suspended horse;

I. the horse is on the [s]Stewards' list, starter's list, or the veterinarian's list;

J. except with permission of the [s]Stewards and identifier, the identification markings of the horse do not agree with identification as set forth on the registration certificate to the extent that a correction is required from the appropriate breed registry;

K. a horse has not been lip tattooed by a ~~[C]~~commission[-] approved tattooer;

L. the entry of a horse is not in the name of ~~[his]~~their true owner;

M. the horse has drawn into the field or has started in a race on the same day; or

N. the horse's age as determined by an examination of its teeth by the Official Veterinarian does not correspond to the age shown on its registration certificate, such determination by tooth examination to be made in accordance with the current "Official Guide for Determining the Age of the Horse" as adopted by the American Association of Equine Practitioners.

7. Horses Ineligible to Enter or Start. Any horse ineligible to be entered for a race or ineligible to start in any race that is entered or competes in ~~[such]~~the race, may be scratched or disqualified, and the ~~[s]~~Stewards may discipline any person responsible.

8. Registration Certificate to Reflect Correct Ownership. Each certificate of registration, eligibility certificate, or lease agreement filed with the organization and its racing secretary to establish the eligibility of a horse to be entered for any race shall accurately reflect the correct and true ownership of ~~[such]~~the horse, and the name of the owner that is printed on the official program for ~~[such]~~the horse shall conform to the ownership as declared on the certificate of registration or eligibility certificate. A stable name may be registered for the owner or ownership with the Commission. In the event ownership is by syndicate, corporation, partnership, or other association or entity, the name of the owner that is printed on the official program for such shall be the responsible managing owner, officer, or partner who assumes responsibilities as the owner.

9. Alteration or Forgery of Certificate of Registration. No person shall alter or forge any win sheet, certificate of registration, certificate of eligibility, or any other document of ownership or registration, nor willfully forge or alter the signature of any person required on any such document or entry card.

10. Declarations and Scratches. Any trainer or assistant trainer of a horse that has been entered in a race who does not wish such horse to participate in the draw shall declare ~~[his]~~their horse from the race ~~[prior to]~~before the close of entries. Any trainer or assistant trainer of a horse that has been drawn into or is also eligible for a race who does not wish ~~[such]~~the horse to start in the race, shall scratch ~~[his]~~their horse from the race ~~[prior to]~~before the designated scratch time. The declaration or scratch of a horse from a race is irrevocable.

11. Deadline for Arrival of Entered Horses. Horses scheduled to compete in a race shall be present within the enclosure no later than 30 minutes ~~[prior to]~~before their scheduled race without ~~[s]~~Stewards' approval. Horses not within the enclosure by their deadline may be scratched and the trainer subject to fine or suspension.

12. Refund of Fees. If a horse is declared or scratched from a race, the owner of the horse shall not be entitled to a refund of any nomination, sustaining and penalty payments, entry fees, or organization charges paid or remaining due ~~[at the time]~~when of the declaration or scratch. In the event any race is not run, declared off, or canceled for any reason, the owners of such horses that remain eligible ~~[at the time]~~when the race is declared off or canceled shall be entitled to a complete refund of the ~~[above]~~payments and fees less monies specified in written race conditions for advertising and promotion.

13. Release of Certificates. Any certificate of registration or document of ownership filed with the racing secretary to establish eligibility to enter a race shall be released only to the trainer of record of the horse. However, the trainer may authorize in a form provided by the racing secretary the release of the certificate to the owner named on the

certificate or ~~[his]~~their authorized agent. Any disputes concerning the rights to the registration certificates shall be decided by the ~~[s]~~Stewards.

14. Nomination Races. ~~[Prior to]~~Before the closing of nominations, the organization shall file with the Commission a copy of the nomination blank and any advertisements for races to be run during a race meeting. For races that nominations close no earlier than 72 hours before post time, the organization shall furnish the Commission and the owners of horses previously made eligible by compliance with the conditions of ~~[such]~~the race, with a list of horses nominated and which remain eligible. The list shall be distributed within 15 days after the due date of each payment and shall include the horse's name, the owner's name, and the total amount of payments and gross purse to date, including any added monies, applicable interest, supplementary payments, and deduction for advertising and administrative expenses. The organization shall deposit monies for a nomination race in an escrow account according to procedures approved by the Commission.

15. Limitations on Field and Number of Races. No race with less than two horses entered and run, shall be approved by the Commission. No more than 20 races may be run on a race day, except with permission of the Commission. A race day may be canceled if less than 75 horses have been entered on the day's program, with the exception of days on which trials or finals for a nomination race are scheduled.

16. Agreement Upon Entry. No entry shall be accepted in any race except upon the condition that any disputes, claims, and objections arising out of the racing or with respect to the interpretation of Commission and track rules or conditions of any race shall be decided by the Board of Stewards at the race meet, or, upon appeal, decided by the Commission.

17. Selection of Entered Horses. The manner of selecting post positions of horses shall be determined by the ~~[s]~~Stewards. The selection shall be by lot and shall be made by one of the ~~[s]~~Stewards or their designee and a horseman, in public, at the close of entries. If the number of entries to any race is in excess of the number of horses which may, because of track limitations, be permitted to start in any one race, the race may be split, or four horses not drawing into the field may be placed on an also eligible list.

18. Preferred List of Horses. The racing secretary may maintain a list of entered horses eliminated from starting by a surplus of entries, and these horses shall constitute a preferred list and have preference. The manner in which the preferred list shall be maintained and rules governing the list shall be the responsibility of the Racing Secretary. ~~[Such r]~~Rules shall be submitted to the Commission 30 days ~~[prior to]~~before the commencement of the meet and are subject to approval by the Commission.

R52-7-8. Veterinarian Practices, Medication and Testing Procedures.

1. Veterinarians Under the Authority of the Official Veterinarian. Veterinarians licensed by the Commission and practicing at any location under the jurisdiction of the Commission are under the authority of the Official Veterinarian and the stewards. The Official Veterinarian shall:

A. recommend to the stewards or the Commission, the discipline that may be imposed upon a veterinarian who violates the rules; and

B. sit with the ~~[s]~~Stewards in any hearing before the ~~[s]~~Stewards in any administrative process for discipline or violation against a veterinarian.

2. Physical Inspection and Assessment of Racing Condition. Any horse entered to participate in an official race shall

NOTICES OF PROPOSED RULES

be subjected to a veterinary inspection ~~[prior to]~~before starting in the race.

A. The inspection shall be conducted by the Official Veterinarian or the racing veterinarian.

B. The trainer of each horse or their representative shall present the horse for inspection as required by the examining veterinarian.

C. Each horse presented for examination shall have clean legs, including removal of any bandages.

D. ~~[Prior to]~~Before examination, a horse may not be placed in ice, nor shall any device or substance be applied that impedes veterinary clinical assessment.

E. The Official Veterinarian or the racing veterinarian shall maintain a permanent continuing health and racing soundness record of each horse inspected.

F. The Official Veterinarian or the racing veterinarian are authorized access to any horses housed on association grounds regardless of entry status.

G. The veterinarian will recommend to the stewards the horse be scratched, if, ~~[prior to]~~before starting:

a. a horse is determined to be unfit for competition; or

b. if the veterinarian ~~[is unable to]~~cannot make a determination of racing soundness.

H. Horses scratched upon the recommendation of the Official Veterinarian or the racing veterinarian are to be placed on a list maintained by the Official Veterinarian.

3. Appropriate Role of Veterinarians. The following limitations apply to drug treatments of horses that are engaged in activities, including training, related to competing in ~~[Utah Horse Racing]~~Commission sanctioned race meets.

A. No drug may be administered except in the context of a valid relationship between an attending veterinarian, the horse owner, who may be represented by the trainer or other agent, and the horse. No drug or prescription drug may be administered without a veterinarian having examined the horse and provided the treatment recommendation. The relationship requires the following:

a. the veterinarian, with the consent of the owner, has accepted responsibility for making medical judgments about the health of the horse;

b. after performing an examination, the veterinarian has:

(1) sufficient knowledge of the horse to make a preliminary diagnosis of its medical condition;

(2) is available, or has made arrangements to oversee treatment outcomes; and

(3) maintains the veterinarian-client relationship, and;

c. the judgment of the veterinarian is independent and not dictated by the trainer or owner of the horse.

B. The trainer and veterinarian are both responsible to ensure compliance with these limitations on drug treatments of horses.

4. Treatment Restrictions. Only licensed trainers, licensed owners, or their designees shall be permitted to authorize veterinary medical treatment of horses under their care, custody, and control at locations under the jurisdiction of the Commission.

5. To administer a prescription or controlled medication, drug, chemical, or other substance, an individual shall be:

A. licensed to practice veterinary medicine under the jurisdiction of the Commission; and

B. licensed by the Commission.

C. Subsection ~~[five]~~R52-7-8(5) does not apply to the administration of an oral substance allowed by the Commission rules if the substance is not banned.

D. Subsection ~~[five]~~R52-7-8(5) does not apply to a recognized non-injectable nutritional supplement or other supplement approved by a licensed veterinarian or by the Official Veterinarian.

E. No individual shall ~~[possess]~~have a hypodermic needle, syringe capable of accepting a needle, or injectable of any kind on association grounds, unless otherwise approved by the Commission.

F. At any location under the jurisdiction of the Commission, a veterinarian may use only a one-time disposable syringe and needle and shall dispose of both in a manner approved by the Commission.

G. If an individual has a medical condition that makes it necessary to have a syringe at any location under the jurisdiction of the Commission, that individual shall:

a. request permission of the Stewards and the Commission in writing;

b. furnish a letter from a licensed physician explaining why it is necessary to have a syringe; and

c. comply with any conditions and restrictions set by the stewards and the Commission.

6. Veterinary Practices. Private veterinarians shall not have contact with an entered horse 24 hours before the post time of the race in which the horse is scheduled to compete, unless licensed by the Commission and approved by the Official Veterinarian.

A. Any unauthorized contact may result in the horse being scratched from the scheduled race and further disciplinary action by the stewards.

B. Any horse entered for racing shall be present on the grounds four hours ~~[prior to]~~before the post time of the race they are entered in.

C. Administration of furosemide shall take place on the grounds four hours before the post time of the race they are entered in.

D. Furosemide shall be administered by the Official Veterinarian or a Track Veterinarian.

7. Veterinarians' Reports. A private veterinarian who treats a racehorse at a facility under the jurisdiction of the Commission shall submit a Veterinarian's Medication Report Form approved by the Commission to the Official Veterinarian or other racing authority designee.

A. The Veterinarian's Medication Report Form shall be signed by the private veterinarian or, when signed electronically, shall be submitted by the private veterinarian.

B. The Veterinarian's Medication Report Form shall be filed by the treating veterinarian immediately following administration or prescription of any medication, drug, substance, or procedure.

C. Disclosure of any report is governed by Title 63G, Chapter 2 Government Records Access and Management Act (GRAMA) and is non-public to the extent allowed by GRAMA. Access to a report is limited to the Official Veterinarian and the contents shall not be disclosed except:

a. in the course of an investigation of a possible violation of these rules;

b. in a proceeding before the stewards or the Commission exercising Commission authority; or

c. to the horse trainer or owner of record at the time of treatment.

D. A timely and accurate filing of a Veterinarian's Medication Report Form that is consistent with the analytical results of a positive test may be used as a mitigating factor in determining the nature and extent of a rules violation.

8. Pre-race and post-race testing and reporting to the test barn. The official winning horse and any other horse ordered by the Commission or the [s]Stewards shall be taken to the test barn to have hair, blood, or urine samples taken at the direction of the Official Veterinarian.

A. The [s]Stewards, Commission, or Official Veterinarian may require random testing on a horse at any time a horse is on the grounds under the jurisdiction of the Commission.

B. Unless otherwise directed by the stewards or Official Veterinarian, a horse that is selected for testing shall be taken directly to the test barn. An individual approved by the Commission or a track security guard shall monitor access to the test barn area during and immediately following each racing performance. Any individual entering the test barn area shall:

- a. be at least 18 years old;
- b. be currently licensed by the Commission;
- c. display their Commission identification badge; and
- d. have a legitimate reason for being in the test barn area.

C. Sample collection for blood and urine shall be done in accordance with the guidelines and instructions provided by the Official Veterinarian, including the determination of a minimum sample requirement for the primary testing laboratory.

a. If the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen shall be sent to the primary testing laboratory.

b. If a specimen obtained from a horse is greater than the minimum sample requirement but less than twice that amount, the portion of the sample that is greater than the minimum sample requirement shall be secured as the split sample.

c. If a specimen obtained from a horse is greater than twice the minimum sample requirement, a portion of the sample ~~[approximately]~~ about equal to the amount provided for the primary testing laboratory shall be secured as the split sample.

d. Blood samples shall be collected at a consistent time, preferably ~~[not later than one hour]~~ before one hour post-race.

D. Sample collection for hair testing shall be done in accordance with the guidelines and instructions provided by the Official Veterinarian to determine sample size. Hair testing is not subject a split sample.

9. ~~[Pre-race]~~ Sampling or Testing. The Commission shall adopt standard operating procedures that include:

- A. sampling procedures; and
- B. personnel and notification processes.

10. If a sample taken pre-race is determined to be above the thresholds stated in this rule, the horse shall be scratched and enforcement action taken in accordance with this rule.

11. Any owner, trainer, or other licensed designee of the owner or trainer who fails to permit a horse to be tested when requested by an authorized Commission designee shall have that horse scratched.

12. Out-of-competition Testing Authorized. The Commission may take blood, urine, hair, or other biologic samples from a horse at a reasonable time on any date as authorized by Commission rules to enhance the ability of the Commission to enforce its medication rules.

~~[13. The Commission Shall own the Samples. This rule authorizes only the collection and testing of samples, and does not independently make impermissible the administration to or presence in any horse of any drug or other substance. A race day prohibition or restriction of a substance by a Commission rule is not applicable to an out-of-competition test unless there is an attempt to race the horse in a manner that violates the rule.]~~

1[4]3. Horses Eligible to be Tested. Any horse that has been engaging in activities related to competing in horse racing in the jurisdiction may be tested. This includes:

A. horses that are training outside the jurisdiction to participate in racing in the jurisdiction; and

B. horses that are training in the jurisdiction.

1[5]4. Weanlings, yearlings, and horses no longer engaged in horse racing, such as retired broodmares are not eligible to be tested.

1[6]5. A horse is presumed eligible for out-of-competition testing if:

A. it is on the grounds at a racetrack or training center under the jurisdiction of the Commission;

B. it is under the care or control of a trainer licensed by the Commission;

C. it is owned by an owner licensed by the Commission;

D. it is entered or nominated to race at a premise licensed by the Commission;

E. it has raced within the previous 12 months at a premise licensed by the Commission; or

F. it is nominated to a program based on racing in the jurisdiction.

1[7]6. Horses shall be selected for sampling by a Commission veterinarian, Executive Director, Equine Medical Director, Steward, Presiding Judge, or a designee of any of the foregoing.

1[8]7. Horses may be selected to be tested at random, for cause, or as otherwise determined, at the discretion of the Commission, and the Commission need not provide advance notice before arriving at any location, whether or not licensed by the Commission, to collect samples.

1[9]8. The trainer, owner, or their designee shall cooperate with the person who takes samples for the Commission, and shall:

A. assist in the immediate location and identification of the horse; and

B. make the horse available as soon as practical upon arrival of the person who is responsible for collecting the samples.

[20]19. A trainer or owner of a horse that has been notified that a written report from a primary laboratory states that a prohibited substance was found in a specimen obtained under these rules, may request that a split sample for blood and urine, corresponding to the portion of the specimen tested by the primary laboratory, be sent to another laboratory approved by the Commission.

A. The request must be made in writing and delivered to the Stewards ~~[not later than]~~ before three business days after the stewards receive written notice of the findings of the primary laboratory. Any split sample requested shall be shipped within an additional 48 hours. The owner or trainer requesting testing of a split sample shall be responsible for the cost of shipping and testing.

B. Failure of the owner, trainer, or designee to appear ~~[at the time]~~ when and place designated by the Official Veterinarian shall constitute a waiver of rights to split sample testing.

C. ~~[Prior to]~~ Before shipment, the Commission shall confirm the split sample laboratory's willingness to simultaneously:

a. provide the testing requested;

b. send results to both the person requesting the testing and the Commission, and;

c. make arrangements for payment satisfactory to the split sample laboratory.

D. If a reference laboratory will accept split samples, that laboratory shall be included among the laboratories approved for split sample testing.

NOTICES OF PROPOSED RULES

2[1]0. Storage and Shipment of Split Samples. Split samples obtained in accordance with this rule shall be secured and available for further testing in accordance with the following procedures.

A. A split sample shall be secured in the test barn in the same manner as the portion of the specimen shipped to a primary laboratory until specimens are packed and secured for shipment to the primary laboratory. Any evidence of a malfunction of a split sample freezer or samples that are not in a frozen condition during storage shall be documented in the log and immediately reported to the Official Veterinarian or a designated Commission representative.

B. Split samples shall then be transferred to a freezer at a secure location approved by the Commission that shall meet the following requirements:

- a. the freezer shall have two hasps or other devices providing for use of two independent locks;
- b. one lock shall be the property of the Commission; and
- c. one lock shall be the property of a representative of the group representing a majority of the horsemen at a race meeting.

C. The locks shall be closed and locked to prevent access, except as provided by these rules.

D. A freezer for storage of split samples shall only be opened under the following circumstances:

- a. to deposit or remove split samples; or
- b. to inventory, or check the condition of samples.

E. When a freezer used for storage of split samples is opened, it shall be attended by both a representative of the Commission and the owner or trainer of the horse, or their designee.

F. A chain of custody log shall be maintained and shall record each time a split sample freezer is opened to:

- a. specify each person in attendance;
- b. specify the purpose for opening the freezer;
- c. identify split samples deposited or removed;
- d. specify the date and time the freezer was opened, the time the freezer was closed; and
- e. verify that both locks were secured ~~[prior to]~~before and after opening the freezer.

G. The Commission shall also provide a Split Sample Chain of Custody Verification Form. The form, including any additional information the Official Veterinarian may require, shall be completed during the retrieval, packaging, and shipment of the split sample, specifying:

- a. the date and time the sample is removed from the split sample freezer;
- b. the sample number;
- ~~[i]~~c. the address where the split sample is to be sent;
- d. the name of the carrier and the address where the sample is to be taken for shipment;
- e. verification of retrieval of the split sample from the freezer including packaging;
- f. verification of the address of the laboratory on the sample package;
- g. verification of the condition of the sample package immediately ~~[prior to]~~before transfer of custody to the carrier; and
- h. the date and time custody of the sample is transferred to the carrier.

2[2]1. The owner, trainer, or designee shall pack the split sample for shipment in the presence of a representative of the Commission, in accordance with the packaging procedures recommended by the Commission.

2[3]2. Laboratory Minimum Standards. Laboratories conducting either primary or split post-race sample analysis shall meet at least the following minimum standards.

A. The laboratory must be accredited by an accrediting body designated by the Association of Racing Commissioners International to standards set forth and required by the Commission

B. A testing laboratory ~~[must]~~shall:

a. have, or have access to, LC/MS instrumentation for screening or confirmation purposes; and

b. be able to meet minimum standards of detection, which are defined as[
~~—e—~~]

e.] the specific concentration at which a laboratory is expected to detect the presence of a particular substance or metabolite; or[
~~—d—~~]

d.] by the adoption of a regulatory threshold.

2[4]3. Postmortem Examinations.

A. The Commission may require a postmortem examination of any horse that dies or is euthanized on association grounds.

B. If a postmortem examination is to be conducted, the Commission or its representative shall take possession of the horse upon death for postmortem examination.

C. Shoes and equipment on the horse's legs shall be left on the horse.

D. If a postmortem examination is to be conducted, the Commission or its representative shall collect blood, urine, bodily fluids, or other biologic specimens immediately, if possible before euthanasia.

E. The Commission may submit blood, urine, bodily fluids, or other biologic specimens collected during a postmortem examination for analysis.

F. The presence of a prohibited substance in a specimen collected during the postmortem examination may constitute a violation.

G. Licensees shall be required to comply with postmortem examination requirements as a condition of licensure.

H. In proceeding with a postmortem examination, the Commission or its designee shall coordinate with the owner or the owner's agent to determine and address any insurance requirements.

I. The owner of the deceased horse shall ~~[make payment of]~~pay any charges due the Official Veterinarian or a licensed veterinarian employed to conduct the postmortem examination.

J. If any licensed veterinarian other than the Official Veterinarian or ~~[his]~~their designee performs a postmortem examination, the veterinarian shall submit the record of the postmortem examination to the Official Veterinarian within 72 hours of the examination.

R52-7-9. Running the Race.

1. Jockeys to Report. Each jockey engaged to ride in a race shall report to the jockey room at least one hour before post time of the first race and shall weigh out at the appointed time unless excused by the ~~[s]~~Stewards. After reporting, a jockey shall not leave the jockey room until their riding engagements have been fulfilled or unless excused by the ~~[s]~~Stewards.

2. Entrance to Jockey Room Prohibited. Except with permission of the ~~[s]~~Stewards or the Commission, no person shall be permitted entrance into the jockey room from one hour before post time for the first race until after the last race other than jockeys, their attendants, racing officials and security officers on duty, and organization employees performing required duties.

3. Weighing Out. Each jockey taking part in a race shall be weighed out by the Clerk of Scales no more than one hour preceding the time designated for the race. Any overweight in excess of one pound shall be declared by the jockey to the Clerk of Scales, who shall report such overweight and any change in jockeys to the stewards for immediate public announcement. A jockey's weight includes the riding costume, racing saddle and pad; but shall not include the jockey's safety helmet, whip, the horse's bridle or other regularly approved racing tack. A jockey shall be neat in appearance and shall wear a conventional riding costume.

4. Unruly Horses in the Paddock. If a horse is so unruly in the saddling paddock that the identifier cannot read the tattoo number and properly identify the horse; or if the trainer or their assistant is uncooperative in the effort to identify the horse, then the horse may be scratched by order of the [s]Stewards.

5. Use of Equipment. No bridle shall weigh more than two pounds, nor shall any whip weigh more than one pound or be more than 31 inches in length. No whip shall be used unless it shall have affixed to the end thereof a leather "popper." Whips are subject to inspection and approval by the [s]Stewards. Blinkers are not to be placed on the horse until after the horse has been identified by the official identifier, except with permission of the [s]Stewards.

6. Prohibited Use of Equipment. Jockeys are prohibited from whipping a horse excessively, brutally, or upon the head, except when necessary to control the horse. No mechanical or electrical devices or appliances other than the ordinary whip shall be possessed by any individual or used on any horse at any time a race meeting, whether in a race or otherwise.

7. Responsibility for Weight. The jockey, trainer and owner shall be responsible for the weight carried by the horse after the jockey has been weighed out for the race by the clerk of scales. The trainer or owner may substitute a jockey when the engaged jockey reports an overweight in excess of two pounds.

8. Safety Equipment Required. Each person, when mounted on a race horse within the enclosure or riding in a race, shall wear a properly fastened safety helmet and flak jacket. The Commission or the [s]Stewards may require any other person to wear ~~such~~ a helmet and jacket when mounted on a horse within the enclosure. Safety helmets and flak jackets required are subject to approval of the [s]Stewards or Commission.

9. Display of Colors and Post Position Numbers. In a race, each horse shall carry a conspicuous saddle cloth number, and the jockey shall wear racing colors consisting of long sleeves and a numbered helmet cover corresponding to the number of the horse that are furnished by the organization licensee.

10. Deposit of Jockey Fee. The minimum jockey mount fee for a losing mount in the race shall be on deposit with the horsemen's bookkeeper, ~~prior to~~ before the time for weighing out, and failure to have a minimum fee on deposit is cause for disciplinary action and cause for the stewards to scratch the horse for which the fee is to be deposited. The organization assumes the obligation to pay the jockey fee when earned by the engaged jockey. The jockey fee shall be considered earned when the jockey is weighed out by the clerk of scales, unless, in the opinion of the [s]Stewards, ~~such~~ the jockey capable of riding elects to take themselves off the mount without proper cause.

11. Requirements for Horse, Trainer, And Jockey. Each horse shall be in the paddock ~~at the time~~ when appointed by the [s]Stewards before post time for their race. Each horse shall be saddled in the paddock stall designated by the paddock judge unless special permission is granted by the [s]Stewards to saddle elsewhere. Each trainer or their assistant trainer having the care and custody of ~~such~~ a horse shall be present in the paddock to supervise the saddling of the horse and shall

give instructions as may be necessary to assure the best performance of the horse. Each jockey participating in a race shall give their best effort ~~in order~~ to facilitate the best performance of their horse.

12. Failure to Fulfill Jockey Engagements. No jockey engaged for a certain race or for a specified time may fail or refuse to abide by their agreement unless excused by the stewards.

13. Control and Parade of Horses on the Track. The horses are under the control of the starter from the time they enter the track until dispatched at the start of the race. Horses with jockey mounted shall parade and warm up carrying their weight and wearing their equipment from the paddock to the starting gate, as well as to the finish line. Any horse failing to do so may be scratched by the [s]Stewards. After passing the stands at least once, the horses may break formation and warm up until directed to proceed to the starting gate. In the event a jockey is injured during the parade to post or at the starting gate and must be replaced, the horse shall be returned to the paddock and resaddled with the replacement jockey's equipment. The horse shall carry the replacement jockey to the starting gate.

14. Start of The Race. When the horses have reached the starting gate, they shall be placed in their starting gate stalls in the order stipulated by the starter. Except in cases of emergency, each horse shall be started by the starter from a starting gate approved by the Commission. The starter shall see that the horses are placed in their proper positions without unnecessary delay. Causes for any delay in the start shall immediately be reported to the [s]Stewards. If, when the starter dispatches the field, the doors at the front of the starting gate stall should not open properly due to a mechanical failure of malfunction of the starting gate, the [s]Stewards may declare the horse to be a nonstarter. Should a horse that is not previously scratched not be in the starting gate stall, causing the horse to be left when the field is dispatched by the starter, the horse shall be declared a nonstarter by the [s]Stewards.

15. Leaving the Race Course. Should a horse leave the course while moving from the paddock to starting gate, ~~he~~ they shall return to the course at the nearest practical point to that at which ~~he~~ they left the course, and shall complete ~~his~~ their parade to the starting gate from the point at which ~~he~~ they left the course. However, should the horse leave the course to the extent that ~~he is~~ they are out of the direct line of sight of the [s]Stewards, or if the horse cannot be returned to the course within a reasonable amount of time, the [s]Stewards shall scratch the horse. Any horse that leaves the course or loses its jockey during the running of a race shall be disqualified and may be placed last, or the horse may be unplaced.

16. Riding Rules. In a straightaway race, each horse shall maintain position as nearly as possible in the lane in which ~~he starts~~ they start. If a horse is ridden, drifts, or swerves out of their lane in a manner that ~~he interferes~~ they interfere with or impede[s] another horse, it is a foul. Each jockey shall be responsible for making their best effort to control and guide their mount in a way as not to cause a foul. The stewards shall take cognizance of riding that results in a foul, irrespective of whether an objection is lodged. If in the opinion of the [s]Stewards, a foul is committed as a result of a jockey not making ~~his~~ their best effort to control and guide their mount to avoid a foul, whether intentionally or through carelessness or incompetence, the jockey may be penalized at the discretion of the stewards.

17. Stewards to determine Fouls and Extent of Disqualification. The [s]Stewards shall determine the extent of interference in cases of fouls or riding infractions. They may disqualify the offending horse and place it behind other horses as in their judgment it interfered with, or they may place it last. The [s]Stewards may determine that a horse shall be unplaced.

NOTICES OF PROPOSED RULES

18. Careless Riding. A jockey shall not ride carelessly or willfully so as to permit their mount to interfere with or impede any other horse in the race. A jockey shall not willfully strike at another horse or jockey so as to impede, interfere with, or injure the other horse or jockey. If a jockey rides in a manner contrary to this rule, the horse may be disqualified or the jockey may be fined or suspended, or otherwise disciplined.

19. Ramifications of a Disqualification. When a horse is disqualified by the [s]Stewards, each horse in the race owned wholly or in part by the same owner, or trained by the same trainer, may be disqualified. When a horse is disqualified for interference in a time trial race, it shall receive the time of the horse it is placed behind plus 0.01 of a second penalty, or a more exact measurement if photo finish equipment permits, and shall be eligible to qualify for the finals or consolations of the race on the basis of the assigned time.

20. Dead Heat. When a race results in a dead heat, the heat shall not be run off. The purse distribution due the horses involved in the dead heat shall be divided equally between them. Prizes or trophies for which a duplicate is not awardable shall be drawn for by lot.

21. Returning to the Finish After the Race. After the race, the jockey shall return their horse to the finish and before dismounting, salute the stewards. No person shall assist a jockey in removing from their horse the equipment that is to be included in the jockey's weight except by permission of the [s]Stewards. No person shall throw any covering over any horse at the place of dismounting until the jockey has removed the equipment that is to be included in [his]their weight.

22. Objection - Inquiry Concerning Interference. Before the race has been declared official, a jockey, trainer or their assistant trainer, owner or their authorized agent of the horse, who has reasonable grounds to believe that their horse was interfered with or impeded or otherwise hindered during the running of a race, or that any riding rule was violated by any jockey or horse during the running of the race, may immediately make a claim of interference or foul with the [s]Stewards or their delegate. The [s]Stewards shall thereupon hold an inquiry into the running of the race; however, may, upon their own motion, conduct an inquiry into the running of a race. Any claim of foul, objection, or inquiry shall be immediately announced to the public.

23. Official Order of Finish. When satisfied that the order of finish is correct, that each jockey unless excused have been properly weighed in, and that the race has been properly run, in accordance with the rules of the Commission, the stewards shall declare that the order of finish is official, and it shall be announced to the public, confirmed, and the official order of finish posted for the race.

24. Time Trial Qualifiers. When two or more time trial contestants have the same qualifying time, to a degree of .001 of a second, or a more exact measurement if photo finish equipment permits, for fewer positions in the finals or consolation necessary for contestants, then a draw by lot will be conducted in accordance with Subsection R52-7-7(17). However, no contestant may draw into a finals or consolation instead of a contestant that out finished such contestant. When scheduled races are trial heats for futurities or stakes races electronically timed from the starting gates, no organization licensee shall move the starting gates or allow the starting gates to be moved until trial heats are complete, except in an emergency as determined by the [s]Stewards.

R52-7-10. Objections and Protests; Hearing and Appeals.

1. Stewards to Make Inquiry or Investigation. The [s]Stewards shall make diligent inquiry or investigation into any complaint, objection, or protest made either upon their own motion, by any racing official, or by any other person empowered by this rule to make such complaint, protest, or objection.

2. Objections. Objections to the participation of a horse entered in any race shall be made to the [s]Stewards in writing and signed by the objector. Except for claim of foul or interference, an objection to a horse entered in a race shall be made ~~not later than~~ two hours ~~prior to~~ before the scheduled post time for the first race on the day which the questioned horse is entered. Any objection shall set forth the specific reason or grounds for the objection in such detail so as to establish probable cause for the objection. The [s]Stewards, upon their own motion, may consider an objection until ~~such time as~~ the horse becomes a starter. An objection concerning claim of foul in a race may be lodged verbally to the stewards before the race results are declared official.

3. Grounds for Objections. An objection to a horse that is entered in a race shall be made on the following grounds or reasons:

A. a misstatement, error or omission in the entry under which a horse is to run;

B. the horse ~~which~~ that is entered to run is not the horse it is represented to be at the time of entry, or that the age is erroneously given;

C. the horse is not qualified to enter under the conditions specified for the race, that the allowances are improperly claimed or not entitled the horse, or that the weight to be carried is incorrect under the conditions of the race;

D. the horse is owned in whole or in part, or leased by a person ineligible to participate in racing or otherwise ineligible to run a race as provided in these rules; or

E. that reasonable grounds exist whereby a horse was interfered with or impeded or otherwise hindered by another horse or jockey during the running of a race.

4. Horse Subject to Objection. The [s]Stewards may scratch from the race any horse that is the subject of an objection if they have reasonable cause to believe that the objection is valid.

5. Protests. A protest against any horse that has started in a race shall be made to the [s]Stewards in writing, signed by the protest[er], within 48 hours of the race, except as noted in Subsection R52-7-10(8). Any protest shall set forth the specific reasons for the protest in such detail as to establish probable cause for protest. The [s]Stewards upon their own motion may consider a protest at any time.

6. Grounds for Protest. A protest may be made upon the following grounds:

A. any ground for objection set forth in Subsection R52-1-10(3);

B. that the order of finish as officially determined by the [s]Stewards was incorrect due to oversight or errors in the numbers designated to the horses that started in the race;

C. that a jockey, trainer, or owner of a horse that started in the race was ineligible to participate in racing as provided in these rules;

D. that the weight carried by a horse was improper by reason of fraud or willful misconduct; or

E. that an unfair advantage was gained in violation of the rules.

7. Persons Empowered to File Objection or Protest. A jockey, trainer, owner or authorized agent of the horse that is entered or is a starter in a race ~~is empowered to~~ may file an objection or protest against any other horse in the race upon the grounds set forth in this rule for objections and protests.

8. No Limitation on Time to File When Fraud Alleged. Notwithstanding any other provision in this rule, the time limitation on the filing of protests shall not apply in any case in which fraud or willful misconduct is alleged, provided that the [s]Stewards are satisfied that the allegations are bona fide and susceptible to verification.

9. Frivolous or Inaccurate Objection or Protest. No person shall knowingly file a frivolous, inaccurate, false, or untruthful objection or protest; nor shall any person present their objection or protest to the stewards in a disrespectful or undignified manner.

10. Horse to be disqualified on Valid Protest. If a protest against a horse that has run in a race is declared valid, that horse may be disqualified. A horse ~~so~~-disqualified ~~which~~that was a starter in the ~~said~~race, may be placed last in the order of finish or may be unplaced. The [s]Stewards or the Commission may order any purse, award or prize for any race withheld from distribution pending the determination of the protest. In the event any purse, award or prize has been distributed to a person on behalf of a horse that by protest or other reason is disqualified or determined not to be entitled to the purse, award or prize, the stewards or the Commission may order the purse, award or prize returned and redistributed to the rightful person. Any person who fails to comply with an order to return any purse, award, or prize previously distributed shall be suspended until its return.

11. Notification of and Representation at Hearing. Adequate notice of hearing shall be given to every summoned person in accordance with the procedures set forth in Subsection R52-7-3(6). Each person alleged to have committed a rule violation or who is called to testify before the [s]Stewards is entitled at the persons expense to have counsel present evidence and witnesses on their behalf and to cross-examine other witnesses at the hearing.

12. Testimony and Evidence at Hearing. Each person called to a hearing before the [s]Stewards for a rule violation shall be allowed to present testimony, produce witnesses, cross-examine witnesses, and present documentary evidence in accordance with the rules of privilege recognized by law.

13. Duty of Disclosure. It is the duty and obligation of each licensee to make full disclosure at a hearing before the Commission or before the [s]Stewards of any knowledge they ~~possess~~have of a violation of any racing law or of the rules of the Commission. No person may refuse to testify at any hearing on any relevant matter except in the proper exercise of a legal privilege, nor shall any person testify falsely.

14. Failure to Appear. Any licensee or summoned person who fails to appear before the [s]Stewards or the Commission after they have been ordered personally or in writing to do so, may be suspended pending appearance before the [s]Stewards or the Commission. Nonappearance of a summoned person after adequate notice may be construed as a waiver of right to be present at a hearing.

15. Record of Hearing. Hearings before the [s]Stewards or Commission shall be recorded. The portion of a hearing that includes deliberations in executive session need not be recorded. A written transcript or a copy of the tape recording shall be made available to any person alleged to have committed a violation of the ~~Act or the rules~~law upon written request and payment of appropriate reimbursement cost for transcription or reproduction.

16. Vote on Steward's Decision. A majority vote shall decide any question to which the authority of the [s]Stewards extends. If a vote is not unanimous, the dissent steward shall provide a written record to the Commission of the reasons for such dissent within 72 hours of the vote.

17. Rulings by The Stewards. Any ruling or order issued by the [s]Stewards shall specify the full name of the licensee or person subject to the ruling or order, most recent address on file with the Commission, date of birth, social security number, statement of the offense charged including any rule number; date of ruling; fine or suspension imposed or other action taken, changes in the order of finish and purse distribution in a race, when appropriate, and any other information deemed necessary by the [s]Stewards or the Commission. Any member of a Board of Stewards may, after consultation with and

by mutual agreement of the other [s]Stewards, issue an Order or Notice signed by one steward on behalf of the Board of Stewards. Subsequently, an Order containing all three stewards' signatures shall be made part of the official record.

18. Summary Suspension of Occupation Licensee. If the [s]Stewards or the Commission find that the public health, safety, or welfare require emergency action and incorporates a finding to that effect in any Order, summary suspension may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly initiated and held as provided in Subsection R52-7-10(19).

19. Duration of Suspension or Revocation. Unless execution of an order of suspension or revocation is stayed by the Commission or a court of competent jurisdiction, a person's occupation license, suspended or revoked, shall remain suspended or revoked until the final determination has been made pursuant to ~~the provisions of~~Section R52-7-5.

20. Grounds for Appeal From Decision of The Stewards. Any decision of the [s]Stewards, except decisions regarding disqualifications for interference during the running of a race, may be appealed to the Commission. ~~Such~~The decision may be overruled if it is found by a preponderance of evidence that:

- A. the [s]Stewards mistakenly interpreted the law; or
- B. the ~~A~~appellant produces new evidence of a convincing nature that, if found to be true, would require the overruling of the decision; or
- C. the best interests of racing and the state may be better served.

21. Appeal from Decision of The Stewards. The Commission shall review hearings of any case referred to the Commission by the [s]Stewards or appealed to the Commission from the decisions of the [s]Stewards except as otherwise provided in this rule. Upon every appealable decision of the [s]Stewards, the person subject to the decision or Order shall be made aware of ~~his~~their right to an appeal before the Commission and the necessary procedures thereof. Appeals shall be made no later than 72 hours or the third calendar day from the date of the rendering of the decision of the [s]Stewards unless the Commission extends the time for filing for good cause. Any extension should not exceed 30 days from the rendering date. The appeal shall be in writing, signed by the appellant, and shall contain ~~his~~their full name, present mailing address, and present phone number; and shall set forth the facts and any new evidence the appellant believes to be grounds for an appeal before the Commission. Action on ~~such~~a hearing request must ~~commence~~begin by the Commission within 30 days of the filing of the appeal. An appeal shall not affect a decision of the [s]Stewards until the appeal has been sustained or dismissed or a stay order issued.

22. Appointment of Hearing Examiners. When directed by the Commission, any qualified person may sit as a hearing examiner for the taking of evidence in any matter pending before the Commission. Any ~~such~~hearing examiner shall report to the Commission Findings of Fact and Conclusions of Law, and the Commission shall determine the matter as if the evidence had been presented to the full Commission.

23. Hearings on Agreement. Persons aggrieved as of the result of a [s]Stewards' ruling in a preliminary or trial race may request a hearing before the executive director of the Commission to review the ruling. If interested parties waive the right to receive ten[-]day notice of hearing, such a hearing may be heard on a day certain within seven days after the preliminary or trial race in question. Any appeals shall be heard on days set by the executive director of the Commission or anyone acting in their stead.

24. Temporary Stay Order. The Executive Director may, upon consultation with the direction of a minimum of three Commissioners, issue or deny a temporary stay order to stay execution

of any ruling, order or decision of the [s]Stewards except stewards' decisions regarding disqualifications for interference during the running of a race. Any application for a temporary stay shall be in writing, signed by the appellant; shall contain [his]their full name, present mailing address, and present phone number; shall set forth the facts and any evidence to justify the issuance of the stay; and shall be filed with the Office of the Commission as specified in Subsection R52-7-3(7). The granting of a temporary stay order shall carry no presumption that the stayed decision of the [s]Stewards is or may be invalid, and a temporary stay order may be dissolved at any time by further order of the executive director upon consultation with and the direction of a minimum of three Commissioners.

25. Appearance at Hearing Upon Appeal. The Commission shall notify the [A]ppellant and the [s]Stewards of the date, time, and location of its hearing in the matter upon appeal. The burden shall be on the appellant to provide the facts necessary to sustain the appeal.

26. Complaints Against Officials. Any complaint against a racing official other than a steward shall be made to the [s]Stewards in writing and signed by the complainant. Any complaints shall be reported to the Commission by the stewards, together with a report of the action taken or the recommendation of the [s]Stewards. Complaints against any [s]Stewards shall be made in writing to the executive director of the Commission and signed by the complainant.

27. Rulings on Admissibility and Evidence. In hearings, the chairperson, chief steward, or other person as may be designated, shall make rulings on admissibility and introduction of evidence. A ruling shall prevail, except when a Commission member or a steward requests a poll of the panel, and the ruling is overturned by majority vote.

R52-7-11. General Conduct.

1. Conditions of Meeting Binding Upon Licensees. The Commission, recognizing the necessity for an organization to comply with the requirements of its license and to fulfill its obligation to the public and the [State of Utah]state with the best possible uninterrupted services in the comparatively short licensed period, [~~herein~~]provides that organizations, officials, horsemen, owners, trainers, jockeys, grooms, farriers, organization employees, and licensees who have accepted, directly or indirectly, with reasonable advance notice, the conditions defined by these rules under which an organization engages and plans to conduct [~~such~~]a race meeting, shall be bound thereby.

2. Trainer Responsibility. The trainer is presumed to know the "Rules of Racing" and is responsible for the condition, soundness, and eligibility of the horses [~~he enters~~]they enter in a race. Should the chemical analysis, urine or otherwise, taken from a horse under [~~his~~]their supervision show the presence of any drug or medication of any kind or substance, whether drug or otherwise, regardless of the time it may have been administered, it shall be taken as prima facie evidence that the drug was administered by or with the knowledge of the trainer or persons under [~~his~~]their supervision having care or custody of the horse. At the discretion of the [s]Stewards or Commission, the trainer and any other persons shown to have had care or custody of the horse may be fined or suspended or both. Under [~~the provisions of~~]this rule, the trainer is also responsible for any puncture mark on any horse [~~he enters~~]they enter in a race, found by the [s]Stewards upon recommendation of the Official Veterinarian to evidence injection by syringe. If the trainer cannot be present on race day, [~~he~~]they shall designate an assistant trainer. Designation shall be made [~~prior to~~]before time of entry, unless otherwise approved by the stewards. Failure to fully disclose the actual trainer of a horse participating in an approved race shall be grounds to disqualify the horse, and subject the actual trainer to possible disciplinary action by the stewards or the Commission. Designation of an assistant trainer shall not relieve the

trainer's absolute responsibility for the conditions and eligibility of the horse, but shall place the assistant trainer under [~~such~~]absolute responsibility also. Willful failure [~~on the part of~~]by the trainer to be present at, or refusal to allow the taking of any specimen, or any act or threat to prevent or otherwise interfere shall be cause for disqualification of the horse involved; and the matter shall be referred to the [s]Stewards for further action.

3. Altering Sex of Horse. Any alteration to the sex of a horse from the sex as recorded on the Certificate of Foal Registration or other official registration Certificate of [~~such~~]the horse shall be immediately reported by the trainer to the racing secretary and the official horse identifier if the horse is registered to race at any race meeting.

4. Official Workouts and Schooling Races. No trainer shall permit a horse in [~~his~~]their charge to be taken on to the track for training or a workout except during hours designated by the organization. A trainer desiring to engage a horse in a workout or schooling race shall, [~~prior to~~]before [~~such~~]the workout or race, identify the horse by registered name and tattoo number when requested to do so by the [s]Stewards or their authorized representative.

5. Intoxication. No licensee, employee of the organization or its concessionaires, shall be under the influence of intoxicating liquor, the combined influence of intoxicating liquor and any controlled dangerous substance, or under the influence of any narcotic or other drug while within the enclosure. No person shall in any manner or at any time disturb the peace or make themselves obnoxious on the enclosure of an organization.

6. Firearms. No person shall [~~possess~~]have any firearm within the enclosure unless [~~he is~~]they are a fully qualified peace officer as defined in the laws of [~~the State of~~]Utah, or is acting in accordance with Title 53, Chapter 5, Part 7, Concealed Weapons Act and Title 76, [~~e~~]Chapter 10, Part 5, Weapons. A person carrying a concealed weapon may be asked to show a valid, current concealed weapons permit before being allowed to enter the facility.

7. Financial Responsibility. No licensee shall willfully and deliberately fail or refuse to pay any monies when due for any service, supplies or fees connected with [~~his~~]their operations as a licensee, nor shall [~~he~~]they falsely deny any amount due or the validity of the complaint with the purpose of hindering or delaying or defrauding the person to whom such indebtedness is due. A Commission authorized license may be suspended pending settlement of the financial obligation. Any financial responsibility complaint against a licensee shall be in writing, signed by the complainant, and accompanied by documentation of the services, supplies or fees alleged to be due, or by a judgment from a court.

8. Checks. No licensee shall write, issue, make, or present a bad check in payment for any license fee, fine, nomination or entry fee or other fees, or for any service or supplies. The fact that a check is returned to the payee by the bank as refused is a ground for suspension pending satisfactory redemption of the returned check.

9. Gratuity to Starter or Assistant Starter. No person shall offer or give money or other gratuity to any starter or assistant starter, nor shall any starter or assistant starter receive money or other compensation, gratuity or reward, in connection with the running of any race or races except compensation received from an organization for official duties.

10. Possession of Contraband. No person other than a veterinarian or an animal technician licensed by the Commission shall have in [~~his~~]their possession within the enclosure during sanctioned meetings any prohibited substance, or any hypodermic syringe or hypodermic needle or similar instrument which may be used for injection except as provided in Subsection R52-7-8(1). No person shall have in their possession within the enclosure during any recognized

meeting any device other than the ordinary whip which can be used ~~for the purpose of~~ to stimulating or depressing the horse or affecting its speed at any time. The stewards may permit the possession of drugs or appliances by a licensee for personal medical needs under such conditions as the stewards may impose.

11. Bribes. No person shall give, or offer or promise to give, or ~~attempt~~ try to give or offer any money, bribe, or thing of value to any owner, trainer, jockey, agent, or any other person participating in the conduct of a race meeting in any capacity, with the intention, understanding, or agreement that the owner, trainer, jockey, agent or other person shall not use ~~his~~ their best efforts to win a race or so conduct ~~himself~~ themselves in a race that any other participant in a race shall be assisted or enabled to win a race; nor shall any trainer, jockey, owner, agent, or other person participating at any race meeting accept, offer to accept, or agree to accept any money, bribe, or thing of value with the intention, understanding, or agreement that they will not use their best efforts to win a race or to so conduct themselves so that any other horse or horses entered in a race shall be assisted or enabled to win the race.

12. Trainer's Duty to Ensure Licensed Participation. No trainer shall have in ~~his~~ their custody within the enclosure of any race meeting any horse owned in whole or in part by any person who is not licensed as a horse owner by the Commission unless the owner has filed an application for license as a horse owner with the Commission and the same is pending before the Commission; nor shall any trainer have in ~~his~~ their employ within the enclosure any groom, stable employee, stable agent, or other person required to be licensed, unless such person has a valid license. Any changes of commissioned licensed personnel shall be reported immediately to the Commission.

13. Conduct Detrimental to Horse Racing. No licensee shall engage in any conduct prohibited by law and by the rules of the Commission, nor shall any licensee engage in any conduct which by its nature is unsportsmanlike or detrimental to the best interest of horse racing.

14. Denial of Access to Private Property. Nothing contained in these rules shall be deemed, expressly or implicitly, to prevent an organization from exercising the right to deny access to or to remove any person from the organization's premises or property for just cause.

15. Tricks or Schemes. No person shall falsify, conceal, or cover up by trick, scheme, or device a material fact; or make any false, fictitious, or fraudulent statements or representations; or make or use any false writing or document knowing they contain any false, fictitious, or fraudulent statement or entry regarding the ~~prior~~ earlier racing record, pedigree, identity, or ownership of a registered animal in any matter related to the breeding, buying, selling, or racing of the animal.

16. Prearranging the Outcome of a Race. No licensed or unlicensed person may ~~attempt~~ try or conspire to prearrange the outcome of a race.

R52-7-12. Fire Prevention and Security.

1. Security Control. Each organization conducting a race meeting shall maintain security controls over its premises, and security controls are subject to the approval of the Commission.

2. Identification Required. No person shall be admitted to a restricted area within the enclosure without a license, visitor's pass, or other identification issued by the Commission or the organization on ~~his~~ their person. When ~~ever~~ deemed advisable, the ~~s~~ Stewards or the organization may require the visible display of the identification as a badge. No person shall use the license or credential issued to another, nor shall any person give or loan ~~his~~ their license or credential to any other person.

3. Organization Credentials. The racing organization shall establish a system or method of issuing credentials or passes to restrict access to its restricted areas or to ensure that all participants at its meeting are licensed as required by this ~~Article~~ rule; ~~provided, however, except~~ that no system or methods may exclude any investigator or employee of the Commission or any peace officer when on duty; nor shall any person be excluded solely on the basis of sex, color, creed, or national origin or ancestry.

4. Organization to Prevent Unauthorized Access to Restricted Areas. Unless granted exemption by the Commission, each organization shall prevent access to and shall remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in the restricted area is unauthorized. Nothing herein shall be construed to exclude members of the Commission and any staff members of the Commission in the conduct of official duties.

5. Examination of Personal Effects. The Commission, its authorized officers or agents may enter the stables, rooms, or other places within the premises of a recognized meeting to inspect and examine the personal effects and property of any licensee or other person in or about or permitted access to any restricted area; and each licensee in accepting ~~his~~ their license, and each person entering such restricted area, does thereby consent thereto.

6. Obedience to Security Officers and Public Safety Officers. No licensee shall willfully ignore or refuse to obey any order issued by the stewards; the Commission; any security officer of the organization; any public officer of any police, fire, or law enforcement agency when an order is issued or given in the performance of duty ~~for the purpose of controlling~~ to control any hazardous situation or occurrence. No person shall interfere with public safety officers, security officers, or any racing official in the performance of their duties.

R52-7-13. Prohibited Practices.

1. No person may ~~possess~~ have or use a drug, substance, or medication on the premises of a facility under the jurisdiction of the Commission if:

- A. a recognized analytical method has not been developed to detect and confirm the administration of the substance;
- B. the use of the substance may endanger the health or welfare of the horse or endanger the safety of the rider;
- C. the use of the substance may adversely affect the integrity of racing; or
- D. no generally accepted use of the substance in equine care exists.

2. Prohibited Substances and Methods. The Commission incorporates by reference, a list of prohibited substances and methods of administration contained in the following matrices maintained by the department: Prohibited Substances and Controlled Therapeutic Medication Schedule for Horses.

A. The substances and methods listed in the Prohibited List may not be used, and may not be possessed on the premises of a racing or training facility under the jurisdiction of the Commission, except as a restricted therapeutic use.

B. The equipment and supplies necessary for official testing, shall be provided by the organization.

3. Restricted Therapeutic Use. A limited number of medications on the Prohibited List may be exempted when administration occurs in compliance with required conditions for restricted therapeutic use found in the Utah Horse Racing Commission Controlled Therapeutic Medication Schedule for Horses incorporated by reference and maintained by the department.

NOTICES OF PROPOSED RULES

4. The possession or use of the following substances or of blood doping agents, including those listed ~~below~~ in this section, on the premises of a facility under the jurisdiction of the Commission is forbidden:

- A. Aminoimidazole carboxamide ribonucleotide (AICAR);
- B. Darbepoetin;
- C. Equine Growth Hormone;
- D. Erythropietin;
- E. Hemopure, registered trademark;
- F. Myo-Inositol Trispyrophosphate (ITPP);
- G. Oxyglobin, registered trademark;
- H. Thymosin beta;
- I. Venoms or its derivatives; or
- J. Thymosin beta.

5. Other Prohibited Substances. Substances in the categories ~~below~~ in this section shall be strictly prohibited unless otherwise provided in accordance with state law or Commission rule including:

A. a pharmacologic substance that is not approved by any governmental regulatory health authority for human or veterinary use within the jurisdiction, including:

- a. a drug under pre-clinical or clinical development;
- b. a discontinued drug; or
- c. a designer drug.

(1) A designer drug is a synthetic analog of a drug that has been altered in a manner that may reduce its detection.

(2) Designer drugs do not include:

- ~~[F]~~i. vitamins, herbs, and supplements used for nutritional purposes that do not contain any other prohibited substance; or
- ~~[H]~~ii. the administration of a substance with the ~~[prior]~~ earlier approval of the Commission in a clinical trial for which an FDA or similar exemption has been obtained;

B. anabolic agents and Anabolic Androgenic Steroids (AAS);

C. peptide hormones, growth factors, and related substances including any substance with similar chemical structure or similar biological effects;

D. beta-2 agonists, including optical isomers, including d- and l-, where relevant;

E. hormone and metabolic modulators; or

F. diuretics and other masking agents, including substances with similar chemical structure or similar biological effects.

6. Prohibited methods of manipulation of blood and blood components include:

A. the administration or reintroduction of any quantity of autologous, allogenic, or heterologous blood or red blood cell products of any origin into the circulatory system;

B. artificially enhancing the uptake, transport, or delivery of oxygen, including perfluorochemicals, efaproxiral (RSR13), and modified hemoglobin products, ~~[e.g.]~~ hemoglobin-based blood substitutes, microencapsulated hemoglobin products, excluding supplemental oxygen; or

C. tampering, or attempting to tamper, to alter the integrity and validity of samples collected by authority of the Commission. Tampering methods include blood serum or urine substitution or adulteration, ~~[e.g.]~~ such as proteases.

7. Any reference to substances in Section R52-7-13 does not alter the requirements for testing concentrations in race day samples or the requirements of post-race testing.

A. If laboratory testing detects any prohibited substance identified by this rule, the finding shall be reported as a violation. Upon a finding of violation, the horse shall be disqualified, and the owner of the horse shall not participate in any portion of the purse, stakes, trophy, or any other award.

B. Any purse, stakes, trophy, or award shall be returned if it was presented to the owner of the horse, upon the finding of a violation of this section.

C. Any positive test for a prohibited drug, medication, or substance, including permitted medication in excess of the maximum allowable concentration, as reported by a Commission-approved laboratory, is prima facie evidence of a violation of this rule.

D. It is presumed that any sample or accepted specimen tested by an approved laboratory is from the horse in question. With regard to an accepted sample, ~~[I]~~ it is also presumed that:

- a. the integrity of the sample is preserved;
- b. any procedures, collection, preservation, and analysis of the sample are correct and accurate; and

c. it is the burden of the owner, trainer, assistant trainer, or other responsible party to prove by substantial evidence to the contrary in the matter to the administrative stewards or at the Commission hearing.

8. Penalties. Upon finding a violation of these medications and prohibited substances rules, the ~~[s]~~ Stewards shall:

A. consider the classification level of the violation as listed ~~[at the time]~~ when in the Uniform Classification Guidelines of Foreign Substances, as promulgated in the following penalty matrices maintained by the department that are incorporated by reference: Recommended Penalties for Doping or Equine Endangerment Violations, and 2019-08 Recommended Penalties by Substances;

B. impose penalties and disciplinary measures consistent with the recommendations contained therein; and

C. consult with the Official Veterinarian to determine if the violation was a result of the administration of a therapeutic medication as documented in a veterinarian's Medication Report Form received, pursuant to Subsection R52-7-8(7).

9. The ~~[s]~~ Stewards may also consult with the laboratory director or other individuals to determine the seriousness of the laboratory finding or the medication violation. Penalties for medication and drug violations shall be investigated and reviewed on a case-~~[]~~-by-~~[]~~-case basis. ~~[]~~

Extenuating factors the ~~[s]~~ Stewards may consider in determining penalties include:

a. the past record of the trainer, veterinarian and owner in drug cases;

b. the potential of the drug to influence a horse's racing performance;

c. the legal availability of the drug;

d. whether the responsible party knew or should have known of the administration of the drug, or intentionally administered the drug;

e. the steps taken by the trainer to safeguard the horse;

f. the purse of the race; and

g. whether the licensed trainer was acting on the advice of a licensed veterinarian.

10. As a result of an investigation, there may be mitigating circumstances for which a lesser or no penalty is appropriate for the licensee, or aggravating factors that may increase the penalty beyond the minimum.

KEY: horses, horse racing
Date of Last Change: ~~April 12, 2021~~ **2022**
Notice of Continuation: July 1, 2021
Authorizing, and Implemented or Interpreted Law: 4-38-4

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R68-27	Filing ID 54179

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
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
Cody James	801-982-2376	codyjames@utah.gov
Kelly Pehrson	801-982-2204	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-27. Cannabis Cultivation
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
A change is needed to clarify the time the Cannabis Production Establishment Licensing Advisory Board has to act on a proposed change to the operating plan of a cannabis production establishment.
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 requirement that the Cannabis Production Establishment Licensing Advisory Board act within 15 days of a cannabis production establishments submission of a proposed change to their operating plan is removed from Section R68-27-14. In the absence of this

requirement the Department of Agriculture and Food (Department) will adhere to the statutory requirement that action be taken in a timely manner (see Section 4-41a-201).

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This is a clarification of existing processes and will not have a fiscal impact on the Department. The cost to administer the program will remain the same.
B) Local governments:
Local governments do not administer or participate in the medical cannabis program and will not be impacted.
C) Small businesses ("small business" means a business employing 1-49 persons):
This is a clarification of existing practices. The Department will still seek to act on proposed changes in a reasonable time frame and small businesses should not be impacted by the change.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This is a clarification of existing practices. The Department will still seek to act on proposed changes in a reasonable time frame and non-small businesses should not be impacted by the change.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
This change clarifies existing practices. The Department's management of the medical cannabis program will remain the same and other persons should not experience a fiscal impact.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
The compliance costs for affected individuals will not change. The fees charged by the Department are not impacted.
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 should 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
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 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 4-2-103(1)(i)		
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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:	01/31/2022
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10. This rule change MAY become effective on:	02/07/2022
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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

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	12/07/2021
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R68. Agriculture and Food, Plant Industry.

R68-27. Cannabis Cultivation.

R68-27-1. Authority and Purpose.

1) Pursuant to Subsections 4-41a-103(5), 4-41a-204(2)(e), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications, and requirements to obtain and maintain a cannabis cultivation facility license.

R68-27-2. Definitions.

As used in this rule:

1) "Applicant" means any person or business entity who applies for a cannabis cultivation facility license.

2a) "Cannabis" means any part of a marijuana plant.

b) "Cannabis" does not mean, for purposes of this rule, industrial hemp.

3) "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.

4) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

a) authorizes an individual to act as a cannabis production establishment agent; and

b) designates the type of cannabis production establishment for which an individual ~~[is authorized to]~~ may act as an agent.

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

6) "Indoor cannabis cultivation" means cultivation of cannabis within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

7) "Lot" means the quantity of:

a) flower 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.

8) "Outdoor cannabis cultivation" means an open or cleared ground fully enclosed at the perimeter by a securable, sight obscure wall or fence at least eight feet high.

R68-27-3. Cannabis Cultivation Facility License.

1) A cannabis cultivation facility license allows the licensee to propagate, cultivate, harvest, trim, dry, cure, and package cannabis into lots for sale or transfer to a cannabis production facility.

2) A cannabis cultivation facility may produce and sell cannabis plants, seed, and plant tissue culture to other licensed cannabis cultivation facilities.

3) A complete application shall include the required fee, statements, forms, diagrams, operation plans, and other applicable documents required in the application packet to be accepted and processed by the department.

4) ~~Prior to~~Before approving an application, the department may contact any applicant and request additional supporting documentation or information.

5) ~~Prior to~~Before issuing a cannabis cultivation facility license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.

6) The department may conduct face-to-face interviews with an applicant if needed to determine the best qualified applicant for the number of cannabis cultivation facility licenses that will be issued.

7) The cannabis cultivation facility license shall expire on December 31st.

8) A cannabis cultivation facility license may not be sold or transferred except as set forth in Section R68-27-16.

R68-27-4. Cannabis Cultivation Facility Requirements.

1) A cannabis cultivation facility operating plan shall contain a blueprint or diagram of the facility containing the following information:

- a) for indoor cannabis cultivation, the square footage of the area where cannabis is to be propagated;
- b) for indoor cannabis cultivation, the square footage of the area where cannabis is to be grown;
- c) the square footage of the area where cannabis is to be harvested;
- d) the area where cannabis is to be dried, trimmed, and cured;
- e) the square footage of the area where cannabis is to be packaged for wholesale;
- f) the total square footage of the cultivation facility;
- g) the square footage and location of areas to be used as a storeroom;
- h) the location of the toilet facilities and hand washing facilities;
- i) the location of a break room and location of personal belonging lockers; and
- j) the location of the area to be used for loading and unloading of cannabis product for transportation.

2) For outdoor cannabis cultivation, the operating plan shall contain a detailed aerial photograph of the area on which the following information is shown:

- a) the area where cannabis to be propagated; and
- b) the area where cannabis is to be grown.

3) A cannabis cultivation facility operating plan shall detail the drying and curing methods to be used by the cannabis cultivation facility.

4) An outdoor cannabis cultivation facility shall outline the measures to be taken to ensure that product is kept from deterioration and contamination.

5) A cannabis cultivation facility shall have written emergency procedures to be followed in case of:

- a) fire;
- b) chemical spill; or
- c) another emergency at the facility.

6) A cannabis cultivation facility operating plan shall include:

- a) a pest management plan;
- b) a description of when and how fertilizers are to be applied during the production process;
- c) procedures for water usage and waste water disposal;

and

- d) a waste disposal plan.

7) A cannabis cultivation facility shall have a written plan to handle potential recall and destruction of cannabis because of contamination.

8) A cannabis cultivation facility shall use a standardized scale that is registered with the department when cannabis is:

- a) packaged for sale by weight;
- b) bought and sold by weight; or
- c) weighed for entry into the inventory control system.

9) A cannabis cultivation facility shall ensure that sanitary conditions are maintained on the premises, including ensuring proper and timely removal of litter and waste.

10) A cannabis cultivation facility shall compartmentalize each area in the facility based on function.

11) A cannabis cultivation facility shall limit access to the compartments to appropriate cannabis cultivation facility agents.

R68-27-5 Indoor and Outdoor Cannabis Cultivation Limitations.

1) A cannabis cultivation facility that cultivates cannabis only indoors may use no more than 100,000 square feet for cultivation.

2) A cannabis cultivation facility that cultivates cannabis only outdoors may use no more than four acres for cultivation.

3) Pursuant to Subsection 4-41a-204(2)(e), a cannabis cultivation facility that uses a combination of indoor and outdoor cultivation shall be subject to the following formula:

a) the cannabis cultivation facility may use no more than a total of two acres outdoors and 50,000 square feet indoors for cultivation; or

b) the cannabis cultivation facility may use less than two acres outdoors or 50,000 square feet indoors for cultivation, but may not exceed the indoor or outdoor limit.

R68-27-6. Security Requirements.

1) At a minimum, each cannabis cultivation facility shall have a security alarm system on each perimeter entry point and perimeter window.

2) At a minimum, a licensed cannabis cultivation facility shall have a complete video surveillance system:

a) with a minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog; and

- b) that retains footage for at least 45 days.

3) Cameras at a cannabis cultivation facility shall be fixed, record continuously, and placement shall allow for the clear and certain identification of any person or activities in a controlled area.

NOTICES OF PROPOSED RULES

- 4) Controlled areas include:
 - a) each entrance and exit, or ingress and egress vantage point;
 - b) each area within an indoor or outdoor room or area where cannabis is propagated, grown, harvested, dried, or trimmed;
 - c) each area where cannabis is stored; and
 - d) each area where cannabis waste is being moved, processed, stored, or destroyed.
- 5) If a cannabis cultivation facility stores footage locally, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.
- 6) If a cannabis cultivation facility stores footage on a remote server, access shall be restricted to protect from employee tampering.
- 7) Any gate or entry point must be lighted in low-light conditions.
- 8) Visitors to a cannabis cultivation facility shall be required to have a properly displayed identification badge issued by the facility while on the premises of the facility.
- 9) Cannabis cultivation facility visitors shall be escorted by a cannabis cultivation facility agent while in the facility.
- 10) A cannabis cultivation facility shall keep and maintain a log showing:
 - a) the full name of each visitor entering the facility;
 - b) the badge number issued;
 - c) the time of arrival;
 - d) the time of departure, and
 - e) the purpose of the visit.
- 11) The visitor log shall be maintained by the cannabis cultivation facility for a minimum of one year.
- 12) The cannabis cultivation facility shall make visitor log available to the department upon request.

R68-27-7. Inventory Control.

- 1) Each cannabis plant that reaches eight inches in height with a root ball shall be issued a unique identification number in the inventory control system, which follows the plant through the phases of production.
- 2) Each cannabis plant, lot of usable cannabis trim, leaves, and other plant matter, test lot, and harvest lot shall be issued a unique identification number in the inventory control system.
- 3) Unique identification numbers cannot be reused.
- 4) Each cannabis plant, lot of usable cannabis trim, leaves, and other plant matter, cannabis product, test lot, harvest lot, and process lot that has been issued a unique identification number shall have a physical tag with the unique identification number.
- 5) The tag shall be legible and placed in a position that can be clearly read and kept free from dirt and debris.
- 6) The following shall be reconciled in the inventory control system at the close of business each day:
 - a) movement of seedling or clone to the vegetation production area;
 - b) when plants are partially or fully harvested or destroyed;
 - c) when cannabis is being transported to other facilities;
 - d) samples used for testing and the testing results;
 - e) a complete inventory of cannabis, cannabis seeds, plant tissue, seedlings, clones, plants, trim or other plant material;
 - f) the weight of harvested cannabis plants immediately after harvest;
 - g) the weight and disposal of post-harvest waste materials;

- h) the identity of the individual who disposed of the waste and the location of waste receptacle; and
 - i) theft or loss, or suspected theft or loss, of cannabis.
- 7) A receiving cannabis cultivation facility shall document in the inventory tracking system any cannabis received, and any differences between the quantity specified in the transport manifest and the quantities received.
- 8) For plants under eight inches, the cultivation facility shall keep record of:
 - a) the number of cannabis seeds or cuttings planted;
 - b) the date they were planted;
 - c) the date the plants were moved into the vegetation area and tagged;
 - d) the strain of the seeds or cuttings;
 - e) the number of plants grown to maturity;
 - f) the number of plants disposed of; and
 - g) the date of disposal.

R68-27-8. Cannabis Cultivation Facility Agents.

- 1) A cannabis cultivation facility shall apply to the department for a cannabis cultivation facility agent registration card on a form provided by the department.
- 2) An application is not considered complete until the background check has been completed and the facility has paid the fee.
- 3) The cannabis cultivation facility agent registration card shall contain:
 - a) the agent's full name;
 - b) the name of the cannabis cultivation facility;
 - c) the job title or position of the agent; and
 - d) a photograph of the agent.
- 4) A cannabis cultivation facility is responsible to ensure that each cannabis cultivation facility agent has received department approved training pursuant to Section 4-41a-301.
- 5) A cannabis cultivation facility agent shall have a properly displayed identification badge which has been issued by the department while on the facility premises or while engaged in the transportation of cannabis.
- 6) Each cannabis cultivation facility agent shall have their state issued identification in their possession to certify the information on their badge is correct.
- 7) Upon termination, the identification badge of an agent shall be immediately returned to the department by the cannabis cultivation facility.

R68-27-9. Pesticide and Fertilizer Use.

- 1) A cannabis cultivation facility shall maintain:
 - a) the material safety data sheet for any pesticide, fertilizer, or other agricultural chemical used in the production of cannabis which shall be accessible to any cannabis cultivation facility agent;
 - b) the original label or a copy [~~thereof~~] for each pesticide, fertilizer, or other agricultural chemical used in the production of cannabis; and
 - c) a log of each pesticide, fertilizer, or other agricultural chemical used in the production of cannabis.
- 2) Pesticides approved by the department may be used in the production, processing, and handling of cannabis.
- 3) Each pesticide, fertilizer, and other agricultural chemical is to be stored in a separate location apart from cannabis.
- 4) Pesticides shall be used consistent with the label requirements.

5) Fertilizer registered with the department under Title 4, Chapter 13, the Utah Fertilizer Act, may be used in the production and handling of cannabis.

6) Cannabis exposed to unauthorized pesticide, soil amendment, or fertilizer is subject to destruction at the cost of the cannabis cultivation facility.

R68-27-10. Transportation.

1) A printed transport manifest shall accompany each transport of cannabis.

2) The manifest shall contain the following information:

a) the cannabis production establishment address and cannabis production establishment license number of the departure location;

b) the physical address and cannabis production establishment license number of the receiving location;

c) the strain name, quantity by weight, and unique identification number of each cannabis material to be transported;

d) the date and time of departure;

e) the estimated date and time of arrival; and

f) the name and signature of each cannabis production establishment agent accompanying the cannabis.

3) The transport manifest may not be voided or changed after departing from the original cannabis cultivation facility.

4) A copy of the transport manifest shall be given to the receiving cannabis production establishment.

5) The receiving cannabis establishment shall ensure that the cannabis material received is as described in the transport manifest and shall record the amount received for each strain into the inventory control system.

6) The receiving cannabis establishment shall document at the time of receipt any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.

7) During transport a cannabis cultivation facility shall ensure the cannabis is:

a) shielded from the public view;

b) secured; and

c) temperature controlled if perishable.

8) A cannabis cultivation facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.

9) Only the registered agents of the cannabis cultivation facility may occupy a transporting vehicle.

R68-27-11. Recall Protocol.

1) The department may initiate a recall of cannabis or cannabis products if:

a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis product;

b) evidence exists that residual solvents are present on or in cannabis or cannabis product;

c) evidence exists that harmful contaminants are present on or in cannabis or cannabis product; or

d) the department believes or has reason to believe the cannabis or cannabis product is unfit for human consumption.

2) A cannabis cultivation facility's recall plan shall include, at a minimum:

a) designation of at least one member of the staff who serves as the recall coordinator;

b) procedures for identifying and isolating product to prevent or minimize distribution to patients;

c) procedures to retrieve and destroy product; and
d) a communications plan to notify those affected by the recall.

3) The facility must track the total amount of affected cannabis or cannabis product and the amount of affected cannabis or cannabis product returned to the facility as part of the recall.

4) A cannabis cultivation facility shall coordinate the destruction of the cannabis or cannabis product with the department and allow the department to oversee the destruction of the affected product.

5) The department shall periodically check on the progress of the recall until the department declares an end to the recall.

6) A cannabis cultivation facility shall notify the department before initiating a voluntary recall.

R68-27-12. Minimum Requirements for the Storage and Handling of Cannabis.

1) Storage areas shall provide adequate lighting, sanitation, temperature, humidity, space, equipment, and security conditions for the storage of cannabis.

2) Stored cannabis shall be at least six inches off the ground.

3) Cannabis shall be stored away from other chemicals, lubricants, pesticides, fertilizers, or other potential contaminants.

4) Cannabis that is outdated, damaged, deteriorated, misbranded, adulterated shall be stored separately until it is destroyed.

R68-27-13. Cannabis Waste Disposal.

1) Solid and liquid wastes generated during cannabis cultivation shall be stored, managed, and disposed of in accordance with applicable state laws and regulations.

2) Wastewater generated during the cannabis production and processing shall be disposed of in compliance with applicable state laws and regulations.

3) Cannabis waste generated from the cannabis plant, trim, and leaves is not considered hazardous waste unless it has been treated or contaminated with a solvent, or pesticide.

4) Cannabis waste shall be rendered unusable ~~prior to~~ before leaving the cannabis cultivation facility.

5) Cannabis waste not designated as hazardous, shall be rendered unusable by grinding and incorporating the cannabis plant waste with other ground materials so the resulting mixture is at least ~~[fifty percent]~~ 50% non-cannabis waste by volume, or by other methods approved by the department before implementation.

6) Materials used to grind with cannabis fall into two categories:

a) compostable; or

b) non-compostable.

7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

a) food waste;

b) yard waste; or

c) vegetable-based grease or oils.

8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

a) paper waste;

b) cardboard waste;

c) plastic waste; or

d) soil.

9) Cannabis waste includes:

NOTICES OF PROPOSED RULES

- a) cannabis plant waste including roots, stalks, leaves, and stems;
- b) excess cannabis or cannabis products from any quality assurance testing;
- c) cannabis or cannabis products that fail to meet testing requirements; and
- d) cannabis or cannabis products subject to a recall.

R68-27-14. Change in Operation Plans.

1) A cannabis cultivation facility shall submit a notice, on a form provided by the department, ~~[prior to]~~before making any changes to:

- a) ownership or financial backing of the facility;
- b) the facility's name;
- c) a change in location;
- d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility; or
- e) change in square footage or acreage of cannabis intended to be cultivated.

2) A cannabis cultivation facility may not implement changes to the approved operation plan without department approval.

~~[3) The department shall respond to the request for changes within 15 business days.]~~

~~[4]3~~ The department shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.

~~[5]4~~ The department shall specify the reason for the denial of approval for a change to the operation plan.

R68-27-15. Renewals.

1) A cannabis cultivation facility shall submit a notice of intent to renew the cannabis cultivation facility license and the licensing fee to the department by December 1st.

2) If the cannabis cultivation facility licensing fee and intent to renew the cannabis cultivation facility license are not submitted by December 31st the cannabis cultivation facility licensee may not continue to operate.

3) Pursuant to Section 4-41a-03, the board shall renew a cannabis cultivation facility license unless they identify a significant violation of the applicable laws and rules of the state.

R68-27-16. Cannabis Cultivation Facility License Transfer.

1) "Business entity" for purposes of this section means any person, proprietorship, partnership, corporation, or other commercial organization.

2) The department may authorize the transfer of a cannabis cultivation facility license from the holder of the license to another business entity where any transaction will result in the business entity recorded on the existing cannabis cultivation facility license to permanently reorganize, dissolve, lapse or otherwise cease to exist as a legal business entity under the laws of the state.

3) A transfer of ownership form, provided by the department, shall be submitted by the existing cannabis cultivation facility licensee to the department ~~[prior to]~~before the cannabis cultivation facility license transfer.

4) Approval of the department shall be received by the existing cannabis cultivation facility licensee ~~[prior to]~~before any cannabis cultivation facility license transfer.

5) The department may deny a cannabis cultivation facility license transfer to any proposed transferee for any of the following reasons:

- a) the business entity fails to meet the qualifications for a cannabis cultivation facility license; or
- b) the transfer of the cannabis cultivation facility license would lead to disruption in the supply of cannabis to the market.
- 6) A business entity may not begin operations until it has received a cannabis cultivation facility license from the department issued in its name.

R68-27-17. Violations Categories.

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

- a) use of unapproved pesticide or unapproved agricultural soil amendment;
- b) cannabis sold to an unlicensed source;
- c) cannabis purchased from an unlicensed source;
- d) refusal to allow inspection;
- e) failure to comply with testing requirements;
- f) a test result for high pesticide residue in the cannabis produced or cannabis product;
- g) unauthorized personnel on the premises;
- h) permitting criminal conduct on the premises; or
- i) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments.

2) Regulatory Violations: \$1,000 - \$5,000 per violation. This category is for violations involving this rule and other applicable state rules:

- a) failure to maintain alarm and security systems;
- b) failure to keep and maintain records;
- c) failure to maintain traceability;
- d) failure to follow transportation requirements;
- e) failure to follow the waste and disposal requirements;
- f) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule; or
- g) failure to maintain standardized scales.

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

- a) an unauthorized change to the operating plan;
- b) failure to notify the department of changes to the operating plan;
- c) failure to notify the department of changes to financial or voting interests of greater than 2%;
- d) failure to follow the operating plan as approved by the department;
- e) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments; or
- f) 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 consider enhancing or reducing the penalty based on the seriousness of the violation.

KEY: marijuana, cannabis cultivation facility

Date of Last Change: ~~[August 9, 2021]~~2022
Authorizing, and Implemented or Interpreted Law: 4-41a-404(3); 4-41a-103(5); 4-41a-204(2)(e); 4-41a-302(3)(b)(ii); 4-41a-701(2); 4-41a-405(2)(b)(iv); 4-2-103(1)(i); 4-41a-801(1)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R68-28	Filing ID 54178

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
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
Cody James	801-982-2376	codyjames@utah.gov
Kelly Pehrson	801-982-2204	codyjames@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-28. Cannabis Processing
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
A change is needed to clarify the time the Cannabis Production Establishment Licensing Advisory Board has to act on a proposed change to the operating plan of a cannabis production establishment.
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 requirement that the Cannabis Production Establishment Licensing Advisory Board act within 15 days of a cannabis production establishments submission of a proposed change to their operating plan is removed from Section R68-28-16. In the absence of this requirement the Department of Agriculture and Food (Department) will adhere to the statutory requirement that action be taken in a timely manner (see Section 4-41a-201).

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This is a clarification of existing processes and will not have a fiscal impact on the Department. The cost to administer the program will remain the same.
B) Local governments:
Local governments do not administer or participate in the medical cannabis program and will not be impacted.
C) Small businesses ("small business" means a business employing 1-49 persons):
This is a clarification of existing practices. The Department will still seek to act on proposed changes in a reasonable time frame and small businesses should not be impacted by the change.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This is a clarification of existing practices. The Department will still seek to act on proposed changes in a reasonable time frame and non-small businesses should not be impacted by the change.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
This change clarifies existing practices. The Department's management of the medical cannabis program will remain the same and other persons should not experience a fiscal impact.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
The compliance costs for affected individuals will not change. The fees charged by the Department are not impacted.
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 should 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
B) Department head approval of regulatory impact analysis:			
The Commissioner of the Utah Department of Agriculture and Food, Craig W. Butters, 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:		
Subsection 4-2-103(1)(i)		

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:	01/31/2022

10. This rule change MAY become effective on:	02/07/2022
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

Agency head or designee, and title:	Craig W. Butters, Commissioner	Date:	12/07/2021
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R68. Agriculture and Food, Plant Industry.

R68-28. Cannabis Processing.

R68-28-1. Authority and Purpose.

1) Pursuant to Subsections 4-41a-103(5), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications and requirements to obtain and maintain a cannabis processing license.

R68-28-2. Definitions.

1) "Applicant" means any person or business entity who applies for a cannabis processing facility license.

2a) "Cannabis" means any part of a marijuana plant.

b) "Cannabis" does not mean, for the purposes of this rule, industrial hemp.

3) "Batch" means a quantity of:

a) cannabis extract produced on a particular date and time, following clean up until the next clean up during which 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 extract is used; or

c) cannabis flower packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.

4) "Board" means the Cannabis Production Establishment Licensing Advisory Board, created in Section 4-41a-201.1.

5) "Cannabis concentrate" means the product of any chemical or physical process applied to cannabis biomass that concentrates or isolates the cannabinoids contained in the biomass.

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

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 to 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 product made using cannabis concentrate.

10) "Cannabis plant product" means any portion of a cannabis plant intended to be sold by a medical cannabis pharmacy 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 a cannabis concentrate; and
 d) sells or intends to sell a cannabis product to a medical cannabis pharmacy.

12) "Cannabis processing facility agent" means an individual who:
 a) is an employee of a cannabis processing facility; and
 b) holds a valid cannabis production establishment agent registration card.

13) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

a) authorizes an individual to act as a cannabis production establishment agent; and
 b) designates the type of cannabis production establishment for which an individual ~~[is authorized to]~~ may act as an agent.

14) "Lot" means the quantity of:

a) flower 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.

15) "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).

R68-28-3. Cannabis Processing Facility License.

1) A cannabis processing facility license allows the licensee to receive cannabis from a cannabis production facility.

2) A Tier 1 cannabis processing facility license allows the licensee to:

- a) create cannabis concentrate;
- b) create cannabis derivative product; and
- c) package and label final product.

3) A Tier 2 cannabis processing facility license allows the licensee to package and label cannabis and cannabis final product.

4) A complete application shall include the required fee, statements, forms, diagrams, operation plans, copy of current Utah manufactured food establishment registration, and other applicable documents required in the application packet to be accepted and processed by the department.

5) ~~[Prior to]~~ Before approving an application, the department may contact the applicant and request additional supporting documentation or information.

6) ~~[Prior to]~~ Before issuing a license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.

7) Each cannabis processing facility license shall expire one calendar year from the date of licensure.

8) An application for renewals shall be submitted to the department 30 days ~~[prior to]~~ before expiration.

9) If the renewal application is not submitted 30 days ~~[prior to]~~ before the expiration date, the licensee may not continue to operate.

10) A license may not be sold or transferred except as set forth in Section R68-28-18.

R68-28-4. Cannabis Processing Facility Requirements.

1) A cannabis processing facility operating plan shall contain a blueprint of the facility containing the following information:

- a) the square footage of the areas where cannabis is to be extracted;
- b) the square footage of the areas where cannabis or cannabis products are to be packaged and labeled;
- c) the square footage of the areas where cannabis products are manufactured;
- d) the square footage and location of storerooms for cannabis awaiting extraction;
- e) the square footage and location of storerooms for cannabis awaiting further manufacturing;
- f) the area where finished cannabis and cannabis products are stored;
- g) the location of toilet facilities and hand washing facilities;
- h) the location of a break room and location of personal belonging lockers;
- i) the location of the areas to be used for loading and unloading of cannabis and cannabis products; and
- j) the total square footage of the overall cannabis processing facility.

2) A cannabis processing facility shall have written emergency procedures to be followed in case of:

- a) fire;
- b) chemical spill; or
- c) other emergency at the facility.

3) A cannabis processing facility shall have a written plan to handle potential recall and destruction of cannabis due to contamination.

4) A cannabis processing facility shall use a standardized scale that is registered with the department when cannabis is:

- a) packaged for sale by weight;
- b) bought and sold by weight; or
- c) weighed for entry into the inventory control system.

5) A cannabis processing facility shall compartmentalize each area in the facility based on function and shall limit access between compartments.

6) A cannabis processing facility shall limit access to the compartments to the appropriate agents.

7) A cannabis processing facility creating cannabis derivative product shall develop standard operating procedures.

8) Pursuant to Subsection 4-41a-403(4)(b), a cannabis processing facility may use signage on the property that includes a logo, as long as the logo does not include:

- a) unprofessional terms, slang, phrasing, or verbiage associated with the recreational use of cannabis;
- b) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;
- c) content, symbol, or imagery that the cannabis processing facility knows or should know appeals to children;
- d) imagery featuring a person using the product in any way;
- e) any recreationally oriented subject; or

NOTICES OF PROPOSED RULES

f) any statement, design, or representation, picture or illustration that is obscene or indecent.

R68-28-5. Cannabis Extraction Requirements.

1) A cannabis processing facility shall ensure hydrocarbons n-butane, isobutane, propane, or heptane are of at least ~~ninety-nine percent~~ 99% purity.

2) A cannabis processing facility shall use a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, and control each source of ignition where a flammable atmosphere is or may be present.

3) A cannabis processing facility using carbon dioxide (CO₂) gas extraction system shall use a professional grade closed loop CO₂ gas extraction system where each vessel is rated to a minimum of six hundred pounds per square inch and CO₂ shall be at least ~~ninety-nine percent~~ 99% purity.

4) Closed loop systems hydrocarbon or CO₂ extraction systems shall be commercially manufactured and bear a permanently affixed and visible serial number.

5) A cannabis processing facility using a closed loop system shall, upon request, provide the department with certification from a licensed engineer stating the system is:

- a) safe for its intended use;
- b) commercially manufactured~~[7]~~; and
- c) built to conform to recognized and generally accepted good engineering practices, such as:
 - i) the American Society of Mechanical Engineers (ASME);
 - ii) American National Standards Institute (ANSI);
 - iii) Underwriters Laboratories~~[(UL)]~~; or
 - iv) The American Society for Testing and Materials~~[(ASTM)]~~.

6) The certification document shall contain the signature and stamp of the certifying professional engineer and the serial number of the extraction unit being certified.

7) A cannabis processing facility shall use food grade ingredients to create cannabis derivative product.

8) A cannabis processing facility may use heat, screens, presses, steam distillation, ice water, and other mechanical methods which do not ~~employ~~ use solvents or gases.

9) A cannabis processing facility shall ensure each solvent, with the exception of CO₂, is extracted in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

10) A cannabis establishment agent using solvents or gases in a closed loop system shall be fully trained in the use of the system and have direct access to applicable material safety data sheets.

11) Parts per million for one gram of finished extract cannot exceed residual solvent or gas levels provided in Rule R68-29.

R68-28-6. Security Requirements.

1) At a minimum, each cannabis processing facility shall have a security alarm system on each perimeter entry point and perimeter window.

2) At a minimum, a licensed cannabis processing facility shall have a complete video surveillance system:

- a) with minimum camera resolution of 1280 x 720 pixels or pixel equivalent for analog; and
- b) that retains footage for at least 45 days.

3) each camera shall be fixed and placement shall allow for the clear and certain identification of any person and activities in controlled areas.

4) Controlled areas included:

a) any entrances and exits, or ingress and egress vantage points;

b) any areas where cannabis or cannabis products are stored;

c) any areas where cannabis or cannabis products are extracted;

d) any areas where cannabis or cannabis products are manufactured, packaged, or labeled; and

e) any areas where cannabis waste is being moved, processed, stored or destroyed.

5) Each camera shall record continuously.

6) For locally stored footage, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or theft.

7) For footage stored on a remote server, access shall be restricted to protect from employee tampering.

8) Any gate or entry point must have lighting sufficient to record activity occurring in low light conditions.

9) Each visitor to a cannabis processing facility shall be required to display an identification badge issued by the facility while on the premises.

10) At ~~[all times]~~ any time, visitors shall be escorted by a cannabis processing facility agent.

11) A cannabis processing facility shall keep and maintain a visitors log showing:

- a) the full name of each visitor entering the facility;
- b) the time of arrival;
- c) the time of departure; and
- d) the purpose of the visit.

12) The cannabis processing facility shall keep the visitors log for a minimum of one year.

13) The cannabis processing facility shall make the visitor log available to the department upon request.

R68-28-7. Inventory Control.

1) Each batch or lot of cannabis, cannabis derivative product, cannabis product, test sample, or cannabis waste shall have a unique identifier in the inventory control system.

2) Each batch or lot of cannabis, cannabis derivative product, cannabis product, sample, or cannabis waste shall be traceable to the lot.

3) Unique identification numbers may not be reused.

4) Each batch, lot, or sample of cannabis shall have a unique identification number that is displayed on a physical tag.

5) The tag shall be legible and placed in a position that can be clearly read.

6) The following shall be reconciled in the inventory control system at the close of each business each day:

- a) date and time material containing cannabis are being transported to a cannabis production establishment or medical cannabis pharmacy;
- b) each sample used for testing and the test results;
- c) a complete inventory of material containing cannabis;
- d) cannabis product by unit count;
- e) weight per unit of product;
- f) weight and disposal of cannabis waste materials;
- g) the identity of who disposed of the cannabis waste and the location of the waste receptacles; and
- h) theft or loss or suspected theft or loss of material containing cannabis.

7) A receiving cannabis processing facility shall document in the inventory control system any material containing cannabis received, and any difference between the quantity specified in the transport manifest and the quantity received.

8) A cannabis processing facility shall immediately upon receipt of THC extract from a licensed industrial hemp processor enter the following information into the inventory control system:

- a) the amount of THC extract received;
- b) the name, address, and licensing number of the industrial hemp processor;
- c) the weight per unit of product received; and
- d) the assigned unique identification number.

R68-28-8. Cannabis Processing Facility Agents.

1) A cannabis processing facility shall apply to the department for a cannabis establishment agent on a form provided by the department.

2) An application is not considered complete until the background check has been completed and the facility has paid the registration fee.

3) The cannabis processing facility agent registration card shall contain:

- a) the full name of the agent;
- b) the name of the cannabis processing establishment;
- c) the job title or position of the agent; and
- d) a photograph of the agent.

4) A cannabis processing facility is responsible to ensure that each agent has received:

- a) the department approved training as specified in Section 4-41a-301; and
- b) any task specific training as outlined in the operating plan submitted to the department.

5) A cannabis processing facility agent shall have a properly displayed identification badge which has been issued by the department at all times while on the facility premises or while engaged in the transportation of cannabis.

6) Each cannabis production establishment agent shall have their state issued identification card in their possession to certify the information on their badge is correct.

7) Upon termination, the identification badge of an agent shall be immediately returned to the department by the cannabis processing facility.

R68-28-9. Minimum Storage and Handling Requirements.

1) A cannabis processing facility shall store cannabis, cannabis concentrate, or cannabis product in a separate location from outdated, damaged, deteriorated, misbranded, or adulterated product or product whose containers or packaging have been opened or breached.

2) Cannabis, cannabis concentrate, and cannabis product shall be stored at least six inches off the ground.

3) Storage areas shall:

- a) be maintained in a clean and orderly condition; and
- b) be free from infestation by insects, rodents, birds, or vermin.

4) A cannabis processing facility shall:

- a) track and label each cannabis plant product and cannabis concentrate;
- b) ensure each unfinished product is stored in a secure location; and
- c) immediately after completion of the process or at the end of the scheduled business day return to a secure location.

5) If a manufacturing process cannot be completed at the end of a working day, the processor shall securely lock the processing area or tanks, vessels, bins, or bulk containers containing cannabis inside an area or room that affords adequate security.

R68-28-10. Product Appearance and Flavor.

1) A cannabis processing facility may not produce a cannabis product that is designed to mimic a candy product.

2) A cannabis processing facility may not produce a product that includes a candy-like flavor or another flavor the facility knows or should know appeals to children.

3) A cannabis processing facility may use only the following artificial flavors:

- a) apple;
- b) banana;
- c) cherry;
- d) grape;
- e) lemon;
- f) mint;
- g) orange;
- h) raspberry;
- i) strawberry;
- j) vanilla; or
- k) watermelon.

4) Cannabis or cannabis product may ~~retain~~keep the natural flavor provided the flavor is not candy-like or another flavor the facility knows or should know appeals to children.

5) A cannabis processing facility may not shape a cannabis product in any way to appeal to children.

R68-28-11. Processing of Cannabis and Cannabis Product.

1) A cannabis processing facility shall process, manufacture, package, and label cannabis and cannabis product in accordance with 21 CFR 111, "Current Good Manufacturing, Packaging, Labeling, or Holding Operation for Dietary Supplements."

2) Cannabis and cannabis product shall be packaged in child-resistant packaging in accordance with 16 CFR 1700.

3) A cannabis processing facility shall package cannabis or cannabis product in accordance with this rule and Section 4-41a-602 ~~[prior to]~~before transportation to a medical cannabis pharmacy.

4) Any container or packaging containing cannabis or cannabis product shall protect the product from contamination and shall not impart any toxic or deleterious substance to the cannabis or cannabis product.

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 according to Section 4-41a-405.

6) Cannabis concentrate and product produced by cannabis processing facilities shall be tested pursuant to Rule R68-29.

7) If a cannabis product contains derivative or synthetic cannabinoids they shall be isolated to a purity of greater than 95%, as required by Subsection 4-41a-603(3).

8) A cannabis product may vary in the cannabis product's labeled cannabinoid profile by up to 10% of the indicated amount of a given cannabinoid, by weight.

R68-28-12. Labeling of Cannabis and Cannabis Product.

1) The text used on ~~[a]]~~labeling shall be printed in at least 8-point font and may not be in italics.

NOTICES OF PROPOSED RULES

2) A cannabis processing facility shall label cannabis and cannabis product before the sale of the cannabis or cannabis product to a medical cannabis pharmacy.

3) The label shall be securely affixed to the package and be in legible English.

4) A label for cannabis flower shall include the following information in the order as listed:

- a) the name of the cannabis cultivation facility;
- b) the name of the cannabis processing facility;
- c) the cannabis processing establishment licensing

number;

- d) the lot number;
- e) the date of harvest;
- f) the date of final testing;
- g) the batch number;
- h) the date on which the product was packaged;
- i) the cannabinoid profile, potency levels, and terpenoid

profile as determined by the independent testing laboratory[7];

- j) the expiration date; and
- k) the quantity of cannabis being sold.

5) THC potency levels for cannabis flower shall be listed as total THC.

6) A label for cannabis product shall include the following information:

- a) the name of the cannabis processing facility;
- b) the cannabis processing facility licensing number;
- c) the batch number;
- d) the date of the final testing;
- e) the date on which the product was packaged;
- f) the cannabinoid profile;
- g) the expiration date;
- h) the total amount of THC measured in milligrams;
- i) a list of each ingredient and each major food allergen as

identified in 21 U.S.C. 343;

- j) the net weight of the product; and
- k) a disclosure of the type of extraction process used and any solvent, gas, or other chemical used in the extraction process.

7) Each cannabis and cannabis product label shall contain the following warning: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."

8) A cannabis processing facility may include a logo or brand name on the label, as long as it does not obscure the information required on the label.

9) No other information, illustration, or depiction shall appear on the label.

R68-28-13. Transportation.

1) A printed transport manifest shall accompany each transport of cannabis.

2) The manifest shall contain the following information:

- a) the cannabis production establishment address and license number of the departure location;
- b) physical address and license number of the receiving location;
- c) strain name, quantities by weight, and unique identification numbers of each cannabis material to be transported;
- d) date and time of departure;

e) estimated date and time of arrival; and

f) name and signature of each agent accompanying the cannabis.

3) The transport manifest may not be voided or changed after departing from the original cannabis production establishment.

4) A copy of the transport manifest shall be given to the receiving cannabis production establishment or medical cannabis pharmacy.

5) The receiving cannabis processing facility, independent laboratory, or medical cannabis pharmacy shall ensure that the cannabis material received is as described in the transport manifest and shall:

a) record the amounts received for each strain into the inventory control system; and

b) document any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.

6) During transportation, cannabis shall be:

- a) shielded from the public view;
- b) secured; and
- c) temperature controlled if perishable.

7) A cannabis production facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.

8) Only the registered agents of the cannabis processing facility may occupy a transporting vehicle.

R68-28-14. Recall Protocol.

1) The department may initiate a recall of cannabis or cannabis products if:

- a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis product;
- b) evidence exists that residual solvents are present on or in cannabis or cannabis product;
- c) evidence exists that harmful contaminants are present on or in cannabis or cannabis product; or
- d) the department believes or has reason to believe the cannabis or cannabis product is unfit for human consumption.

2) The recall plan of a cannabis processing facility shall include, at a minimum:

- a) a designation of at least one member of the staff who serves as the recall coordinator;
- b) procedures for identifying and isolating product to prevent or minimize distribution to patients;
- c) procedures to retrieve and destroy product; and
- d) a communications plan to notify those affected by the recall.

3) The cannabis processing facility ~~must~~ shall track the total amount of affected cannabis or cannabis product and the amount of affected cannabis or cannabis product returned to the facility as part of the recall.

4) The cannabis processing facility shall coordinate the destruction of the cannabis or cannabis product with the department and allow the department to oversee the destruction of the affected product.

5) The department has authority to monitor the progress of the recall until the department declares an end to the recall.

6) A cannabis production facility shall notify the department before initiating a voluntary recall.

R68-28-15. Cannabis Waste Disposal.

1) Solid and liquid wastes generated during cannabis processing shall be stored, managed, and disposed of in accordance with applicable state laws and regulations.

2) Wastewater generated during the cannabis production and processing shall be disposed of in compliance with applicable state laws and regulations.

3) Cannabis waste generated from the cannabis plant, trim, and leaves is not considered hazardous waste unless it has been treated or contaminated with a solvent, or pesticide.

4) Cannabis waste shall be rendered unusable ~~[prior to]~~ before leaving the cannabis processing facility.

5) Cannabis waste, which is not designated as hazardous, shall be rendered unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume or other methods approved by the department before implementation.

6) Materials used to grind and incorporate with cannabis fall into two categories:

- a) compostable; or
- b) non-compostable.

7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

- a) food waste;
- b) yard waste; or
- c) vegetable-based grease or oils.

8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

- a) paper waste;
- b) cardboard waste;
- c) plastic waste; or
- d) soil.

9) Cannabis waste includes:

- a) cannabis plant waste, including roots, stalks, leaves, and stems;
- b) excess cannabis or cannabis products from any quality assurance testing;
- c) cannabis or cannabis products that fail to meet testing requirements; and
- d) cannabis or cannabis products subject to a recall.

R68-28-16. Change in Operation Plans.

1) A cannabis processing facility shall submit a notice, on a form provided by the department, ~~[prior to]~~ before making any changes to:

- a) ownership or financial backing of the facility;
- b) the facility's name;
- c) a change in location;
- d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility; or
- e) change to the number of production lines.

2) A cannabis processing facility may not implement changes to the initial approved operation plan without board approval.

~~[3) The board shall respond to the request for changes within 15 business days.]~~

[4]3) The board shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.

[5]4) The department shall specify the reason for the denial of approval for a change to the operation plan.

R68-28-17. Renewals.

1) A cannabis processing facility shall submit a notice of intent to renew and the licensing fee to the department within 30 days of license expiration.

2) If the licensing fee and intent to renew are not submitted within 30 days of license expiration, the licensee may not continue to operate.

3) The board may take into consideration significant violations issued in determining license renewals.

R68-28-18. Cannabis Processing Facility License Transfer.

1) "Business entity" for purposes of this section, means any person, proprietorship, partnership, corporation, or other commercial organization.

2) The department may authorize the transfer of a cannabis processing facility license from the holder of the license to another business entity where any transaction will result in the business entity recorded on the existing cannabis processing facility license to permanently reorganize, dissolve, lapse or otherwise cease to exist as a legal business entity under the laws of the state.

3) A transfer of license ownership form, provided by the department, shall be submitted by the existing cannabis processing facility licensee to the department ~~[prior to]~~ before the cannabis processing facility license transfer.

4) The existing cannabis processing facility licensee shall obtain department approval of the transfer of its cannabis processing facility license ~~[prior to]~~ before the license transfer.

5) The department may deny a cannabis processing facility license transfer to any proposed transferee for any of the following reasons:

- a) the business entity fails to meet the qualifications for a cannabis processing facility license; or
- b) the transfer of the cannabis processing facility license would lead to disruption in the supply of cannabis to the market.

6) A business entity may not begin operations until it has received a cannabis processing facility license from the department issued in its name.

R68-28-19. Violation Categories.

1) Public Safety Violations: \$3,000- \$5,000 per violation. This category is for violations which present a direct threat to public health or safety including:

- a) cannabis sold to an unlicensed source;
- b) cannabis purchased from an unlicensed source;
- c) refusal to allow inspection;
- d) failure to comply with testing requirements;
- e) a test result for high pesticide residue in the cannabis produced or cannabis product;
- f) a test result for high residual solvents, heavy metal, microbials, molds, or other harmful contaminants;
- g) failure to maintain required cleanliness and sanitation standards;
- h) unauthorized personnel on the premises;
- i) permitting criminal conduct on the premises;
- j) possessing, manufacturing, or distributing cannabis products that the person knows or should know appeal to children; or
- k) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments, which amounts to a public safety violation as described in this [S] subsection.

2) Regulatory Violations: \$1,000-\$5,000 per violation. This category is for violations involving this rule and other applicable state rules including:

NOTICES OF PROPOSED RULES

- a) failure to maintain alarm and security systems;
 - b) failure to keep and maintain records;
 - c) failure to maintain traceability;
 - d) failure to follow transportation requirements;
 - e) failure to follow the waste and disposal requirements;
 - f) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule which amounts to a regulatory violation as described in this [S]subsection; or
 - g) failure to maintain standardized scales.
- 3) Licensing Violations: \$500- \$5,000 per violation. This category is for violations involving licensing requirements including:
- a) an unauthorized change to the operating plan;
 - b) failure to notify the department of changes to the operating plan;
 - c) failure to notify the department of changes to financial or voting interests of greater than 2%;
 - d) failure to follow the operating plan as approved by the department;
 - e) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments which amounts to a licensing violation as described in this [S]subsection; or
 - f) 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: cannabis processing, cannabis production establishment
Date of Last Change: ~~August 9, 2021~~ **2022**
Authorizing, and Implemented or Interpreted Law: 4-41a-103(5); 4-41a-404(3); 4-41a-701(3); 4-41a-302(3)(b)(ii); 4-2-103(1)(i); 4-41a-405(2)(b)(iv); 4-41a-801(1)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R68-30	Filing ID 54181

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
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
Cody James	801-982-2376	codyjames@utah.gov

Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-30. Independent Cannabis Testing Laboratory
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
A change is needed to clarify the time the Cannabis Production Establishment Licensing Advisory Board has to act on a proposed change to the operating plan of a cannabis production establishment.
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 requirement that the Cannabis Production Establishment Licensing Advisory Board act within 15 days of a cannabis production establishments submission of a proposed change to their operating plan is removed from Section R68-30-10. In the absence of this requirement the Department of Agriculture and Food (Department) will adhere to the statutory requirement that action be taken in a timely manner (see Section 4-41a-201).

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This is a clarification of existing processes and will not have a fiscal impact on the Department. The cost to administer the program will remain the same.
B) Local governments:
Local governments do not administer or participate in the medical cannabis program and will not be impacted.
C) Small businesses ("small business" means a business employing 1-49 persons):
This is a clarification of existing practices. The Department will still seek to act on proposed changes in a reasonable time frame and small businesses should not be impacted by the change.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This is a clarification of existing practices. The Department will still seek to act on proposed changes in a reasonable

time frame and non-small businesses should not be impacted by the change.

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 change clarifies existing practices. The Department's management of the medical cannabis program will remain the same and other persons should not experience a fiscal impact.

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

The compliance costs for affected individuals will not change. The fees charged by the Department are not impacted.

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

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

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 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		
4-2-103(1)(i)		

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:	01/31/2022
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10. This rule change MAY become effective on:	02/07/2022
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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

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	11/30/2021
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R68. Agriculture and Food, Plant Industry.

R68-30. Independent Cannabis Testing Laboratory.

R68-30-1. Authority and Purpose.

1) Pursuant to Subsections 4-41a-103(5), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications, and requirements to obtain and maintain an independent cannabis testing laboratory license.

R68-30-2. Definitions.

- 1) "Applicant" means any person or business entity who applies for a cannabis processing facility license.
- 2) "Batch" means a quantity of:
 - a) cannabis extract produced on a particular date and time, following clean up until the next clean up during which 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 extract is used; or
 - c) cannabis flower packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.
- 3) "Cannabis" means any part of a marijuana plant.
- 4) "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 to a cannabis processing facility.
- 5) "Cannabis processing facility" means a person that:
 - a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under Title 4 Chapter 41, Hemp and Cannabinoid Act;
 - b) possesses cannabis with the intent to manufacture a cannabis product;
 - c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
 - d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or the state central fill medical cannabis pharmacy.
- 6) "Cannabis production establishment agent registration card" means a registration card that the department issues that:
 - a) authorizes an individual to act as a cannabis production establishment agent; and
 - b) designates the type of cannabis production establishment for which an individual ~~is authorized to~~ may act as an agent.
- 7) "Department" means the Utah Department of Agriculture and Food.
- 8) "Independent cannabis testing laboratory" means a person who:
 - a) conducts a chemical or other analysis of cannabis or a cannabis product; or
 - b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.
- 9) "Independent cannabis testing laboratory agent" means an individual who:
 - a) is an employee of an independent cannabis testing laboratory; and
 - b) holds a valid cannabis production establishment agent registration card.
- 10) "Lot" means the quantity of:
 - a) flower 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.

R68-30-3. Independent Testing Laboratory License.

- 1) An independent testing laboratory license allows the licensee to receive cannabis from a licensed cannabis cultivation facility to conduct testing as required by Subsection 4-41a-701(2) and Rule R68-29.
- 2) An independent testing laboratory license allows the licensee to receive cannabis from a licensed cannabis processing facility to conduct testing as required by Subsection 4-41a-701(2) and Rule R68-29.
- 3) An independent testing laboratory license allows the licensee to receive cannabis from a licensed cannabis cultivation facility and a cannabis processing facility to conduct the additional test as requested.
- 4) A complete application shall include the required fee, statements, forms, diagrams, operation plans, and other applicable documents required in the application packet to be accepted and processed by the department.
- 5) ~~Prior to~~ Before approving an application, the department may contact any applicant and request additional supporting documentation or information.
- 6) ~~Prior to~~ Before issuing a license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.
- 7) The department may conduct face-to-face interviews with an applicant if needed to determine the best-qualified applicant for the number of licenses needed.
- 8) The license shall expire 12 months from the date on which the license is issued.
- 9) An application for renewals shall be submitted to the department no later than 30 days ~~prior to~~ before the license expiration date.
- 10) If the renewal application is not submitted 30 days ~~prior to~~ before the expiration date the licensee may not continue to operate.
- 11) A license may not be sold or transferred.

R68-30-4. Independent Cannabis Testing Laboratory Requirements.

- 1) An independent testing laboratory shall employ a scientific director responsible for:
 - a) ensuring that the laboratory achievement and maintenance of quality standards of practice; and
 - b) supervising laboratory staff.
- 2) The scientific director for an independent laboratory shall have:
 - a) a doctorate in chemical or biological sciences from an accredited college or university and have at least 2 years of post-degree laboratory experience;
 - b) a master's degree in chemical or biological sciences from an accredited college or university and have at least 4 years of post-degree laboratory experience; or
 - c) a bachelor's degree in chemical or biological sciences from an accredited college or university and have a least 6 years of post-degree laboratory experience.
- 3) An independent cannabis testing laboratory shall follow validated analytical methods, such as those published by the Association of Official Agricultural Chemists (AOAC), American Herbal Pharmacopoeia, EPA, FDA, or other reputable scientific organizations or notify the department of alternative scientifically valid testing methodology the lab is following for each required test.

4) An independent cannabis testing laboratory may not use an alternative testing method without ~~[prior]~~earlier review from the department.

5) The department shall review any monograph or analytical method followed by an independent cannabis testing laboratory to ensure the methodology produces scientifically accurate results ~~[prior to]~~before the use of alternative testing methods to conduct the required tests.

6) An independent cannabis testing laboratory shall establish written standard operating procedures for each test being conducted.

7) An independent cannabis testing laboratory shall obtain and keep the International Organization for Standardization (ISO) 17025:2017 accreditation.

8) An independent cannabis testing laboratory may be licensed ~~[prior to]~~before ISO 17025:2017 accreditation provided the independent cannabis testing laboratory:

a) adopt and follow minimum good laboratory practices which satisfy the OECD Principles of Good Laboratory Practice and Compliance Monitoring published by the Organization for Economic Co-operation and ~~[d]~~Development; and

b) becomes ISO 17025:2017 accredited within 24 months.

9) The department incorporates the following materials by reference:

a) Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control (2014 Revisions) published by the American Herbal Pharmacopoeia; and

b) OECD Principles of Good Laboratory Practice and Compliance Monitoring (1997) published by the Organization for Economic Co-operation and Development.

10) An independent cannabis testing laboratory shall have written emergency procedures to be followed in case of:

a) fire;

b) chemical spill; or

c) other emergencies at the laboratory.

11) An independent cannabis testing laboratory shall compartmentalize each area in the facility based on function and shall limit access to the compartments to the appropriate authorized agents.

R68-30-5. Security Requirements.

1) At a minimum, a licensed independent cannabis testing laboratory shall have a security alarm system on each perimeter entry point and perimeter window.

2) At a minimum, a licensed independent cannabis testing laboratory shall have complete video surveillance system:

a) with minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog, and

b) that retains footage for at least 45 days;

3) Cameras shall:

a) be fixed and placement shall allow for the clear and certain identification of any person and activities in controlled areas; and

b) record continuously.

4) Controlled areas include:

a) entrances and exits;

b) any areas where cannabis or cannabis products are stored;

c) any areas where cannabis or cannabis products are being tested; and

d) any areas where cannabis waste is being moved, processed, stored or destroyed.

5) If an independent cannabis testing facility stores footage locally, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

6) If an independent cannabis testing laboratory stores footage on a remote server, access shall be restricted to protect from employee tampering.

7) Any entry point must be lighted in low-light conditions sufficient to record activity occurring.

8) Any visitors to an independent cannabis testing laboratory shall be required to have a properly displayed identification badge issued by the facility at all times while on the premises of the facility.

9) Any visitors shall be escorted by an independent cannabis facility agent at all times while in the facility.

10) An independent cannabis testing laboratory shall keep and maintain a visitor's log showing:

a) the full name of each visitor entering the facility;

b) the badge number issued;

c) the time of arrival;

d) the time of departure, and

e) the purpose of the visit.

11) The independent cannabis testing laboratory shall keep the visitors log for a minimum of a year.

12) The independent cannabis testing laboratory shall make the visitor log available to the department upon request.

R68-30-6. Inventory Control.

1) Each test sample shall have a unique identification number in the inventory control system.

2) Each test sample shall be traceable to the lot or batch used as the base material from the cannabis production establishment.

3) Unique identification numbers may not be reused.

4) Each test sample that has been issued a unique identification number shall have a physical tag placed on it with:

a) the unique identification number;

b) the license number and name of the lab receiving the test sample;

c) the license number and name of the cannabis production establishment name;

d) the date the test sample was collected; and

e) the weight of the sample.

5) The tag shall be legible and placed in a position that can be clearly read and shall be kept free from dirt and debris.

6) The following shall be reconciled in the inventory control system at the close of business each day:

a) the date and time the test sample was received;

b) each sample used for testing and the test results;

c) the identity of the agent conducting the test;

d) a complete inventory of cannabis test samples;

e) the weight and disposal of cannabis waste materials;

f) the identity of who disposed of the cannabis waste; and

g) the theft or loss or suspected theft or loss of test sample.

7) An independent cannabis testing laboratory shall document in the inventory tracking system any test samples received, and any difference between the quantity specified in the transport and quantities received.

R68-30-7. Independent Cannabis Testing Laboratory Agents.

1) An independent cannabis testing laboratory shall apply to the department for a cannabis establishment agent on a form provided by the department.

NOTICES OF PROPOSED RULES

2) An application is not considered complete until the background check has been completed and the independent cannabis testing laboratory has paid the registration fee.

3) The cannabis establishment agent registration card shall contain:

- a) the agent's full name;
- b) the name of the cannabis processing establishment; and
- c) a photograph of the agent.

4) An independent cannabis testing laboratory is responsible to ensure that each agent has received:

- a) the department approved training as specified in Section 4-41a-301; and
- b) any task-specific training as outlined in the operating plan submitted to the department.

5) An independent cannabis testing agent shall have a properly displayed identification badge which has been issued by the department while on the facility premises or while engaged in the transportation of cannabis.

6) Cannabis production establishment agents shall have their state-issued identification card in their possession to certify the information on their badge is correct.

7) An agent's identification badge shall be returned to the department immediately upon termination of their employment with the independent cannabis testing laboratory.

R68-30-8. Transportation.

1) A printed transport manifest shall accompany every transport of cannabis.

2) The manifest shall contain the following information:

- a) the cannabis production establishment address and license number of the departure location;
- b) physical address and license number of the receiving location;
- c) strain name, quantities by weight, and unique identification numbers of each cannabis material to be transported;
- d) date and time of departure;
- e) estimated date and time of arrival; and
- f) name and signature of each agent accompanying the cannabis.

3) The transport manifest may not be voided or changed after departing from the original cannabis production establishment.

4) A copy of the transport manifest shall be given to the independent laboratory.

5) The receiving independent laboratory shall ensure that the cannabis material received is as described in the transport manifest and shall record the amounts received for each strain into the inventory control system.

6) The receiving independent laboratory shall document at the time of receipt any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.

7) During transport an independent cannabis testing laboratory agent shall ensure the cannabis is:

- a) shielded from the public view;
- b) secured; and
- c) temperature controlled if perishable.

8) An independent cannabis testing laboratory shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.

9) Only the registered agents of the independent cannabis testing laboratory may occupy a transporting vehicle.

R68-30-9. Cannabis Waste Disposal.

1) Solid and liquid wastes generated during cannabis testing shall be stored, managed, and disposed of in accordance with applicable state laws and regulations.

2) Waste water generated during cannabis testing shall be disposed of in compliance with applicable state laws and regulations.

3) Cannabis waste generated from the cannabis plant, trim, and leaves are not considered hazardous waste unless it has been treated or contaminated with a solvent, or pesticide.

4) Cannabis waste shall be rendered unusable ~~prior to~~ before leaving the independent cannabis testing laboratory.

5) Cannabis waste, which is not designated as hazardous, shall be rendered unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume or other methods approved by the department before implementation.

6) Materials used to grind and incorporate with cannabis fall into two categories:

- a) compostable; or
- b) non-compostable.

7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

- a) food waste;
- b) yard waste; or
- c) vegetable-based grease or oils.

8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

- a) paper waste;
- b) cardboard waste;
- c) plastic waste; or
- d) soil.

9) Cannabis waste includes:

- a) cannabis plant waste including roots, stalks, leaves, and stems;
- b) excess cannabis or cannabis products from any quality assurance testing;
- c) cannabis or cannabis products that fail to meet testing requirements; and
- d) cannabis or cannabis products subject to a recall.

R68-~~28~~30-10. Change in Operation Plans.

1) An independent cannabis testing laboratory shall submit a notice, on a form provided by the department, ~~prior to~~ before making any changes to:

- a) ownership or financial backing of the facility;
- b) the facility's name;
- c) a change in location;
- d) change in testing methods, equipment, remodeling, expansion, reduction or physical, non-cosmetic alteration of the lab; or
- e) change in written operating procedures.

2) An independent cannabis testing laboratory may not implement changes to the approved operation plan without department approval.

~~[The department shall respond to the request for changes within 15 business days.]~~

[4]3) The department shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.

[5]4) The department shall specify the reason for the denial of approval for a change to the operation plan.

R68-30-11. Renewals.

- 1) An independent cannabis testing laboratory shall submit a notice of intent to renew and the licensing fee to the department by their license expiration date.
- 2) If the licensing fee and intent to renew are not submitted on or before the expiration date, the licensee may not continue to operate.
- 3) The department shall renew a license unless renewal would lead to a violation of the applicable laws and rules of the state.

R68-30-12. Proficiency Testing.

- 1) The department shall establish a proficiency testing program for independent cannabis testing laboratories.
- 2) Each independent cannabis testing laboratory shall participate in the designated proficiency testing program with satisfactory performance as determined by the Department.

R68-30-13. Violation Categories.

- 1) Public Safety Violations: \$3,000- \$5,000 per violation. This category is for violations which present a direct threat to public health or safety including:
 - a) cannabis sold to an unlicensed source;
 - b) cannabis purchased from an unlicensed source;
 - c) refusal to allow inspection;
 - d) refusal to participate in proficiency testing;
 - e) failure to comply with testing requirements;
 - f) failure to report testing results;
 - g) unauthorized personnel on the premises;
 - h) permitting criminal conduct on the premises;
 - i) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments, that amounts to a public safety violation as described in this subsection.
- 2) Regulatory Violations: \$1,000-\$5,000 per violation. This category is for violations involving this rule and other applicable state rules including:
 - a) failure to maintain alarm and security systems;
 - b) failure to keep and maintain records;
 - c) failure to maintain traceability;
 - d) failure to follow transportation requirements;
 - e) failure to follow the waste and disposal requirements; or
 - f) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule that amounts to a regulatory violation as described in this subsection.
- 3) Licensing Violations: \$500- \$5,000 per violation. This category is for violations involving licensing requirements including:
 - a) an unauthorized change to the operating plan;
 - b) failure to notify the department of changes to the operating plan;
 - c) failure to notify the department of changes to financial or voting interests of greater than 2%;
 - d) failure to follow the operating plan as approved by the department;
 - e) engaging in or permitting a violation of this rule or Title 4, Chapter 41, Cannabis Production Establishments, that amounts to a licensing violation as described in this subsection; or
 - f) 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.

KEY: cannabis laboratory, cannabis testing
Date of Last Change: [~~November 30, 2021~~]2022

Authorizing, and Implemented or Interpreted Law: 4-41a-701(3); 4-41a-404(3); 4-41a-405(2)(b)(iv); 4-41a-103(5)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R70-560	Filing ID 54191

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
Travis Waller	801-982-2250	Twaller@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:
R70-560. Inspection and Regulation of Cottage Food Production Operations
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Clarifying language is needed in the rule to specifically allow a cottage food operator to wholesale products within intrastate commerce. This issue is not currently addressed in statute or rule.
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):
Language is added to Section R70-560-7 that allows a cottage food operation to sell products to food establishments within the as long as those establishments are registered under Rule R70-540 and a copy of the registration is kept on the premises.

Fiscal Information

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

A) State budget:

This change clarifies the rule language to ensure that wholesale sale of cottage food produced products to registered food establishments is explicitly allowed. There should be no change in the Department of Agriculture and Food's (Department) administration of the program and no fiscal impact to the state.

B) Local governments:

There should be no impact on local governments because they do not produce cottage food or regulate its production.

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

There should be no fiscal impact on small businesses because the change clarifies existing practice. Cottage food producers will be able to continue to sell their products on a wholesale basis.

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

There should be no fiscal impact on small businesses because the change clarifies existing practice. Cottage food producers will be able to continue to sell their products on a wholesale basis.

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 on non-small businesses because the change clarifies existing practice. Cottage food producers will be able to continue to sell their products on a wholesale basis.

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

The compliance costs for affected persons will not change. The fees charged by the Department under the cottage food 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 should not have a fiscal impact on business. 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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 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 4-5-9.5

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: 01/31/2022

10. This rule change MAY become effective on:	02/07/2022
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

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	12/10/2021
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R70. Agriculture and Food, Regulatory Services.**R70-560. Inspection and Regulation of Cottage Food Production Operations.****R70-560-1. Authority and Purpose.**

(1) Authority. Promulgated under authority of ~~[Title 4, Chapter 5, Section 9.5, Utah Code Annotated]~~ Section 4-5-109.5.

(2) Purpose. The ~~[D]department~~ shall adopt rules pursuant to Title 63G~~[-] Chapter 4~~, Utah Administrative Rulemaking Act, as necessary to protect public health and ensure a safe food supply.

~~[(3) Adopted and Referenced. The Utah Department of Agriculture and Food hereby adopts and references the applicable provisions of the Food Protection Rule, Utah Administrative Code Rule R70-530 issued by The Utah Department of Agriculture and Food, with specific exemptions as provided by Section 4-5-9.5, Utah Code Annotated.]~~

R70-560-2. Definitions.

The following definitions apply in the interpretation and application of this rule:

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

(2) "Food Processing Plant" does not include a Cottage Food Production Operation.

~~[(3) "Section 26A-1-114" means Title 26A, Chapter 1, Section 114, Utah Code Annotated.]~~

~~[(4) "Section 26-15a-102" means Title 26, Chapter 15a, Section 102, Utah Code Annotated.]~~

R70-560-3. Approval of Food.

(1) ~~[Prior to]~~ Before producing a food, the operator of a cottage food production operation shall:

(a) ~~[A]~~ at the discretion of the [D]department, provide written confirmation from a ~~[D]department~~ approved food laboratory or process authority, that the food is not potentially hazardous; and

(b) ~~[R]~~ receive approval from the [D]department to produce the food.

(2) A cottage food production operation may only sell ~~[D]department~~ approved foods to the public.

(3) If a cottage food production operation sells fruits and vegetables ~~[When food includes fruits or vegetables]~~ grown by the operator ~~[of a cottage food production operation,]~~ and the operator applies pesticides, the operator must ~~shall~~ have a current private pesticide applicator certification issued by the ~~[D]department~~ under Title 4, Chapter 14, Utah Pesticide Control Act ~~[Utah Code Annotated]~~.

R70-560-4. Production Requirements.

(1) A cottage food production operation shall:

(a) ~~[E]~~ ensure that each operator holds a valid food handler's permit;

(b) ~~[U]~~ use finished and cleanable surfaces;

(c) ~~[M]~~ maintain acceptable sanitary standards and practices;

(d) ~~[P]~~ provide separate storage from domestic storage, including refrigerated storage;

(e) ~~[P]~~ provide for annual water testing if not connected to a public water system; and

(f) ~~[K]~~ keep a sample of each food for 14 days ~~[The samples shall be labeled]~~ and label it with the production date and time.

(2) A cottage food production operation shall comply with Rule R70-530, except that it shall not be required to:

(a) ~~[H]~~ have commercial surfaces such as stainless steel counters or cabinets;

(b) ~~[H]~~ have a commercial grade sink, dishwasher, or oven;

(c) ~~[H]~~ have a separate kitchen; or

(d) ~~[S]~~ submit plans and specifications before construction or remodeling~~[-]~~.

(3) A cottage food production operation is prohibited from ~~[H]~~ each of the following:

(a) ~~[C]~~ conducting domestic activities in the kitchen when producing food;

(b) ~~[A]~~ allowing pets in the kitchen;

(c) ~~[A]~~ allowing free-roaming pets in the residence;

(d) ~~[W]~~ washing out or cleaning pet cages, pans and similar items in the kitchen; and

(e) ~~[A]~~ allowing entry of non-employees into the kitchen while producing food.

(4) ~~[A]~~ cottage food ~~must~~ shall be prepared by following the recipe used to prepare the food ~~[when it]~~ that was submitted for the approval testing required in Subsection R70-560-3(1). When a process authority has recommended or stipulated production processes or criteria for a food, these ~~must~~ shall be followed when the food is produced. The recipe and process authority recommendations and stipulations shall be available in the facility for review by the department.

R70-560-5. Inspections, Registration and Investigations.

(1) The ~~[D]~~ department shall inspect a cottage food production operation:

(a) ~~[Prior to]~~ Before issuing a registration for the cottage food production operation; and

(b) ~~[I]~~ if the ~~[D]~~ department has reason to believe the cottage food production operation is in violation of this rule ~~[chapter, or administrative rule, adopted pursuant to this section,]~~ or is operating in an unsanitary manner.

(2) A cottage food production operation ~~must~~ shall register with the ~~[D]~~ department as a food establishment pursuant to Rule R70-540 and pay the required fee.

(3) Notwithstanding ~~[the provisions of]~~ Rule R70-540, the ~~[D]~~ department shall issue a registration to an applicant for a cottage food production operation if the applicant:

(a) ~~[A]~~ applies for the registration;

(b) ~~[P]~~ passes the inspection required by Subsection R70-560-5(1);

(c) ~~[P]~~ pays the fee required by the department; and

(d) ~~[M]~~ meets the requirements of this section.

NOTICES OF PROPOSED RULES

(4) The registration issued under Rule R70-540 shall be displayed at the cottage food production operation. A copy of the registration shall be displayed at farmers markets, roadside stands, and other places at which the operator sells food from a fixed structure that is permanent or temporary and ~~which~~ that is owned, rented, or leased by the operator of the cottage food production operation.

R70-560-6. Cottage Food Labeling.

- (1) A cottage food production operation shall:
 - ~~(a) [P] properly label [all foods] each food~~ in accordance with state and federal law, including 21 CFR 1 - 199, Food and Drugs;
 - (2) Label information shall include:
 - (a) ~~[F]~~ the name specified by federal regulation or, in the absence ~~thereof~~, the name commonly used for that food or an adequately descriptive name;
 - (b) ~~[A]~~ a list of ingredients in descending order of predominance by weight, when the food is made from two or more ingredients;
 - (c) ~~[F]~~ the name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient;
 - (d) ~~[A]~~ an accurate declaration of the net quantity of contents;
 - (e) ~~[F]~~ the name and place of business of the cottage food production operation;
 - (f) ~~[F]~~ the telephone number of the cottage food production operation;
 - (g) ~~[N]~~ nutritional labeling unless the product qualifies for an exemption; and
 - (h) ~~[F]~~ the words "Home Produced" in bold and conspicuous 12[-]point type on the principal display panel.

R70-560-7. Food Distribution and Storage.

- (1) A cottage food production operation shall obtain food ~~Food shall be obtained~~ from sources that comply with the law.
- (2) The operator of a cottage food production operation shall ensure that [A] any ingredient used [in a cottage food production operation] ~~that is from a hermetically-sealed container [must have been]~~ is produced at a food processing plant that is regulated by the appropriate food regulatory agency with jurisdiction over the plant.
- (3) A food offered for sale by a cottage food production operation shall be safe, unadulterated, and honestly presented.
 - (a) The operator of a cottage food production operation shall ensure that [F] food [shall be] ~~offered for human consumption [in a way that]~~ does not mislead or misinform the consumer.
 - (b) A cottage food production operation may not use [F] food or color additives, colored over-wraps, or lights [may not be used] ~~to misrepresent the true appearance, color, or quality of [the] food.~~
 - (c) A cottage food production operation may not sell food that contains ~~Food may not contain~~ unapproved food additives, additives in unsafe amounts, or additives that exceed the amount necessary to achieve the needed effect.
 - (d) The operator of a cottage food production operation shall ensure that food is ~~Food shall be~~ protected from contamination, including contamination from chemical and pesticide hazards.
- (4) Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

(5) The operator of a cottage food production operation shall discard any [F] food that is unsafe, adulterated, or not honestly presented. ~~[shall be discarded.]~~

(6) Except for unprocessed raw agricultural products, a cottage food production operation shall not display or store foods ~~[shall not be displayed or stored]~~ on the ground.

(7) The operator of a cottage food production operation shall ensure that [F] ingredients [used in a cottage food shall be] ~~are~~ in good condition, unspoiled, and otherwise unadulterated. Ingredients cannot be used past the expiration date on the container if produced at a regulated food processing facility. Other ingredients may not be used if over ~~[9] nine~~ months old.

(8) A cottage food production operation may sell, or offer for sale, food for human consumption to a food establishment within the boundaries of Utah if that food has not been subject to intervening storage or transfer. A copy of the registration issued under Rule R70-540 shall be kept on the premises of the food establishment at which the operator sells, or offers for sale, food for human consumption.

R70-560-8. Regulatory Jurisdiction.

- (1) Notwithstanding ~~[the provisions of]~~ Section 26A-1-114, a local health department:
 - (a) ~~[D]~~ does not have jurisdiction to regulate the production of food at a cottage food production operation, operating in compliance with this ~~section~~ rule, as long as the products are not offered to the public for consumption on the premises; and
 - (b) ~~[D]~~ does have jurisdiction to investigate a cottage food production operation in any investigation into the cause of a food born illness outbreak.
- (2) A food service establishment as defined in Section 26-15a-102, may not use a product produced in a cottage food operation as an ingredient in any food that is prepared by the food establishment and offered by the food establishment to the public for consumption.

R70-560-9. Enforcement and Penalties.

A violation of any portion of this rule may result in civil or criminal action pursuant to Sections 4-2-12, 4-2-14 and 4-2-15 ~~[Utah Code Annotated]~~.

KEY: food safety, cottage foods, food establishment registration, inspections
Date of Last Change: ~~July 25, 2008~~ 2022
Notice of Continuation: January 12, 2017
Authorizing, and Implemented or Interpreted Law: 4-5-9.5

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R156-28	Filing ID 54215

Agency Information

1. Department:	Commerce	
Agency:	Occupational and Licensing	Professional
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	

Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Jana Johansen	801-530-6621	janajohansen@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R156-28. Veterinary Practice Act Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Formatting and other changes are made throughout this rule in accordance with Executive Order No. 2021-12 to clarify and update this rule to facilitate compliance and enforcement, and additional amendments are made in accordance with Executive Order No. 2021-1 to eliminate unnecessary regulation and reduce barriers to working, including updating the rule to accord with industry practices and making changes to the education requirement and continuing education requirements for certified veterinary technicians to bring them more in line with other licenses under this chapter.
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):
Nonsubstantive formatting changes are made throughout this rule for clarity and to facilitate compliance and enforcement; additionally, the following substantive amendments are proposed: In Section R156-28-302a, the proposed amendments remove a reference to the Division of Occupational and Professional Licensing Act that does not add substance to this rule. It also removes wording from this rule that is already defined in the Veterinary Practice Act. In Section R156-28-302b, the proposed amendments remove references to the Division of Occupational and Professional Licensing Act, the Utah Controlled Substances Act, and the Utah Controlled Substances Act Rule that do not add substance to this rule. In Section R156-28-302c, the proposed amendments remove a reference to the Division of Occupational and Professional Licensing Act that does not add substance to this rule and delete unnecessary provisions regarding registration and retake of the North American Veterinarian Licensing Examination (NAVLE) as this exam is not

administered by the Division of Occupational and Professional Licensing or the state of Utah.

In Section R156-28-304a, the proposed amendments add a one hour continuing education requirement on topics that improve diversity, equity, and inclusion in the veterinary workplace for clients, employees, and recruitment. Additionally, the proposed amendments reduce the time requirement for a licensee to maintain documentation sufficient to prove compliance with this section from a four-year period to a two-year period.

In Section R156-28-304b, the proposed amendments bring the continuing education requirements for certified veterinary technicians in line with other licenses under this chapter.

In Section R156-28-309a, the proposed amendment removes a reference to the Division of Occupational and Professional Licensing Act that does not add substance to this rule. Additionally, it adds the category of "veterinary nurse" to the allowed training programs and rolls the specific training topics into one general category of training to be more in line with current industry standards and improve access to licensure.

In Section R156-28-309b, the proposed amendment removes this section in its entirety as the requirements are already outlined in the Veterinary Practice Act, and the Veterinary Technician Exam (VTNE) is owned by AAVSB, which oversees its administration and development and sets the passing score.

A rule hearing will be held electronically before the Division via Google Meet. Join with Google Meet: meet.google.com/rkn-xqqr-hey; or join by phone: (US) +1 929-266-1700 (PIN: 623674136)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
No state agencies will be directly or indirectly affected by this filing because the proposed amendments merely update and clarify provisions and conform this rule to statutory changes.
B) Local governments:
No local governments will be directly or indirectly affected by this filing because the proposed amendments merely update and clarify provisions and conform this rule to statutory changes.
C) Small businesses ("small business" means a business employing 1-49 persons):
There are approximately 238 small businesses in Utah performing veterinary services (North American Industry Classification System (NAICS) 541940). No small

businesses are expected to be impacted by this filing because the proposed amendments merely update and clarify provisions and conform this rule to statutory changes and current industry standards.

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

There are approximately eight non-small businesses in Utah performing veterinary services (NAICS 541940). No non-small businesses are expected to be impacted by this filing because the proposed amendments merely update and clarify provisions and conform this rule to statutory changes and current industry standards.

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**):

In Utah, there are 1,037 licensed veterinarians, 25 licensed veterinary interns, and 95 state certified veterinary technicians. The Division of Occupational and Professional Licensing (Division) averages 120 new applications for licensure per year. The proposed amendments are expected to benefit some of these qualified applicants for licensure under this chapter by facilitating their ability to become licensed to practice in Utah. However, the full fiscal and non-fiscal impacts on such persons cannot be estimated because the data necessary to determine how many such persons will seek licensure is unavailable, and because the benefits that each new Utah licensee may experience from any resulting increased ability to become employed will vary widely depending on the individual characteristics of each individual and employer requirements. The remainder of these proposed amendments are expected to have no measurable impact on other persons as they merely streamline and update the rule in accordance with Executive Order No. 2021-12 and conform this rule to statutory changes.

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

The Division does not anticipate any compliance costs for affected persons from these proposed amendments because the proposed amendments will result in a benefit to affected persons and will have no measurable cost impact as they merely streamline and update this rule in accordance with Executive Order No. 2021-12 and conform this rule to statutory changes.

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 Division proposes amendments to update Rule R156-28, the Veterinary Practice Act Rule. The Division has made formatting changes throughout this rule to conform this rule to the Administrative Rules' Rulewriting Manual in

accordance with Executive Orders No. 2021-1 and 2021-12. The amendments are meant to eliminate unnecessary regulation and reduce barriers to working in the veterinary field, updating the rule with industry practices, and making changes to the education requirement and continuing education requirement for certified veterinary technicians.

Small Businesses (less than 50 employees): The Division does not foresee any foreseeable impact on small businesses since these amendments are to make the rule comport to the Administrative Rules Rulewriting Manual. There are approximately 238 small businesses in Utah performing veterinary services (NAICS 541940). There are no substantial changes to the rule beyond clarification to language.

Regulatory Impact to Non-small Businesses (50 or more employees): There are approximately eight non-small businesses in Utah performing veterinary services (NAICS 541940). These amendments will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses. These costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

Margaret W. Busse, 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:
 The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

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 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	Section 58-28-101
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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:	01/31/2022	
B) A public hearing (optional) will be held:		
On:	At:	At:
01/20/2022	9:00 AM	Rule hearing will be conducted before the Division electronically only via Google Meet (see information in Box 4 above)

10. This rule change MAY become effective on:	02/07/2022
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

Agency head or designee, and title:	Mark B. Steinagel, Division Director	Date:	12/14/2021
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R156. Commerce, Occupational and Professional Licensing. R156-28. Veterinary Practice Act Rule. R156-28-101. Title.

This rule is known as the "Veterinary Practice Act Rule."^[7]

R156-28-102. Definitions.

~~[In addition to the definitions regarding veterinary practices in Title 58, Chapters 1 and 28, as used in Title 58, Chapters 1 and 28, the following rule definitions supplement the statutory definitions]~~The following definitions supplement the definitions in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and Title 58, Chapter 28, Veterinary Practice Act:

(1) "In association with licensed veterinarians," as used in Subsection 58-28-307(6), means an out of state licensed veterinarian who performs veterinarian services in this state at the request of a Utah licensed veterinarian regarding a specific client or patient, and the services provided by the out of state licensed veterinarian are limited to that specific request.

(2) "NBEC" means the National Board Examination Committee of the American Veterinary Medical Association.

(3) "Patient" means any animal receiving veterinarian services.

(4) "Practice of veterinary medicine, surgery, and dentistry" as defined in Subsection 58-28-102(11) does not include implanting an electronic device to establish and maintain positive identification of animals.

(5) "Unprofessional conduct" as defined in Title 58, ~~[Chapters 1 and 28]~~Chapter 1, Division of Occupational and Professional Licensing Act, and Title 58, Chapter 28, Veterinary Practice Act, is further defined in accordance with Subsection 58-1-203(1)(e) in Section R156-28-502.

(6) "Working under," as used in Subsection 58-28-102(17), means:

(a) unlicensed assistive personnel perform the delegated tasks in Utah, while supervised by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act;

(b) the manner and means of performance of the delegated tasks are subject to the right of control of, or are controlled by, the supervising veterinarian; and

(c) the delegated tasks are recorded in the supervising veterinarian's medical records.

R156-28-103. Authority - Purpose.

This rule is adopted by the ~~[d]~~Division under the authority of Subsection 58-1-106(1)(a) to enable the ~~[d]~~Division to administer Title 58, Chapter 28 Veterinary Practice Act.

R156-28-302a. Qualifications for Licensure - Education Requirements.

~~[In accordance with Subsections 58-1-203(1) and 58-1-301(3), the education requirements for licensure in Subsection 58-28-302 are defined, clarified, or established as follows:~~

~~(1) Each applicant for licensure as a veterinarian shall:~~

~~(a) submit an official transcript demonstrating that the applicant graduated from a veterinary college accredited by the Council on Education of the American Veterinary Medical Association (AVMA) at the time of the applicant's graduation; or~~

~~(b) if the applicant received a veterinary degree in a foreign country, demonstrate that the applicant's foreign education is equivalent to the requirements of Subsection R156-28-302a(1)(a) by submitting a Certificate of Competence issued by:~~

~~(i) the AVMA Educational Commission for Foreign Veterinary Graduates (ECFVG) or~~

~~(ii) the American Association of Veterinary State Boards (AAVSB) Program for Assessment of Veterinary Education Equivalence (PAVE).~~

~~(2)(a) Each applicant for licensure as a veterinarian intern shall demonstrate that the applicant has met the education requirements described in Subsection R156-28-302a(1).~~

~~(b) If the]Under Subsection 58-28-302(2)(a), if an applicant for licensure as a veterinary intern has graduated, but the educational institution has not yet posted the degree on the official transcript, the applicant may submit the official transcript together with a [notarized] letter from the dean or registrar of the educational institution, that certifies that the applicant has obtained the degree but it is not yet posted to the official transcript.~~

R156-28-302b. Qualifications for Licensure - Experience Requirements.

~~[In accordance with]Under Subsection[s] 58-1-203(1)[and 58-1-301(3)], the experience requirements for licensure in Subsection 58-28-302(1) are defined, clarified, or established as follows[-];~~

(1)(a) Each applicant for licensure as a veterinarian shall complete 1,000 hours of experience while licensed as a veterinarian intern under the supervision of a licensed veterinarian.

(b) Experience shall be earned in not less than six months and completed within two years of the date of the application.

(c) Experience in the following settings may not fulfill this experience requirement:

(i) temporary employment experiences of less than eight weeks in duration;

(ii) part-time experience of fewer than 20 hours per week;

or
(iii) experience completed while employed as unlicensed assistive personnel.

~~[(e)d] If the experience is completed in a jurisdiction outside of Utah that does not issue veterinarian, veterinarian intern, or comparable licenses, or completed in a setting that does not require licensure, the applicant shall demonstrate that the experience was:~~

~~(i) lawfully obtained;~~

~~(ii) obtained after the applicant met the education requirement [described] in [Section R156-28-302a]Subsection 58-28-302(1)(b);~~

~~(iii) supervised by a licensed veterinarian, or by a person who was exempted from licensure but possessed substantially equivalent qualifications; and~~

~~(iv) comparable to experience that would be obtained in a standard veterinarian practice setting in Utah.~~

~~[(d)e] Supervision may be obtained by "indirect supervision" as defined in Section 58-28-102, if the supervisor supplements the indirect supervision with routine face to face contact as the supervisor considers appropriate in the supervisor's professional judgment.~~

~~[(e)f] Each applicant shall demonstrate completion of the experience required by submitting a verification of experience signed by the applicant and by the applicant's supervisor on forms approved by the Division.~~

~~[(f)g] If a supervisor is unavailable or refuses to provide a verification of experience, the applicant shall:~~

~~(i) submit a complete explanation of why the supervisor is unavailable; and~~

~~(ii) submit verification of the experience by alternative means acceptable to the [b]Board, which shall demonstrate that the experience was:~~

~~(A) profession-related work;~~

~~(B) competently performed; and~~

(C) sufficient accumulated experience for the applicant to be granted a license without jeopardy to the public health, safety, or welfare.

(2) ~~[In accordance with]Under Subsection[s] 58-37-6(1)(a), [58-37-6(5)(b)(i) and R156-37-305(1),] a veterinary intern is not eligible to obtain a controlled substance license during the internship.~~

R156-28-302c. Qualifications for Licensure - Examination Requirements.

~~[In accordance with]Under Subsection[s] 58-1-203(1)[and 58-1-301(3)], the examination requirements for licensure in Subsection 58-28-302(1)(a) are defined, clarified, or established as follows:~~

(1) Applicants who passed examinations ~~[prior to]before~~ May 1, 2000, shall submit documentation showing they passed:

(a) the National Board Examination (NBE) of the National Board Examination Committee (NBEC) of the American Veterinary Medical Association (AVMA), with a minimum passing score as determined by the NBEC; and

(b) the Clinical Competency Test (CCT) of the NBEC with a minimum passing score as determined by the NBEC.

(2) Applicants who passed examinations after May 1, 2000, shall submit documentation showing they passed the North American Veterinarian Licensing Examination (NAVLE) with a score as determined by the NBEC.[-]

~~(3) To be eligible to sit for the NAVLE, an applicant shall submit the following to the International Council for Veterinary Assessment (ICVA), in the manner directed by the ICVA:~~

~~(a) an application for approval to sit for the NAVLE;~~

~~(b) the application fee; and~~

~~(c) documentation showing the applicant:~~

~~(i) has graduated from, or is enrolled in, a school or college of veterinary medicine accredited by the Council on Education of the American Veterinary Medical Association (AVMA); or~~

~~(ii) holds a certificate issued by, or is enrolled in and has completed the Step 3 examination requirement for, one of the following programs:~~

~~(A) the Educational Commission for Foreign Veterinary Graduates (ECFVG); or~~

~~(B) the Program for the Assessment of Veterinary Education Equivalence (PAVE);~~

~~(4) An applicant who has not graduated from veterinary school at the time of application shall have an expected graduation date no later than ten months from the last date of the applicable testing window.~~

~~(5) The following conditions apply to retaking the NAVLE exam:~~

~~(a) an applicant may not sit for the NAVLE more than five times;~~

~~(b) an applicant may not sit for the NAVLE at a date that is later than five years after the applicant's initial attempt; and~~

~~(c) each of the applicant's final two attempts shall be at least one year from the previous attempt.]~~

R156-28-303. Renewal Cycle - Procedures.

(1) ~~[In accordance with]Under Subsection 58-1-308(1)[-] and Sections 58-28-[302,]305 and 58-28-310, the renewal date for the two-year renewal cycle [applicable to]for licenses or state certifications under Title 58, Chapter 28, Veterinary Practice Act is established [by rule] in [Section]Subsection R156-1-308a(1).~~

(2) Renewal procedures shall be in accordance with Sections R156-1-308b through R156-1-308l.

(3) Applicants for renewal shall meet the continuing education requirements ~~[specified]~~ in Section R156-28-304a or Section R156-28-304b, as applicable.

R156-28-304a. Continuing Education - Veterinarian.

~~[In accordance with]~~ Under Section 58-28-306, there is created a continuing education requirement as a condition for renewal or reinstatement of licenses issued under Title 58, Chapter 28, Veterinary Practice Act. Continuing education shall comply with the following criteria:

(1)(a) During each two-year period commencing on September 30 of each even-numbered year, a licensee shall complete at least 24 hours of qualified continuing education directly related to the licensee's professional practice.

(b) At least one hour of the 24 hours shall be specifically related to recognizing opioid use and dependency in office staff, clients, and co-workers.

~~(c)(i) At least one hour of the 24 hours shall be devoted to topics that improve diversity, equity, and inclusion in the veterinary workplace for clients, employees, and recruitment.~~

~~(ii) Topics may relate to race, ethnicity, religion, gender, gender identity, sexual orientation, and disability, and may include issues such as:~~

~~(A) unconscious bias;~~

~~(B) cross-cultural communication; and~~

~~(C) access and legal aspects of anti-discrimination.~~

(2) If a licensee is initially licensed during the two-year period, the licensee's required number of continuing education hours shall be decreased proportionately according to the date of licensure.

(3) Continuing education shall:

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

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

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

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

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

(4) The Division shall recognize continuing education as follows:

(a) unlimited hours for continuing education as a student or presenter, completed in blocks of time of not less than one hour in formally established classroom courses, seminars, lectures, wet labs, or specific veterinary conferences approved or sponsored by one or more of the following:

(i) the American Veterinary Medical Association;

(ii) the Utah Veterinary Medical Association;

(iii) the American Animal Hospital Association;

(iv) the American Association of Equine Practitioners;

(v) the American Association of Bovine Practitioners;

(vi) certifying boards recognized by the AVMA;

(vii) other state veterinary medical associations or state licensing boards; or

(viii) the Registry of Continuing Education (RACE) of the AASVB;

(b) up to five continuing education hours for being the primary author of an article published in a peer reviewed scientific journal, and up to two continuing education hours for being a secondary author;

(c) up to six continuing education hours in practice management courses; and

(d) if the course has no instructor or the instructor is not physically present, such as for internet, audio and visual recordings, broadcast seminars, mail or other correspondence courses, the course shall assure the licensee's participation and acquisition of the knowledge and skills intended by ~~[means of]~~ an examination.

(5) A licensee shall maintain documentation sufficient to prove compliance with this section for a period of ~~[four]~~ two years after the end of the two-year renewal cycle that the continuing education is due.

(6) A licensee who ~~[is unable to]~~ cannot complete the continuing education requirement for reasons such as a medical or related condition, humanitarian or ecclesiastical services, or extended presence in a geographical area where continuing education is not available, may be excused from the requirement for a period of up to three years ~~[as provided in]~~ under Section R156-1-308d.

R156-28-304b. Continuing Education - State Certified Veterinary Technician.

~~[In accordance with]~~ Under Section 58-28-310, there is created a continuing education requirement as a condition for renewal or reinstatement of a state certification issued under Title 58, Chapter 28, Veterinary Practice Act. Continuing education shall comply with the following criteria:

(1)(a) During each two-year period commencing on September 30 of each even-numbered year, a state certified veterinary technician shall complete at least 12 hours of qualified continuing education directly related to their professional practice.

(b) At least nine of the 12 continuing education hours shall be specific to medical practices.

(2) The Division shall ~~[only]~~ recognize continuing education ~~[approved by the American Association of Veterinary State Boards (AAVSB) Registry of Approved Continuing Education (RACE)]~~ as outlined in Subsection R156-28-304a(4).

R156-28-309a. Qualifications for State Certification - Education Requirements.

~~[In accordance with]~~ Under Subsection[s] 58-1-203(1) ~~[and 58-1-301(3)]~~, the education requirements in Subsection 58-28-309(2)(b) for state certification as a state certified veterinary technician are defined, clarified, or established as follows:

(1) Each applicant shall submit an official transcript demonstrating that the applicant graduated from a veterinary technician or veterinary nurse training program that was accredited, as of the date of the applicant's graduation by:

(a) the AVMA Committee on Veterinary Technician Education and activities (AVMA-CVTEA); or

(b) the Canadian Veterinary Medical Association (CVMA); or

(2) submit evidence, on forms approved by the Division, of at least 6,000 hours of paid on-the-job training by a licensed veterinarian, that included at minimum:

~~(a) large animal care;~~

~~(b) small animal care;~~

~~(c) exotic animal care;~~ general veterinary care;

~~(d)~~ lab skills;

NOTICES OF PROPOSED RULES

- ([e]c) x-ray experience;
- ([f]d) surgical experience; and
- ([g]e) dental experience.

- (ii) competently performed; and
- (iii) sufficient experience for the applicant to be granted state certification without jeopardy to the public health, safety, or welfare.

~~**R156-28-309b. Qualifications for State Certification – Examination Requirements.**~~

~~In accordance with Subsections 58-1-203(1) and 58-1-301(3), the examination requirements in Subsection 58-28-309(2)(e) for state certification as a state certified veterinary technician are defined, clarified, or established as follows:~~

~~(1) Each applicant shall submit evidence showing that the applicant passed the Veterinary Technician Exam (VTNE) of the American Association of Veterinary State Boards (AAVSB), with a minimum passing score as determined by the AAVSB.~~

~~(2) To be eligible to sit for the VTNE, an applicant shall:~~

~~(a) submit the following to the American Association of Veterinary State Boards (AAVSB), in the manner directed by the AAVSB:~~

- ~~(i) an application for approval to sit for the VTNE;~~
- ~~(ii) the application fee; and~~
- ~~(iii) final transcripts with graduation date and degree conferred; and~~

~~(b) if an applicant has failed the VTNE five or more times, the applicant shall also meet with the Board to request approval to sit for the VTNE.]~~

R156-28-309[e]b. Qualifications for State Certification - Experience Requirements.

~~[In accordance with]~~Under Subsections 58-1-203(1)[, 58-1-301(3),] and 58-28-309(2)(e), the experience [requirement criteria] required for state certification as a state certified veterinary technician [are]is as follows:

(1)(a) Each applicant shall have completed at least six continuous months of full time experience working in a veterinary clinic as a veterinary technician or as unlicensed assistive personnel, under the supervision of a veterinarian that has held an active license in good standing for at least two years; or

(b) if the experience is completed in a jurisdiction outside of Utah that does not issue veterinary technician certification or comparable licenses, or completed in a setting that does not require certification or licensure, the applicant shall demonstrate that the experience was:

- (i) lawfully obtained;
- (ii) obtained after the applicant met the education requirement described in Section R156-28-309a;
- (iii) supervised by a licensed veterinarian, or by a person who was exempted from licensure but possessed substantially equivalent qualifications; and
- (iv) comparable to veterinary technician experience that would be obtained in a standard veterinary practice setting in Utah.

(2) Each applicant shall demonstrate completion of the required experience by submitting a verification of experience signed by the applicant and by the applicant's supervisor on forms approved by the Division.

(3) If a supervisor is unavailable or refuses to provide a verification of experience, the applicant shall:

- (a) submit a complete explanation of why the supervisor is unavailable; and
- (b) submit verification of the experience by alternative means acceptable to the Board, which shall demonstrate that the experience was:
 - (i) profession-related work;

KEY: veterinary medicine, licensing, veterinarian

Date of Last Change: [October 23, 2020]2022

Notice of Continuation: June 22, 2021

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-28-101

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-419	Filing ID 54217

Agency Information

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

General Information

2. Rule or section catchline:
R277-419. Pupil Accounting
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being amended because the current version of this rule is effective for the 2021-22 school year only. The Board of Education needs to enact a version of this rule for the 2022-23 school year. This rule is also being amended due to recommendations from the Board's Audit Committee.
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 amendments include extending the effective date of this rule to include the 2022-23 school year; and amending

language related to the annual agreed upon procedures engagement (AUP) to discontinue the AUP beginning with the Fiscal Year 2022.

Fiscal Information

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

A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures. The amendments remove duplication in pupil accounting efforts.

B) Local governments:

This rule change is expected to create savings for local education agencies (LEAs). It eliminates a requirement to engage in an AUP and reduces requirements. Estimated savings for LEAs on external audit costs are 4% to 8%, depending on LEA size and external auditor. Dollar amount savings would be \$800 to \$4,000 per LEA. Additionally, LEAs will have a reduction in staff time dedicated to the AUP reporting process.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This rule change only affects LEAs and USBE.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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 is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This rule change only affects LEAs and USBE.

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. LEAs and USBE will incur no new costs due to this rule 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):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. In addition, this rule change is not expected to have direct fiscal impact on small businesses. Sydnee Dickson, Superintendent

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

B) Department head approval of regulatory impact analysis:

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

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:

Article X, Section 3	Subsection 53E-3-501(1)	Subsection 53F-2-501(3)
Subsection 53E-3-401(4)		

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: 01/31/2022

10. This rule change MAY become effective on: 02/07/2022

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

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	12/15/2021
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R277. Education, Administration.

R277-419. Pupil Accounting.

R277-419-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
 - (c) Subsection 53E-3-501(1)(e), which directs the Board to establish rules and standards regarding:
 - (i) cost-effectiveness;
 - (ii) school budget formats; and
 - (iii) financial, statistical, and student accounting requirements;
 - (d) Subsection 53E-3-602(2), which requires a local school board's auditing standards to include financial accounting and student accounting;

(e) Subsection 53E-3-301(3)(d), which requires the Superintendent to present to the Governor and the Legislature data on the funds allocated to LEAs;

(f) Section 53G-4-404, which requires annual financial reports from ~~all~~ school districts; and

(g) Subsection 53G-5-404(4), which requires charter schools to make the same annual reports required of other public schools.

(2) The purpose of this rule is to specify pupil accounting procedures used in apportioning and distributing state funds for education.

R277-419-2. Definitions.

(1) "Aggregate Membership" means the sum of all days in membership during a school year for eligible students enrolled in a public school.

(2) "Approved CTE course" means a course approved by the Board within the Career and Technical Education (CTE) Pathway areas of study.

(3) "Attendance validated program" means a program within an LEA that consists of eligible, enrolled public school students who physically attend school in a brick and mortar school.

(4) "Blended learning program" means a formal education program under the direction of an LEA in which a student learns through an integrated experience that is in part:

(a) through online learning, with ~~some~~ an element of student control over time, place, path, or pace; and

(b) in a supervised brick~~-~~ and ~~-~~ mortar school away from home.

(5) "Brick and mortar school" means a school where classes are conducted in a physical school building.

~~[(6) "Competency based learning program" means an education program that provides instruction through competency-based education as defined in Section 53F-5-501.]~~

~~[(7)(6) "Data Clearinghouse" means the electronic data collection system used by the Superintendent to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.]~~

~~[(8) "Early graduation student" means a student who has an early graduation student education plan as described in Section R277-703-4.]~~

~~[(9)(7) "Educational services" means providing learning opportunities and services designed to support a student to be prepared to succeed and lead by having the knowledge and skills to learn, engage civically, and lead meaningful lives, including by providing:~~

- (a) high quality instruction for each student;
- (b) personalized learning supports for each student; and
- (c) implementation of evidence-based student health and wellness practices.

~~[(10)(8) "Eligible student" means a student who satisfies the criteria for enrollment in an LEA, set forth in Section R277-419-7.]~~

~~[(11)(9) "Enrollment verification data" includes:~~

- (a) a student's birth certificate or other verification of age;
- (b) verification of immunization or exemption from immunization form;
- (c) proof of Utah public school residency;
- (d) family income verification; or
- (e) special education program information, including:
 - (i) an individualized education program;

(ii) a Section 504 accommodation plan; or
 (iii) an English learner plan.
 ([12]10)(a) "Home school" means the formal instruction of children in their homes instead of in an LEA.

(b) "Home school" does not include public school instruction provided in a home, including when:

(i) an online student receives instruction at home, but the student is enrolled in a public school that follows state Core Standards;

(ii) an online student is:

(A) subject to laws and rules governing state and federal mandated tests; and

(B) included in accountability measures; or

(iii) an online student receives instruction under the direction of a highly qualified, licensed teacher who is subject to the licensure requirements of R277-301 and fingerprint and background checks consistent with R277-214 and R277-309.

([13]11) "Home school course" means instruction:

(a) delivered in a home school environment where the curriculum and instruction methods, evaluation of student progress or mastery, and reporting, are provided or administered by the parent, guardian, custodian, or other group of individuals; and

(b) not supervised or directed by an LEA.

([14]12)(a) "Influenza pandemic" or "pandemic" means a global outbreak of serious illness in people.

(b) "Influenza pandemic" or "pandemic" may be caused by a strain of influenza that most people have no natural immunity to and that is easily spread from person to person.

([15]13) "ISI-1" means a student who receives 1 to 59 minutes of YIC related services during a typical school day.

([16]14) "ISI-2" means a student who receives 60 to 179 minutes of YIC related services during a typical school day.

([17]15) "Learner validated enrollment measurement" means a methodology used to establish a student's membership or enrollment status for purposes of generating membership days.

([18]16) "Learner validated program" means a program within an LEA that consists of eligible, enrolled public school students where the student receives instruction through:

(a) an online learning program;

(b) a blended learning program; or

(c) a personalized, competency[-]based learning program.

([19]17)(a) "Membership" means a public school student is on the current roll of a public school class or public school as of a given date.

(b) A student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official removal from the class or school due to the student having left the school.

(c) Removal from the roll does not mean that an LEA should delete the student's record, only that the student should no longer be counted in membership.

([20]18) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.

([21]19) "Online learning program" means a program:

(a) that is under the direction of an LEA; and

(b) in which students receive educational services primarily over the internet.

(20) "Personalized, Competency-based Learning Grants Program" means an education program that provides instruction through personalized, competency-based learning as defined in Section 53F-5-501.

([22]21) "Private school" means an educational institution that:

(a) is not an LEA;

(b) is owned or operated by a private person, firm, association, organization, or corporation; and

(c) is not subject to governance by the Board consistent with the Utah Constitution.

([23]22) "Program" means a course of instruction within a school that is designed to accomplish a predetermined curricular objective or set of objectives.

([24]23) "Qualifying school age" means:

(a) a person who is at least five years old and no more than 18 years old on or before September 1;

(b) with respect to special education, a person who is at least three years old and no more than 21 years old on or before July 1;

(c) with respect to YIC, a person who is at least five years old and no more than 21 years old on or before September 1.

([25]24) "Resource" means a student who receives 1 to 179 minutes of special education services during a typical school day consistent with the student's IEP provided for under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq., amended in 2004.

([26]25) "Retained senior" means a student beyond the general compulsory school age who is authorized at the discretion of an LEA to remain in enrollment as a high school senior in the year[{}s{}] after the student's cohort has graduated due to:

(a) sickness;

(b) hospitalization;

(c) pending court investigation or action; or

(d) other extenuating circumstances beyond the control of the student.

([27]26) "S1" means the record maintained by the Superintendent containing individual student demographic and school membership data in a Data Clearinghouse file.

([28]27) "S2" means the record maintained by the Superintendent containing individual student data related to participation in a special education program in a Data Clearinghouse file.

([29]28) "S3" means the record maintained by the Superintendent containing individual student data related to participation in a YIC program in a Data Clearinghouse file.

([30]29) "School" means an educational entity governed by an LEA that:

(a) is supported with public funds;

(b) includes enrolled or prospectively enrolled full-time students;

(c) employs licensed educators as instructors that provide instruction consistent with Section R277-301;

(d) has one or more assigned administrators;

(e) is accredited consistent with Section R277-410-3; and

(f) administers required statewide assessments to the school's students.

([31]30) "School day" means a day where an LEA provides educational services to students subject to the requirements described in Section R277-419-5.

([32]31) "School membership" means membership other than in a special education or YIC program in the context of the Data Clearinghouse.

([33]32) "School of enrollment" means:

NOTICES OF PROPOSED RULES

(a) a student's school of record; and

(b) the school that maintains the student's cumulative file, enrollment information, and transcript for purposes of high school graduation.

([34]33) "School reopening requirements template" means the template LEAs are required to submit to Superintendent as an assurance that the LEA has addressed state requirements for reopening schools for in person learning for the 2020-21 school year.

([35]34) "School year" means the 12 month period from July 1 through June 30.

([36]35) "Self-contained" means a public school student with an IEP or YIC, who receives 180 minutes or more of special education or YIC related services during a typical school day.

([37]36) "Self-Contained Resource Attendance Management (SCRAM)" means a record that tracks the aggregate membership of public school special education students for state funding purposes.

([38]37) "SSID" means Statewide Student Identifier.

([39]38) "Unexcused absence" means an absence charged to a student when:

(a) the student was not physically present at school at any of the times attendance checks were made in accordance with Subsection R277-419-11(5); and

(b) the student's absence could not be accounted for by evidence of a legitimate or valid excuse in accordance with local board policy on truancy as defined in Section 53G-6-201.

(39) "Weighted pupil unit" or "WPU" means the same as that term is defined in Section 53F-2-102.

([40]40) "Year end upload" means the Data Clearinghouse file due annually by July 15 from LEAs to the Superintendent for the prior school year.

([41]41) "Youth in custody or [(YIC)]" means a person under the age of 21 who is:

(a) in the custody of the Department of Human Services;

(b) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or

(c) being held in a juvenile detention facility.

R277-419-3. Incorporation by Reference of Continuity of Education Plan Form and School Reopening Requirements Template.

(1) This rule incorporates by reference:

(a) the Continuity of Education Plan form created by the Superintendent, which requires planning for services in the event of a school closure, including:

- (i) e-learning;
- (ii) special education services;
- (iii) student meals;
- (iv) event planning; and
- (v) staffing.

(b) the School Reopening Requirements Template created by the Superintendent and based on the K-12 School Reopening Requirements and Recommendations approved by the Board, which an LEA is required to submit to the Superintendent as an assurance that the LEA has addressed state requirements for safely reopening schools for the 2020-21 ~~school~~ year.

(2) A copy of the Continuity of Education Plan form is located at:

(a) <http://schools.utah.gov/administrativerules/documentsincorporated/File/56b38326-cb40-4e8e-bca2-e78437cd5897>; and

(b) the Utah State Board of Education.

(3) A copy of the School Reopening Requirements template is located at:

(a) <https://www.schools.utah.gov/file/37363ea4-65fe-4c4e-9064-665f2ba4890c>; and

(b) the Utah State Board of Education.

R277-419-4. Schools and Programs.

(1)(a) The Superintendent shall provide a list to each school detailing the required accountability reports and other state-mandated reports for the school type and grade range.

(b) A[~~H~~] school[s] shall submit a Clearinghouse report to the Superintendent.

(c) A[~~H~~] school[s] shall employ at least one licensed educator and one administrator.

(2)(a) A student who is enrolled in a program is considered a member of a public school.

(b) The Superintendent may not require programs to receive separate accountability and other state-mandated reports.

(c) A student reported under an LEA's program shall be included in the LEA's WPU and student enrollment calculations of the LEA's school of enrollment.

(d) A course taught at a program shall be credited to the appropriate school of enrollment.

(3) A private school or program may not be required to submit data to the Superintendent.

(4) A private school or program may not receive annual accountability reports.

R277-419-5. Minimum School Days.

(1)(a) Except as provided in Subsection (1)(b), Section R277-419-6, and Subsection 53F-2-102(4), an LEA shall provide educational services over a minimum of 180 school days each school year.

(b) an LEA may seek an exception to the number of school days described in Subsection (1)(a):

(i) except as provided in Subsection (1)(b)(ii), for a whole school or LEA as described in R277-121;

(ii) for a school closure due to snow, inclement weather, or other emergency as described in Section R277-121-5; or

(iii) for an individual student as described in Section R277-419-14.

(2) An LEA may offer the required school days described in Subsection (1)(a) at any time during the school year, consistent with the law.

(3) An LEA shall plan for emergency, activity, and weather-related exigency time in its annual calendaring.

(4) Minimum standards apply to ~~a~~ public school[s] in all settings unless Utah law or this rule provides for a specific exception.

(5) An LEA's governing board shall provide adequate contingency school days in the LEA's yearly calendar to avoid the necessity of requesting a waiver except in the most extreme circumstances.

(6)(a) A school may conduct parent-teacher and student Plan for College and Career Readiness conferences during the school day.

(b) Parent-teacher and college and career readiness conferences may only be held for a total of the equivalent of three full school days for the school year.

(c) Student membership for professional development or parent-teacher conference days shall be counted as that of the previous school day.

(d) An LEA may designate no more than a total of 12 educational service days at the beginning of the school year, at the end of the school year, or both for the assessment of students entering or completing kindergarten.

(e) If educational service days are designated for kindergarten assessment:

(i) an LEA shall designate the days in an open meeting;

(ii) an LEA shall provide adequate notice and explanation to kindergarten parents well in advance of the assessment period;

(iii) qualified school employees shall conduct the assessment consistent with Section 53G-7-205; and

(iv) assessment time per student shall be adequate to justify the forfeited instruction time.

(f) The final decision and approval regarding planning time, parent-teacher and ~~[SEP]~~ Student Plan for College and Career Readiness conferences rests with an LEA, consistent with Utah Code and Board administrative rules.

(g) Total instructional time and school calendars shall be approved by an LEA in an open meeting.

R277-419-6. Waiver of the 990 Hour Requirement For the 2020-21 School Year.

Notwithstanding the requirements of Section R277-419-5, for the 2020-21 school year, an LEA is not subject to the requirement to conduct school for at least 990 hours of educational services if, by August 1, 2020, the LEA includes in the LEA's reopening requirements template, how the LEA will ensure continuity of teaching and learning by providing high quality instruction that includes blended learning and formative assessment strategies.

R277-419-7. Student Membership Eligibility and Learner Validated Enrollment Measurements.

(1) A student may enroll in two or more LEAs at the discretion of the LEAs.

(2) A kindergarten student may only enroll in one LEA at a time.

(3) ~~[In order to]~~ To generate membership for funding through the Minimum School Program on any school day, an LEA shall ensure that a student being counted by the LEA in membership:

(a) has not previously earned a basic high school diploma or certificate of completion;

(b) has not been enrolled in a YIC program with a YIC time code other than ISI-1 or ISI-2;

(c) does not have unexcused absences, which are determined using one of the learner validated enrollment measurements described in Subsection (4);

(d) is a resident of Utah as defined under Section 53G-6-302;

(e) is of qualifying school age or is a retained senior;

(f)(i) is expected to attend a regular learning facility operated or recognized by an LEA on each regularly scheduled school day, if enrolled in an attendance validated program;

(ii) has direct instructional contact with a licensed educator provided by an LEA at:

(A) an LEA-sponsored center for tutorial assistance; or

(B) the student's place of residence or convalescence for at least 120 minutes each week during an expected period of absence, if physically excused from such a facility for an extended ~~[period of]~~ time, due to:

(I) injury;

(II) illness;

(III) surgery;

(IV) suspension;

(V) pregnancy;

(VI) pending court investigation or action; or

(VII) an LEA determination that home instruction is necessary;

(iii) is enrolled in an approved CTE course~~[(s)]~~ on the campus of another state funded institution where such a course is:

(A) not offered at the student's school of membership;

(B) being used to meet Board-approved CTE graduation requirements under Subsection R277-700-6(1[4]6); and

(C) a course consistent with the student's ~~[SEOP]~~ Plan for College and Career Readiness; or

(iv) is enrolled in a learner validated program under the direction of an LEA that:

(A) is consistent with the student's ~~[SEOP]~~ Plan for College and Career Readiness;

(B) has been approved by the student's counselor; and

(C) includes regular instruction or facilitation by a designated employee of an LEA.

(4) An LEA shall use one of the following learner validated enrollment measures:

(a) For a student primarily enrolled in an attendance validated program, the LEA may not count a student as an eligible student if the eligible student has unexcused absences during ~~[all of]~~ the prior ten consecutive school days.

(b) For a student enrolled in a learner validated program, an LEA shall:

(i) adopt a written policy that designates a learner validated enrollment measurement to document the learner validated membership or enrollment status for each student enrolled in the learner validated program consistent with ~~[Subsection (3)(e)]~~ this Section;

(ii) document each student's continued enrollment status in compliance with the learner validated enrollment policy at least once every ten consecutive school days; and

(iii) appropriately adjust and update student membership records in the student information system for students that did not meet the learner validated enrollment measurement, consistent with ~~[Subsection (3)(e)]~~ this Section.

(c) For a student enrolled in a learner validated program, the LEA may not count a student as an eligible student if the LEA has not personally engaged with the student during the prior ten consecutive school days.

(5) The learner validated enrollment measurement described in Subsection (4)(b) may include ~~[some or all of]~~ the following components, in addition to other components, as determined by an LEA:

(a) a minimum student login or teacher contact requirement;

(b) required periodic contact with a licensed educator;

(c) a minimum hourly requirement, per day or week, when students are engaged in course work; or

(d) required timelines for a student to provide or demonstrate completed assignments, coursework or progress toward academic goals.

NOTICES OF PROPOSED RULES

(6)(a) Beginning with the 2021-22 school year, an LEA shall submit each student's attendance validated or learner validated enrollment status through the UTREx[~~/~~or Data Clearinghouse.

(b) For a student who participates in both attendance validated, and learner validated programs, the LEA shall designate the student's status as learner validated enrollment.

(7)(a) An LEA desiring to generate membership for student enrollment in courses outlined in Subsection (3)(f)(iii), or to seek a waiver from a requirement[~~(s)~~] in Subsection (3)(f)(iii), shall submit an application for course approval by April 1 of the year prior to which the membership will be counted.

(b) An LEA shall be notified within 30 days of the application deadline if courses have been approved.

R277-419-8. Student Membership Calculations.

(1)(a) Except as provided in Subsection (1)(b) or (1)(c), a student enrolled in only one LEA during a school year is eligible for no more than 180 days of regular membership per school year.

(b) An early graduation student may be counted for more than 180 days of regular membership in accordance with the student's early graduation student education plan.

(c) A student transferring within an LEA to or from a year-round school is eligible for no more than 205 days of regular membership per school year.

(2)(a) Except as provided in Subsection (2)(b), (2)(c), or (2)(d), a student enrolled in two or more LEAs during a school year is eligible for no more than 180 days of regular membership per school year.

(b) A student transferring to or from an LEA with a schedule approved under Subsection R277-419-5(1)(b) is eligible for no more than 220 days of regular membership per school year.

(c) A student transferring to or from an LEA where the student attended or will attend a year-round school is eligible for no more than 205 days of regular membership per school year.

(d) If the exceptions in Subsections (2)(b) and (2)(c) do not apply but a student transfers from one LEA to another at least one time during the school year, the student is eligible for regular membership in an amount not to exceed the sum of:

(i) 170 days; plus

(ii) 10 days multiplied by the number of LEAs the student attended during the school year.

(3) If a student is enrolled in two or more LEAs during a school year and the aggregate regular membership generated for the student between ~~all~~the LEAs exceeds the amount allowed under Subsection (2), the Superintendent shall apportion the days of regular membership allowed between the LEAs.

(4) If a student was enrolled for only part of the school day or only part of the school year, an LEA shall prorate the student's membership according to the number of hours, periods or credits for which the student actually was enrolled in relation to the number of hours, periods or credits for which a full-time student normally would have been enrolled, for example:

(a) if the student was enrolled for ~~4~~four periods each day in a ~~7~~seven period school day for ~~all~~180 school days, the student's aggregate membership would be 4/7 of 180 days or 103 days; or

(b) if the student was enrolled for ~~7~~seven periods each day in a ~~7~~seven period school day for 103 school days, the student's membership would also be 103 days.

(5)(a) An LEA shall calculate the days in membership for all students using a method equivalent to the following: total clock hours of educational services for which the student was enrolled

during the school year divided by 990 hours and then multiplied by 180 days and finally rounded up to the nearest whole day.

(b) For example, if a student was enrolled for only 900 hours during the school year, the student's aggregate membership would be (900/990)*180, and the LEA would report 164 days.

(6) The sum of regular plus self-contained special education and self-contained YIC membership days may not exceed 180 days.

(7) The sum of regular and resource special education membership days may not exceed 360 days.

(8) The sum of regular, ISI-1 and ISI-2 YIC membership days may not exceed 360 days.

(9) An LEA may also count a student in membership for the equivalent in hours of up to:

(a) one period each school day, if the student has been:

(i) released by the school, upon a parent or guardian's request, during the school day for religious instruction or individual learning activity consistent with the student's SEOP/Plan for College and Career Readiness; or

(ii) participating in one or more ~~extra~~co-curricular activities under Rule R277-438, but has otherwise been exempted from school attendance under Section 53G-6-204 for home schooling;

(b) two periods each school day per student for time spent in bus travel during the regular school day to and from another state ~~[-]~~funded institution, if the student is enrolled in CTE instruction consistent with the student's SEOP/Plan for College and Career Readiness;

(c) all periods each school day, if the student is enrolled in:

(i) a concurrent enrollment program that satisfies ~~all~~the ~~criteria of Rule R277-713~~provisions of Title 53E, Chapter 10, Part 3, Concurrent Enrollment;

(ii) a private school without religious affiliation under a contract initiated by an LEA to provide special education services which directs that the instruction be paid by public funds if the contract with the private school is approved by an LEA board in an open meeting;

(iii) a foreign exchange student program under Subsection 53G-6-707~~(7)~~; or

(iv) a school operated by an LEA under a Utah Schools for the Deaf and the Blind IEP provided that:

(A) the student may only be counted in S1 membership and may not have an S2 record; and

(B) the S2 record for the student is submitted by the Utah Schools for the Deaf and the Blind.

(10)(a) Except as provided in Subsection (10)(b), a student receiving instruction delivered in a home school course or by a private school is not eligible to be claimed in an LEA's membership and does not qualify for funding under the Minimum School Program in Title 53F, Chapter 2, Minimum School Program Act.

(b) Subsection (10)(a) does not apply to public school instruction provided by an LEA to a home school or private school student participating in dual enrollment as described in Section 53G-6-702.

R277-419-9. Student Membership Calculation During the 2020 Covid-19 Pandemic.

Notwithstanding the requirements of Sections R277-419-7 and R277-419-8, the Superintendent shall calculate an LEA's membership for days of instruction from March 16, 2020 to June 30, 2020, based on the LEA's average rate of membership between July 1, 2019 and March 13, 2020 if:

- (1) the LEA has submitted a continuity of education plan on or before June 1, 2020; and
- (2) the LEA provides educational services through the end of the LEA's regular school year calendar.

R277-419-10. Calculations for a First Year Charter School.

- (1) For the first operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on October 1 counts.
- (2) For the second operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on Section 53F-2-302.

R277-419-11. Reporting Requirements, and LEA Records, and Agreed Upon Procedures Engagements.

(1) An LEA shall report aggregate membership for each student via the School Membership field in the S1 record and special education membership in the SCRAM Membership field in the S2 record and YIC membership in the S3 record of the Year End upload of the Data Clearinghouse file.

(2) In the Data Clearinghouse, aggregate membership is calculated in days of membership.

(3) To determine student membership, an LEA shall ensure that records of daily student attendance or student engagement are maintained in each school which clearly and accurately show for each student the:

- (a) entry date;
- (b) exit date;
- (c) exit or high school completion status;
- (d) whether or not an absence was excused;
- (e) disability status, [resource or self-contained, if applicable]; and
- (f) YIC status, [ISI-1, ISI-2 or self-contained, if applicable].

(4) An LEA shall ensure that:

(a) computerized or manually produced records for CTE programs are kept by teacher, class, and classification of instructional program Classification of instructional program or [CIP] code; and

(b) the records described in Subsection (4)(a) clearly and accurately show for each student in a CTE class the:

- (i) entry date;
- (ii) exit date; and
- (iii) excused or unexcused status of absence.

(5) An LEA shall ensure that each school within the LEA completes a minimum of one attendance check each school day.

(6) Due to school activities requiring schedule and program modification during the first days and last days of the school year:

(a) for the first five school days, an LEA may report aggregate days of membership equal to the number recorded for the second five-day period of the school year;

(b) for the last five-day period, an LEA may report aggregate days of membership equal to the number recorded for the immediately preceding five-day period; and

(c) schools shall continue educational service activities throughout required calendared days.

~~(7) An LEA shall employ an independent auditor, under contract, to:~~

- ~~(a) perform an annual agreed upon procedures engagement; and~~
- ~~(b) report any findings of the engagement to:~~

- ~~(i) the LEA board; and~~
- ~~(ii) the Financial Operations Section of the Board.~~
- ~~(8) Reporting dates, forms, and procedures are found in the Guide for Agreed Upon Procedures Engagements for Local Education Agencies, published by the Office of the State Auditor, in collaboration with the Superintendent.~~

~~(9) The Superintendent:~~

(a) shall review each LEA's student membership and fall enrollment reports as they relate to the allocation of state funds; and

(b) may periodically or for cause review LEA records and practices for compliance with Federal and State laws and this rule.

R277-419-12. High School Completion Status.

(1) An LEA shall account for the final status of [all] students who enter high school, [grades 9-12], whether they graduate or leave high school for other reasons, using the following decision rules to indicate the high school completion or exit status of each student who leaves the Utah public education system:

(a) graduates are students who earn a basic high school diploma by satisfying one of the options consistent with [Subsection] Rule R277-705[4(2)] or out-of-school youths of school age who complete adult education secondary diploma requirements consistent with R277-733;

(b) completers are students who have not satisfied Utah's requirements for graduation but who:

(i) are in membership in twelfth grade on the last day of the school year; and

(ii)(A) meet any additional criteria established by an LEA consistent with its authority under [Section] Rule R277-705[4];

(B) meet any criteria established for special education students under Utah State Board of Education Special Education Rules, Revised, June 2016, and available at: <http://www.schools.utah.gov/sars/Laws.aspx> and the Utah State Board of Education;

(C) meet any criteria established for special education students under Subsection R277-700-8(5); or

(D) pass a General Educational Development or [GED] test with a designated score;

(c) continuing students are students who:

(i) transfer to higher education, without first obtaining a diploma;

(ii) transfer to the Utah Center for Assistive Technology without first obtaining a diploma; or

(iii) age out of special education;

(d) dropouts are students who:

(i) leave school with no legitimate reason for departure or absence;

(ii) withdraw due to a situation so serious that educational services cannot be continued even under the conditions of Subsection R277-419-7(3)(f)(ii);

(iii) are expelled and do not re-enroll in another public education institution; or

(iv) transfer to adult education;

(e) an LEA shall exclude a student from the cohort calculation if the student:

(i) transfers out of state, out of the country, to a private school, or to home schooling;

(ii) is a U.S. citizen who enrolls in another country as a foreign exchange student;

(iii) is a non-U.S. citizen who enrolls in a Utah public school as a foreign exchange student under Section 53G-6-707 in

NOTICES OF PROPOSED RULES

which case the student shall be identified by resident status, [(J for those with a J-1 visa, F for all others)], not by an exit code;

(iv) dies; or

(v) beginning with the 2015-2016 school year, is attending an LEA that is not the student's school of enrollment.

(2)(a) An LEA shall report the high school completion status or exit code of each student to the Superintendent as specified in Data Clearinghouse documentation.

(b) High School completion status or exit codes for each student are due to the Superintendent by year end upload for review [related to the Agreed Upon Procedures Engagement].

(c) Except as provided in Subsection (2)(d), an LEA shall submit any further updates of completion status or exit codes by October 1 following the end of a student's graduating cohort pursuant to [Section]Rule R277-484[-3].

(d) An LEA with an alternative school year schedule where [all of]the students have an extended break in a season other than summer, shall submit the LEA's data by the next complete data submission update, following the LEA's extended break, as defined in [Section]Rule R277-484[-3].

(3)(a) The Superintendent shall report a graduation rate for each school, LEA, and the state.

(b) The Superintendent shall calculate the graduation rates in accordance with applicable federal law.

(c) The Superintendent shall include a student in a school's graduation rate if:

(i) the school was the last school the student attended before the student's expected graduation date; and

(ii) the student does not meet any exclusion rules as stated in Subsection (1)(e).

(d) The last school a student attended will be determined by the student's exit dates as reported to the Data Clearinghouse.

(e) A student's graduation status will be attributed to the school attended in the student's final cohort year.

(f) If a student attended two or more schools during the student's final cohort year, a tie-breaking logic to select the single school will be used in the following hierarchical order of sequence:

(i) school with an attached graduation status for the final cohort year;

(ii) school with the latest exit date;

(iii) school with the earliest entry date;

(iv) school with the highest total membership;

(v) school of choice;

(vi) school with highest attendance; or

(vii) school with highest cumulative GPA.

(g) The Superintendent shall report the four-year cohort rate on the annual state reports.

R277-419-13. Student Identification and Tracking.

(1)(a) Pursuant to Section 53E-4-308, an LEA shall:

(i) use the SSID system maintained by the Superintendent to assign every student enrolled in a program under the direction of the Board or in a program or a school that is supported by public school funding a unique student identifier; and

(ii) display the SSID on student transcripts exchanged with LEAs and Utah public institutions of higher education.

(b) The unique student identifier:

(i) shall be assigned to a student upon enrollment into a public school program or a public school-funded program;

(ii) may not be the student's social security number or contain any personally identifiable information about the student.

(2)(a) An LEA shall require all students to provide their legal first, middle, and last names at the time of registration to ensure that the correct SSID follows students who transfer among LEAs.

(b) A school shall transcribe the names from the student's birth certificate or other reliable proof of the student's identity and age, consistent with Section 53G-6-603;

(c) The direct transcription of student names from birth certificates or other reliable proof of student identity and age shall be the student's legal name for purposes of maintaining school records; and

(d) An LEA may modify the order of student names, provide for nicknames, or allow for different surnames, consistent with court documents or parent preferences, so long as legal names are maintained on student records and used in transmitting student information to the Superintendent.

(3) The Superintendent and LEAs shall track students and maintain data using students' legal names.

(4) If there is a compelling need to protect a student by using an alias, an LEA should exercise discretion in recording the name of the student.

(5) An LEA is responsible to verify the accuracy and validity of enrollment verification data, prior to enrolling students in the LEA, and provide students and their parents with notification of enrollment in a public school.

(6) An LEA shall ensure enrollment verification data is collected, transmitted, and stored consistent with sound data policies, established by the LEA as required in Rule R277-487.

R277-419-14. Exceptions.

(1)(a) An LEA may, at its discretion, make an exception for school attendance for a public school student, in the length of the school day or year, for a student with compelling circumstances.

(b) The time an excepted student is required to attend school shall be established by the student's IEP or Plan for College and Career Readiness.

(2) A school using a modified 45-day/15-day year[-]round schedule initiated prior to July 1, 1995 [shall be considered to be]is in compliance with this rule if the school's schedule includes a minimum of 990 hours of time the LEA will provide educational services over a minimum of 172 days.

R277-419-15. Effective Date.

This rule is effective for the 2021-22 and 2022-23 school years.

KEY: education finance, school enrollment, pupil accounting

Date of Last Change: 2022[June 15, 2021]

Notice of Continuation: August 19, 2021

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-102(7); 53E-3-501(1)(e); 53E-3-602(2); 53E-3-301(3)(d); 53G-4-404

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R277-427	Filing 54216	ID

Agency Information

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

General Information

2. Rule or section catchline:
R277-427. LEA Financial Information Systems
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Section 53E-3-518 requires the Utah State Board of Education (USBE) to make rules to implement new requirements for local education agencies (LEA) financial information systems, compatible with USBE requirements.
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 new rule establishes requirements for USBE procurement of financial information systems and establishes deadlines and suggestions for LEA implementation of the program.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have fiscal impact on state government revenues or expenditures outside funds already allocated for this purpose (\$4,000,000 one-time).
B) Local governments:
This rule change may have a fiscal impact on LEAs. LEAs with robust financial information systems already in place may have little to no fiscal impact. LEAs with outdated or incomplete systems may have a significant fiscal impact

which would be lessened by any funding provided as a grant by USBE.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This rule change only impacts LEAs.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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 is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This rule changes only impacts LEAs.

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 LEAs are not possible to estimate at this time. USBE intends to enter into cooperative contracts as stated in the amended rule. However, until LEA applications for funding are received and awarded in May 2022, there is no data available to estimate remaining need for LEAs.

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 are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. In addition, this rule change is not expected to have direct fiscal impact on small businesses. Sydnee Dickson, Superintendent

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

B) Department head approval of regulatory impact analysis:

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

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:

Article X, Section 3	Subsection 53E-3-401(4)	Section 53E-3-518
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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: 01/31/2022

10. This rule change MAY become effective on: 02/07/2022

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

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	12/15/2021
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R277. Education, Administration.

R277-427. LEA Financial Information Systems.

R277-427-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Section 53E-3-518, which directs the Board to make rules to implement a uniform LEA Financial Information System statewide.
- (2) The purpose of this rule is to establish:
 - (a) required LEA financial information system components;
 - (b) procurement requirements for LEA financial information systems; and
 - (c) grant procedures for funds to assist LEAs in acquiring LEA financial information systems.

R277-427-2. Definitions.

- (1) "LEA data system" has the same meaning as defined in Subsection 53E-3-518(1)(a).
- (2) "LEA Financial Information System" has the same meaning as defined in Subsection 53E-3-518(1)(b).

R277-427-3. LEA Responsibilities.

- (1) An LEA shall update LEA data systems and LEA financial information systems by July 1, 2023 in compliance with Subsection 53E-3-518(6)(a).
- (2) An LEA data system shall be interoperable with Board information management systems.

R277-427-4. Cooperative Contract and Grant.

- (1) By January 1, 2022, the Superintendent shall enter into a cooperative contract with multiple vendors capable of meeting the criteria of Section R277-427-3 for Utah LEAs.
- (2) The Superintendent shall include data in the following areas as part of a cooperative contract:

- (a) financial accounting;
 - (b) training and establishment of minimum modules within the financial system;
 - (c) standard forms and reporting;
 - (d) content or e-document management;
 - (e) advanced purchasing and procurement systems;
 - (f) purchasing cards;
 - (g) data warehouse systems;
 - (h) business intelligence;
 - (i) cloud hosting services;
 - (j) accounts receivable system;
 - (k) budget preparation system;
 - (l) applicant portal;
 - (m) bid system;
 - (n) bank and check reconciliation systems;
 - (o) fixed asset systems;
 - (p) campus, student, and pupil accounting;
 - (q) human resources system, with access to relevant and necessary human resources data; and
 - (r) Utah state reporting, interoperable with the state transparency system.
- (3) In addition to the requirements of Section R277-427-3, an LEA may incorporate the components identified in Subsection (2) as a best practice.
- (4) By February 1, 2022, the Superintendent shall prepare and make available to LEAs an application for grant funding or reimbursement in accordance with Section 53E-3-518.
- (5) The Superintendent shall notify applicants of funds eligibility by May 1, 2022.
- (6) The Superintendent shall disburse funds to applicants on a reimbursement basis taking into account:
- (a) the amount of funds available;
 - (b) the number of applicants; and
 - (c) the needs of the applicants in meeting the best practices identified in Subsection (2).
- (7) After July 1, 2023, the Superintendent may initiate corrective action against an LEA in accordance with Rule R277-114 if an LEA fails to implement the required data systems.

KEY: Financial Information System, procurement , grant procedures
Date of Last Change: 2022
Authorizing, and Implemented or Interpreted Law: Art X Sec 3: 53E-3-401

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-703	Filing ID 54218

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state and zip:	Salt Lake City, UT 84111

Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-703. Centennial Scholarship for Early Graduation
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being repealed because funding for the underlying program has been discontinued. It was repealed by the Legislature through H.B. 5012 passed in the 2020 Fifth Special Session.
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 is being repealed in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule is being repealed; no independent fiscal impact to the state budget. All fiscal impacts already accounted for in H.B. 5012 (2020 5th Spec Sess).
B) Local governments:
This rule is being repealed; no independent fiscal impact to local governments. All fiscal impacts already accounted for in H.B. 5012 (2020 5th Spec Sess).
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule is being repealed; no independent fiscal impact to small businesses. All fiscal impacts already accounted for in H.B. 5012 (2020 5th Spec Sess).
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule is being repealed; no independent fiscal impact to non-small businesses. All fiscal impacts already accounted for in H.B. 5012 (2020 5th Spec Sess).

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 is being repealed; no independent fiscal impact to individual persons. All fiscal impacts already accounted for in H.B. 5012 (2020 5th Spec Sess).

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

The rule is being repealed; no independent fiscal impacts. All fiscal impacts already accounted for in H.B. 5012 (2020 5th Spec Sess).

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 is being repealed, no independent fiscal impact on businesses. All fiscal impacts already accounted for in H.B. 5012 (2020 5th Spec Sess). Sydnee Dickson, State Superintendent

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

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

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

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:

Article X, Section 3	Subsection 53E-3-501(1)	Subsection 53F-2-501(3)
Subsection 53E-3-401(4)		

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: 01/31/2022

10. This rule change MAY become effective on: 02/07/2022

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

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	12/15/2021
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R277. Education, Administration.

~~**R277-703. Centennial Scholarship for Early Graduation.**~~

~~**R277-703-1. Authority and Purpose.**~~

- ~~(1) This rule is authorized by:~~
- ~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;~~
- ~~(b) Subsection 53F-2-501(3), which requires the Board to make payments to a public school student who graduates early;~~

~~(c) Subsection 53E-3-501(1), which authorizes the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements; and~~

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

~~(2) This rule:~~

~~(a) designates the early graduation centennial scholarship certificate for use by public schools;~~

~~(b) allows for graduation to be flexible and appropriate to meet individual students' needs; and~~

~~(c) outlines the early graduation procedure.~~

R277-703-2. Definitions.

~~(1) "Centennial scholarship" or "scholarship" means the amount awarded to an early graduating student in accordance with Section 53F-2-501.~~

~~(2) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~

~~(3) "UCAT" or "technical college" means the Utah System of Technical Colleges listed in Section 53B-2a-105.~~

R277-703-3. Curriculum Options for Accelerating a Secondary School Student's Education Program.

~~(1) If a student graduates any time before the conclusion of grade 11, or prior to the conclusion of grade 12, the student may receive a reimbursement towards enrollment in a Utah post-secondary institution as described in Subsection 53F-2-501(3)(b) and this R277-703.~~

~~(2) A post-secondary institution selected by a student who receives a centennial scholarship shall receive a centennial scholarship certificate signed by the high school principal or charter school director entitling the early graduate to a partial tuition scholarship following the date of graduation according to the schedule established by this rule.~~

~~(3) A student seeking a centennial scholarship shall complete the courses of study and credit mandated by the Board and by the student's local school board or charter school governing board.~~

~~(4) Options for earning additional credit may include:~~

~~(a) courses:~~

~~(i) high school summer school;~~

~~(ii) high school or UCAT early morning or after school classes;~~

~~(iii) courses completed at the student's own rate based on performance as approved by the local school board or charter school governing board;~~

~~(iv) college courses numbered 1000 and above from fully accredited institutions;~~

~~(v) LEA approved high school or college level correspondence courses; or~~

~~(vi) equivalency ratio of higher education hours to high school credits: five (5) quarter or three (3) semester hours equal one (1) unit of high school credit;~~

~~(b) demonstrated proficiency by assessment in an amount of credit as determined by the local school board or charter school governing board:~~

~~(i) advanced placement examination, as approved by the local school board or charter school governing board;~~

~~(ii) ACT or SAT scores that meet or exceed a level set by the local school board or charter school governing board;~~

~~(iii) Utah state or LEA secondary end-of-course tests;~~

~~(iv) demonstrated proficiency in a subject, as assessed by the LEA; or~~

~~(v) College Level Examination Program (CLEP) tests;~~

~~(e) approved work experience, as assessed by the LEA.~~

~~(d) demonstrated mastery in an experimental program that has received prior approval from the Board;~~

~~(e) increased credit for courses that are combined into a time frame that ordinarily accommodates a lesser number of classes, as approved by the LEA;~~

~~(f) independent study credit for an independent research project or independent reading relevant to a course of study; or~~

~~(g) credit for experience gained during travel relevant to a specific course if approved in advance by the LEA.~~

R277-703-4. Early Graduation Student Education Plan.

~~(1) In consultation with the student's parent or guardian and school advisor, a student seeking a centennial scholarship shall indicate to the secondary principal or charter school director the student's intent to complete early graduation at the beginning of the ninth grade year or as soon thereafter as the intent is known.~~

~~(2) To be eligible for early graduation, a student shall have a current plan for college and career readiness on file at the student's high school as described in Subsection R277-700-6(24).~~

R277-703-5. Local Education Requirements.

~~(1) Requirements relating to semesters in membership are inapplicable to students who have been approved under Section R277-703-4 for graduation following the eleventh grade year.~~

~~(2) Local academic and citizenship credit requirements for graduation which exceed Board requirements shall include provisions that permit students to graduate early.~~

R277-703-6. Funding Provisions.

~~(1) An LEA shall receive a payment designated for each high school from which students graduated before the end of the twelfth grade year.~~

~~(2) An LEA shall receive payment for one half of the designated centennial scholarship amount for each student reported as having graduated at the conclusion of the eleventh grade year on the S-3 report in the fiscal year following the student's graduation.~~

~~(3)(a) An LEA shall receive payment based on a percentage of the centennial scholarship amount for each student reported as graduating during the twelfth grade year.~~

~~(b) A student described in Subsection (3)(a) shall also be listed on the S-3 report and payment shall be made to the LEA in the fiscal year following the students' graduation.~~

~~(c) An LEA shall receive payment for schools operating on the quarter or trimester system for each early graduating student according to the following schedule:~~

~~(i) end of first quarter of 12th grade year: 75 percent of one-half of the centennial scholarship amount;~~

~~(ii) end of second quarter of 12th grade year: 50 percent of one-half of the centennial scholarship amount;~~

~~(iii) end of third quarter of 12th grade year: 25 percent of one-half of the centennial scholarship amount;~~

~~(iv) end of first trimester of 12th grade year: 67 percent of one-half of the centennial scholarship amount; or~~

~~(v) end of second trimester of 12th grade year: 33 percent of one-half of the centennial scholarship amount.~~

~~(4) A student who graduates from high school at the conclusion of the eleventh grade year or during the twelfth grade year shall be entitled to a partial tuition scholarship in the form of the early graduation centennial scholarship certificate to be used at a Utah public college, university, community college, technical college, or any other~~

NOTICES OF PROPOSED RULES

institution in Utah accredited by the Northwest Accreditation Commission that offers post secondary courses.

(5) The post secondary institution selected by a student who receives a centennial scholarship shall complete the early graduation centennial scholarship certificate and submit it to the Superintendent.

(6) Upon receipt of the early graduation centennial scholarship certificate, the Superintendent shall verify the information, and reimburse the institution an amount set forth in the following schedule in the fiscal year during which the student enrolls in a post secondary institution.

(7) Except as provided in Section R277-703-7, to be eligible for the scholarship, the student must enroll in an eligible post secondary institution within one calendar year of graduation.

(8)(a) A student who graduates at the end of the eleventh grade year shall receive a full centennial scholarship.

(b) A student who graduates at the end of the first quarter of the twelfth grade year shall receive 75 percent of the centennial scholarship amount.

(c) A student who graduates at the end of the second quarter of the twelfth grade year shall receive 50 percent of the centennial scholarship amount.

(d) A student who graduates at the end of the third quarter of the twelfth grade year shall receive 25 percent of the centennial scholarship amount.

(e) A student who graduates at the end of the first trimester of the twelfth grade year shall receive 67 percent of the centennial scholarship amount.

(f) A student who graduates at the end of the second trimester of the twelfth grade year shall receive 33 percent of the centennial scholarship amount.

R277-703-7. Student Deferrals.

(1) Except as provided in Subsection (5) and as allowed in Subsection 53F-2-501(4), a student who is eligible for a centennial scholarship, as described in Subsection 53F-2-501(3) and this R277-703, may make a request to the Board that the Board defer consideration of the student for the scholarship for a set period of time up to five years.

(2) The Superintendent shall:

(a) create an application, for the Board's approval, for a student seeking a deferral to request the deferral; and

(b) make the application described in Subsection (2)(a) available online.

(3) A student seeking a deferral described in Subsection (1) shall file a request for deferral with the Superintendent on or before:

(a) the second Monday in February for a student who graduated on or before December 31 of a school year; and

(b) the second Monday in July for a student who graduated on or before June 15 of a school year.

(4)(a) If a student's request for a deferral is denied by the Superintendent, the student may request an appeal of the Superintendent's decision.

(b) The Law and Licensing Committee shall review a student's appeal within 60 days of receipt of the appeal.

(c) The Superintendent shall inform a student requesting appeal of the Law and Licensing Committee's decision.

(5) A student's centennial scholarship expires five years from the date the eligible student graduated.

KEY: curricula, early graduation, graduation requirements, scholarships

Date of Last Change: October 10, 2017

Notice of Continuation: August 14, 2017

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1); 53E-3-401

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R315-307	Filing ID	54189
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Agency Information

1. Department:	Environmental Quality		
Agency:	Waste Management and Radiation Control, Waste Management		
Building:	MASOB		
Street address:	195 N 1950 W		
City, state and zip:	Salt Lake City, UT 84116		
Mailing address:	PO Box 144880		
City, state and zip:	Salt Lake City, UT 84114-4880		
Contact person(s):			
Name:	Phone:	Email:	
Tom Ball	801-536-0251	tball@utah.gov	

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

General Information

2. Rule or section catchline:
R315-307. Landtreatment Disposal Standards
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of the change is to clarify the applicability statements to include Director discretion to approve only landtreatment disposal operations that provide an agronomic benefit. This was always the intent of this rule and is how the Division of Waste Management and Radiation Control, Waste Management (Division) has applied this rule in the past and, to be consistent with that intent, high-chloride wastes will now be listed as undesirable for landtreatment disposal because they do not provide an agronomic benefit.
There are no federal standards for land application of solid wastes. The Division has historically interpreted Rule R315-307 as only applicable to wastes that provide an agronomic benefit to the soil. The addition of high-chloride wastes to the list of undesirable wastes is also consistent with the historical interpretation of this rule and provides additional clarification. Currently, Subsection R315-307-3(2) provides standards to prevent nutrient overload that may inhibit crops from being successful, and Subsection

R315-307-3(7) limits food-chain crops without Director approval. The proposed changes will clarify that the standards of Rule R315-307 in its entirety should only be utilized when there are agronomic benefits.

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):

At Subsection R315-307-1(1), language is added to the applicability statement requiring the wastes approved for disposal under this rule to have a reasonable agronomic benefit to soils.

Subsection R315-307-2(d) is being removed from this rule to provide the Division Director with an approval role in regard to industrial solid waste facilities. If an industrial waste proves to have an agronomic benefit, it may be considered for disposal under this rule.

High-chloride wastes were added to the list of undesirable wastes in Subsection R315-307-3(1) because they are an inhibitor to crop growth.

In addition, the Division has corrected typographical and formatting errors in this rule.

As stated above, there are only seven facilities permitted to operate under Rule R315-307 and all seven are small businesses. Therefore, it is not anticipated that this rule change will result in any cost or savings to non-small businesses.

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

It is not anticipated that this rule change will result in any cost or savings to persons other than small businesses, non-small businesses, state or local entities because there are only seven facilities permitted to operate under Rule R315-307 and all are small businesses which are addressed in 5(C) above.

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

As stated above, the Division is not able to estimate the compliance costs for persons affected by this rule 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):

It is not possible to estimate the costs or savings that may result from this rule change due to the lack of information available to the Division. Kimberly D. Shelley, Executive Director

Fiscal Information

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

A) State budget:

It is not anticipated that this rule change will result in any cost or savings to the state budget because the state does not have any facilities permitted to operate under Rule R315-307.

B) Local governments:

It is not anticipated that this rule change will result in any cost or savings to local governments because none of the facilities permitted to operate under Rule R315-307 are owned and operated by local governments.

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

There are currently seven facilities permitted to operate under Rule R315-307. It is not anticipated that this rule change will result in any cost or savings to six of the seven facilities. This rule change may result in costs to the seventh facility but because the Division does not have specific information regarding the facility's current costs and revenue, the Division is not able to estimate any cost or benefits.

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

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

NOTICES OF PROPOSED RULES

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

B) Department head approval of regulatory impact analysis:
 The Executive Director of the Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved this fiscal analysis.

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 19-6-104	Section 19-6-105	Section 19-6-108
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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:	02/01/2022
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10. This rule change MAY become effective on:	02/14/2022
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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

Agency head or designee, and title:	Douglas J. Hansen, Division Director	Date:	12/09/2021
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-307. Landtreatment Disposal Standards.

R315-307-1. Applicability.

(1) These standards apply to any facility that engages in the landtreatment, landfarming, or landspreading disposal of solid waste in a manner that has a reasonable agronomic benefit to soils.

- (2) These standards do not apply to:
 - (a) a facility that uses sewage sludge, woodwaste, or other primarily organic sludge in recycling operations as specified in Section R315-312-4;
 - (b) agricultural solid wastes resulting from the operation of a farm, including farm animal manure and agricultural residues; or
 - (c) inert waste or demolition waste; ~~or~~
 - ~~(d) industrial solid waste facilities;~~
- (3) The landtreatment of domestic sewage sludge and septage is exempt from the requirements of Rule R315-307 but is regulated under the applicable requirements of Rule R317-8 and 40 CFR 503 by the Utah Division of Water Quality.
- (4) The owner or operator of a landtreatment disposal facility shall meet the standards for performance specified in ~~Subs~~Section R315-303-2.
- (5) The owner or operator of a landtreatment disposal facility shall meet the location standards of Section R315-302-1.

R315-307-2. Standards for Design.

- (1) The owner or operator of a landtreatment disposal facility shall design the facility to provide interim waste storage areas that meet the requirements for piles, as specified in Rule R315-314.
- (2) The facility shall have systems to collect and treat ~~all~~any run-off from a 25 year storm, and divert ~~all~~any run-on for the maximum flow of a 25 year storm around the active area.
- (3) The facility shall be designed to avoid standing water anywhere on the active area.
- (4) The facility shall be designed to avoid slopes and other features that will lead to soil and waste erosion, unless contour plowing or other measures are taken to avoid erosion.
- (5) The owner or operator shall monitor ground water according to Rule R315-308.
- (6) The owner or operator shall control access to the facility by fencing or other means and erect a sign as specified in Subsection R315-303-3~~(6)~~~~(7)~~~~(4)~~.

R315-307-3. Standards for Maintenance and Operation.

- The owner or operator of a landtreatment disposal facility shall maintain and operate the facility to:
- (1) avoid the disposal of garbage, ~~or~~ infectious waste, or high-chloride wastes;
 - (2) avoid applying wastes at rates greater than ~~ten~~10 times agronomic rates using the proposed cover crop, or depths greater than would allow for disking the soil by tracked vehicles;
 - (3) provide disking of soils during the growing season and after each application of waste to maintain aerobic soil conditions, minimize odors, and lessen run-off;
 - (4) avoid applying waste to any active area having standing water;
 - (5) conform to the approved plan of operation and ~~all~~any other applicable requirements of Section R315-302-2;
 - (6) provide for a written contract between landowners, waste generators, waste haulers, and waste operators requiring compliance with rules as a condition of the contract; and
 - (7) avoid food-chain crops during the active life of the facility and until demonstrated to be safe, after closure, according to the closure and post-closure plans filed with the plan of operation. Specific approval in writing from the Director is required for any landspreading disposal facility that is used to raise food-chain crops after closure.

KEY: solid waste management, waste disposal
Date of Last Change: 2022[April 25, 2013]

Notice of Continuation: January 12, 2018
 Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R398-2	Filing ID 54203

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Children with Special Health Care Needs	
Room no.:	4453	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144610	
City, state and zip:	Salt Lake City, UT 84114-4610	
Contact person(s):		
Name:	Phone:	Email:
Joyce McStotts	801-273-2956	jmcstotts@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R398-2. Newborn Hearing Screening: Early Hearing Detection and Intervention (EHDI) Program
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The changes update definitions, clarify best practices and protocols, and provide clarification and to update formatting to meet Executive Order No. 2021-12 and adhere to the deadline date of 01/01/2022.
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 changes update definitions, clarify best practices and protocols already in place including the CMV Registry; therefore, no change in processes as these processes are already being followed. The changes also update formatting to meet Executive Order No. 2021-12 and adhere to the deadline date of 01/01/2022.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
Minimum to no impact on the state budget due to the process and best practices already in place and adhered to.
B) Local governments:
Minimum to no impact on local governments due to the process and best practices already in place and adhered to.
C) Small businesses ("small business" means a business employing 1-49 persons):
Minimum to no impact on small businesses due to the processes and best practices already in place and adhered to. Reporting requirements and penalties are already in place.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
Minimum to no impact on non-small businesses due to the processes and best practices already in place and adhered to. Reporting requirements and penalties are already in place.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
Minimum to no impact on persons other than small businesses due to the processes and best practices already in place and adhered to. Audiologists adhere to and recommend best practices. Penalties are already in place.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
Minimum to no impact on affect persons due to the processes and best practices already in place and adhered to. Reporting requirements and penalties are already in place
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 minimum to no fiscal impact on businesses due to the processes and best practices already followed by the industry. Nathan Checketts, 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Nathan Checketts, 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 26-10-6

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: 01/31/2021

10. This rule change MAY become effective on: 02/07/2022

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

Agency head or designee, and title:	Nathan Checketts, Executive Director	Date:	12/14/2021
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R398. Health, Family Health and Preparedness, Children with Special Health Care Needs.

R398-2. Newborn Hearing Screening: Early Hearing Detection and Intervention (EHDI) Program.

R398-2-1. Authority and Purpose.

(1) Authority for ~~the Newborn Hearing Screening: Early Hearing Detection and Intervention program and promulgation of rules to implement the program are~~ this rule is found in Section 26-10-6, Testing of newborn infants.

(2) The purpose of this rule is to facilitate early detection, prompt referral, and early intervention of infants who are deaf or hard of hearing.

R398-2-2. Definitions.

(1) "Audiologist" means a person who is licensed by the state where services are provided and has expertise in infant and pediatric audiology.

~~(2) "Auditory brainstem response" means an objective electrophysiologic measurement of the brainstem's response to acoustic stimulation of the ear.~~

~~(3) "Automated auditory brainstem response" means objective electrophysiologic measurement of the brainstem's response to acoustic stimulation of the ear, obtained with equipment which automatically provides a pass/refer outcome.~~

~~(2) "Birth attendant" means the person or provider that assists with an infant's birth.~~

~~(3)~~(4) "Deaf or Hard of Hearing" means a dysfunction of the auditory system of any type or degree that is sufficient to interfere with the acquisition and development of speech and language skills.

~~(4)~~(5) "Department" means the Utah Department of Health, Newborn Hearing Screening: Early Hearing Detection and Intervention (EHDI) program.

~~(5)~~(6) "Diagnostic procedures" means audiometric and medical procedures required to diagnose an infant as deaf or hard of hearing.

~~(6)~~(7) "Early intervention" means auditory habilitation, ~~and/or~~ enrollment into a formal early intervention program or both.

~~(8) "Evoked otoacoustic emissions" means an objective test method which elicits a physiologic response from the cochlea, and may include Transient Evoked Otoacoustic Emissions and Distortion Products Otoacoustic Emissions test procedures.~~

~~(7)~~(9) "Follow-up" means appropriate services and procedures relating to the confirmation of hearing status and appropriate referrals for infants with abnormal or inconclusive screening or diagnostic results.

~~(8)~~(40) "Institution" means a facility licensed by ~~the State of Utah~~ this state for birthing babies.

(9)[(44)] "Lost to follow-up" means infants who cannot be identified through tracking, and who have not completed the screening, diagnostic or early intervention referral processes.

(10)[(42)] "Newborn [H]hearing [S]screening" means the completion of an objective, physiological test or battery of tests administered to determine the infant's hearing status and the need for further diagnostic testing by an audiologist with expertise in infant and pediatric audiology or physician with the Department approved instrumentation, protocols and pass-~~[/]~~fail ~~[refer-]~~criteria. Newborn hearing screening includes both the initial screening and follow-up screening as required after a fail result; this would include outpatient rescreening if born in hospital.

(11)[(43)] "Parent" means a natural biological parent, a ~~[step-parent]~~stepparent, adoptive parent, legal guardian, or other legal custodian of a child.

(12)[(44)] "Primary care provider" means the infant's primary medical caregiver.

(13)[(45)] "Referral" means to direct an infant to an audiologist or physician for appropriate diagnostic procedures to diagnose and determine hearing status and for appropriate early intervention.

(14)[(46)] "Tracking" means the use of information about the infant's newborn hearing screening status to ensure the infant receives timely and appropriate services to complete the screening, diagnostic and early intervention referral processes.

R398-2-3. Implementation.

Each newborn in ~~[the state of Utah]~~this state shall submit to the ~~[N]~~newborn ~~[H]~~hearing ~~[S]~~screening testing, except as provided in Subsection 26-10-6(1), Testing of newborn infants.

R398-2-4. Responsibility for Screening.

(1) Each institution shall designate a person to be responsible for the newborn hearing screening program in that institution.

(2) An audiologist who is licensed by the state~~[State of Utah]~~ shall oversee each newborn hearing screening program. This audiologist may be full or part time, on or off site, an employee of the institution, or under contract or other arrangement that allows ~~[him/her]~~them to oversee the newborn hearing screening program. ~~The~~This audiologist shall advise the institution about ~~[all]~~each aspect[s] of the newborn hearing screening program, including screening, tracking, follow-up, and referral for diagnosis.

(3) The institution must provide inpatient newborn hearing screening services as required by this rule before~~[prior to]~~ discharge, unless the infant is transferred to another institution before screening is completed. For infants who need additional procedures to complete the screening process due to a missed test, inconclusive results, or a failure to pass, the institution shall provide outpatient screening.

(4) If the infant is transferred to another institution before screening is completed, the receiving institution must provide inpatient hearing screening services as required by this rule before~~[prior to]~~ discharge. For infants who need additional procedures to complete the screening process due to a missed test, inconclusive results, or a failure to pass, the institution shall provide outpatient screening.

(5) If the infant is born outside of an institution, the ~~[person in attendance at the birth]~~birth attendant must perform or arrange for the infant's hearing screening before ~~[44]~~ten days of age as required by this rule. This shall include follow-up screening as required after a fail result.

(6) If there is no ~~[person in attendance at the birth]~~birth attendant, a parent must have the infant's hearing screened, according to

Department protocols, before the infant is ~~[44]~~ten days of age. This shall include follow-up screening as required after a fail result.

(7) Newborn hearing screening shall be performed by a person who is appropriately trained and supervised, according to protocols as established by the Department with input from the Newborn Hearing Screening Committee, as described in Subsection 26-10-6(5).

R398-2-5. Information to Parents and Primary Care Providers.

(1) Institutions or ~~[persons primarily responsible for births]~~birth attendants shall provide information about newborn hearing screening to parents and primary care providers of infants. This shall include:

(a) information, which shall be available to parents at the time of birth, about the purpose of newborn hearing screening, the procedures used for screening, the benefits of newborn hearing screening;

(b) whether each live birth was screened before~~[prior to]~~ discharge from the institution;

(c) the results of the completed newborn hearing screening~~[procedure]~~;

(d) what follow-up screening procedures, if any, are recommended and where those procedures can be obtained; and

(e) cytomegalovirus (CMV) testing, as described in Section 26-10-10, when appropriate.

(2) For infants who require additional procedures to complete the screening process after being discharged from the birthing institution, the institution shall provide parents and the primary care providers with written notice about the availability and importance of the additional screening procedures along with when to return to the institution for outpatient rescreening. For infants who do not complete additional hearing screening procedures, the institution shall send a second written notice to the parents and the primary care provider.

(3) For infants who ~~fail~~~~[do not pass]~~ the complete newborn hearing screening procedure, the institution or the provider who completes the newborn hearing screening procedure shall provide the parents and the primary care provider with written notice about the results of the screening, recommended diagnostic procedures, where those procedures can be obtained, ~~[and resources available for infants and toddlers who are deaf or hard of hearing.]~~

(4) For infants who need additional procedures to complete the screening due to a missed test, inconclusive results, or a failure to pass, and who do not return for the needed newborn hearing screening procedures before ~~ten~~~~[44]~~ days of age, or for infants who are ~~["]~~lost to follow-up,~~["]~~ the institution or birth attendant~~[the person in attendance at birth]~~ shall make reasonable efforts to locate the parents and inform them of the need for testing. To be considered a reasonable effort, the institution or birth attendant must have documentation of at least two attempts to contact the infant's parents~~[by mail or phone]~~, and at least one attempt to contact the infant's primary care provider. If necessary, the institution or birth attendant must use information available from its own records, adoption agencies, and the infant's primary care provider. Contact with the parent may be made by mail, email, telephone, text, primary care provider, or public health worker.

R398-2-6. Reporting to Utah Department of Health.

(1) Each~~[All]~~ institution[s] or birth attendant~~[persons in attendance at births]~~ shall submit information to the Department about the newborn hearing screening procedures being used, the results of the screening, and other information necessary to ensure timely referral where necessary. This information shall be provided to the Department at least weekly. This information shall include:

NOTICES OF PROPOSED RULES

(a) for each live birth, identifying information for the infant, [~~(f)~~]last name, date of birth, [~~N~~]newborn screening kit number, birth mother's first and last name and/or other information as determined by the Department[~~),~~], and the hearing screening status, [~~e.g.,~~]including passed, [~~referred~~]failed, inconclusive, refused, missed, transferred, deceased;

(b) for infants who did not pass the newborn hearing screening or who were not screened, this additional information is required: primary contact's first and last name, address, telephone number, and primary care provider's first and last name, and/or other information as determined by the Department;

(c) any information the institution or [~~practitioner~~]provider has about the results of follow-up screening, diagnostic procedures, and cytomegalovirus lab results; including whether the infant has been [~~"]~~]lost to follow-up.[~~"~~]

(2) ~~Each~~[All] institution[s] [~~or persons in attendance at births~~] shall submit information to the Department a summary of the procedures used by the institution or screening program to do newborn hearing screening, including the name of the program director, ~~overseeing audiologist, equipment, screening protocols, [referral]pass-fail~~ criteria, and parent education materials and other information as determined by the Department. This information shall be provided to the Department bi-annually and within 30 days of any changes to the existing procedures.

(3) Persons who conduct any procedure necessary to complete an infant's hearing screening or audiological diagnostic assessment[~~as a result of a referral from an institution, birth attendant, audiologist or primary care provider~~], shall report the results of these procedures to the institution where the infant was born and to the Department within [~~7~~]seven days.

(4) The Department shall have access to infants' medical, diagnostic, ~~amplification, implantation,~~ and early intervention records to obtain information necessary to ensure the provision of timely and appropriate follow[~~-~~]up diagnostic and intervention services,~~[~~-~~] including CMV testing results and follow-up, congenital CMV sequelae, treatments, and anything else deemed necessary to determine long-term outcomes.~~

(5) ~~Providers who diagnose an infant or child as deaf or hard of hearing shall refer the families to early intervention and family to family support services. To facilitate timely intervention services, the provider shall:~~

~~(a) Send each necessary diagnostic result and recommendation to the early intervention program; and~~

~~(b) Advise families on the benefits of early intervention services for any permanent atypical hearing levels or chronic middle ear effusion.~~

R398-2-7. Confidentiality of Reported Information.

(1) ~~The confidentiality of personal information obtained under this rule shall be maintained pursuant to Title 26, Chapter 3, Health Statistics. The reports are confidential and are not open to public inspection.[All information reported to the Department under this rule is confidential and not open to public inspection. The confidentiality of personal information obtained under this rule shall be maintained according to the provisions of Utah Code, Title 26, Chapter 3.]~~

(2) Pursuant to Title 26, Chapter 25, Confidential Information Release, persons who report information covered by this rule may not be held liable for reporting the information to the Department of Health.

~~(2) Persons who report information covered by this rule, either voluntarily or as required by rule, may not be held liable for reporting the information to the Department, as provided in Title 26, Chapter 25.]~~

R398-2-8. Penalty for Violation of Rule.

Any person who violates any provision of this rule may be assessed a penalty as provided in Section 26-23-6.

KEY: newborn hearing screening

Date of Last Change: 2022[December 3, 2018]

Notice of Continuation: June 19, 2018

Authorizing, and Implemented or Interpreted Law: 26-10-6

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R398-4	Filing ID 54206

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Children with Special Health Care Needs	
Room no.:	4453	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144610	
City, state and zip:	Salt Lake City, UT 84114-4610	
Contact person(s):		
Name:	Phone:	Email:
Joyce McStotts	801-273-2956	jmcstotts@utah.gov

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

General Information

2. Rule or section catchline:
R398-4. Cytomegalovirus Public Health Initiative
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The changes update definitions, clarify best practices and protocols, and provide clarification and to update formatting to meet Executive Order No. 2021-12 and adhere to the deadline date of 01/01/2022.
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 changes update definitions, clarify best practices and protocols already in place including the CMV Registry; therefore, no change in processes as these processes are

already being followed. The changes also update formatting to meet Executive Order No. 2021-12 and adhere to the deadline date of 01/01/2022.

Fiscal Information

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

A) State budget:

The Division of Family Health and Preparedness, Children with Special Health Care Needs (Division) anticipates minimal to no budget increase to the state budget as entities already report the information to the database and registry and Early Hearing Detection and Intervention (EHDI) has the database and registry in place. Including this in this rule to provide protection to the entities reporting to the database and registry under Title 26, Chapter 3, and Title 26, Chapter 25.

B) Local governments:

No impact for local governments as they do not report to the database or registry.

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

The Division anticipates minimal to no budget increase to small businesses budget as entities already report the information to the database and registry and EHDI has the database and registry in place. Including this in this rule to provide protection to the entities reporting to the database and registry under Title 26, Chapter 3, and Title 26, Chapter 25. Reporting this information will have negligible impact to small businesses.

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

The Division anticipates minimal to no budget increase to non-small businesses budget as entities already report the information to the database and registry and EHDI has the database and registry in place. Including this in this rule to provide protection to the entities reporting to the database and registry under Title 26, Chapter 3, and Title 26, Chapter 25. Reporting this information will have negligible impact to non-small businesses.

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

The Division anticipates minimal to no budget increase to budget as entities already report the information to the database and registry and EHDI has the database and registry in place. Including this in this rule to provide protection to the entities reporting to the database and registry under Title 26, Chapter 3, and Title 26, Chapter 25.

Reporting this information will have negligible impact to other persons.

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

The Division anticipates minimal to no budget increase to affected persons budget as entities already report the information to the database and registry and EHDI has the database and registry in place. Including this in this rule to provide protection to the entities reporting to the database and registry under Title 26, Chapter 3, and Title 26, Chapter 25. Reporting this information will have negligible impact to affected persons.

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 review was conducted in accordance with the Governor's Executive Order No. 2021-12. The amendment updates definitions and clarifies best practices and protocols already in place including the CMV Registry; therefore, no change in processes as these processes are already being followed. There is no fiscal impact on business. Nathan Checketts, 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

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

B) Department head approval of regulatory impact analysis:
 The Executive Director of the Department of Health, Nathan Checketts, 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 26-10-10

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: 01/31/2022

10. This rule change MAY become effective on: 02/07/2022
 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

Agency head or designee, and title:	Nathan Checketts, Executive Director	Date:	12/14/2021
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R398. Health, Family Health and Preparedness, Children with Special Health Care Needs.

R398-4. Cytomegalovirus Public Health Initiative.

~~**R398-4-1. Definitions.**~~

~~(1) "UDOH" and "Department" means the Utah Department of Health.~~
~~(2) "Hearing screening" means the completion of an objective, physiological test or battery of tests administered to determine the infant's hearing status and the need for further diagnostic testing by an audiologist or physician using the~~

~~Department approved instrumentation, protocols and pass/refer criteria.~~

~~(3) "Medical practitioner" means the newborn infant's primary medical caregiver.~~

~~(4) "Parent" means a natural biological parent, a stepparent, adoptive parent, legal guardian, or other legal custodian of a child.~~

R398-4-2. Purpose and Authority.

~~(1) The purpose of this rule is to clarify when a newborn infant hearing screening requires testing for CMV, medical practitioner reporting requirements and under what circumstances a newborn infant may not fall under the CMV testing requirements.~~

~~(2) This rule is authorized by Section 26-10-10(5) which provides that the Department may make rules to administer the provisions of this section.]~~

R398-4-1. Authority and Purpose.

~~(1) This rule is authorized by Section 26-10-10.~~

~~(2) The purposes of this rule are to clarify when a newborn infant hearing screening requires testing for Cytomegalovirus (CMV), medical practitioner reporting requirements, and under what circumstances a newborn infant may not fall under the CMV testing requirements.~~

R398-4-2. Definitions.

~~(1) "Department" means the Utah Department of Health.~~

~~(2) "Hearing screening" means the completion of an objective, physiological test or battery of tests administered to determine the infant's hearing status and the need for further diagnostic testing by an audiologist or physician using the Department-approved instrumentation, protocols, and pass or refer criteria.~~

~~(3) "Medical practitioner" means the newborn infant's primary medical caregiver.~~

~~(4) "Parent" means a natural biological parent, a stepparent, adoptive parent, legal guardian, or other legal custodian of a child.~~

R398-4-3. Clarification of When a Newborn Must Be Referred for CMV[S] Testing.

~~(1) The newborn must be referred for CMV testing if the infant fails both the initial hearing screen routinely done at birth and the subsequent follow-up screen.~~

~~(2) The newborn must be referred for CMV testing when the initial failed screen is obtained after 14 days of age.~~

~~(3) The newborn must be referred for CMV testing if they have failed an inpatient screening and have not completed or been able to complete the outpatient screening before 14 days of age.~~

R398-4-4. Special Populations of Newborns.

~~(1) In special populations of newborns where newborn hearing screening[~~(s)~~] cannot be accomplished before[prior to] 21 days of age, testing for CMV is left to the discretion of the medical practitioner[~~(s)~~] caring for the newborn.~~

~~(2) Special populations of newborns may include, [but are not limited to,] premature or medically fragile newborns or newborns receiving on[-]going medical care.~~

R398-4-5. Reporting Requirements.

~~(1) Medical practitioners are required to submit results of the CMV testing to [UDOH]the Department for each newborn under~~

their care who is referred for CMV testing within [~~10~~ten] days of receiving results.

(2) Laboratories testing for the presence of congenital CMV must submit results of the CMV testing to the Department within ten days of receiving results.

R398-4-6. CMV Registry.

Pursuant to Section 26-1-30, the Department shall maintain a database of infants tested as well as a Positive Congenital CMV Registry that contains results, demographics, symptomology, specialist services, long-term outcomes, and other items as deemed necessary.

R398-4-7 Confidentiality of Reported Information.

(1) The confidentiality of personal information obtained under this rule shall be maintained pursuant to Title 26, Chapter 3, Health Statistics. The reports are confidential and are not open to public inspection.

(2) Pursuant to Title 26, Chapter 25, Confidential Information Release, persons who report information covered by this rule may not be held liable for reporting the information to the Department.

KEY: cytomegalovirus, CMV, newborn hearing screening
Date of Last Change: ~~2022~~ January 17, 2014
Notice of Continuation: December 6, 2018
Authorizing, and Implemented or Interpreted Law: 26-10-10

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R398-5	Filing ID 54202

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Children with Special Health Care Needs	
Room no.:	4453	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144610	
City, state and zip:	Salt Lake City, UT 84114-46410	
Contact person(s):		
Name:	Phone:	Email:
Joyce McStotts	801-273-2956	jmcstotts@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R398-5. Birth Defects and Critical Congenital Heart Disease Reporting
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 update a definition and remove an outdated birth defect code, provide clarification, and to update formatting to meet Executive Order No. 2021-12 and adhere to the deadline date of 01/01/2022.
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 changes add the definition of "Emerging Health Threats", remove outdated birth defect ICD-9-CM, and to update formatting to meet Executive Order No. 2021-12 and adhere to the deadline date of 01/01/2022.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The Division of Family Health and Preparedness, Children with Special Health Care Needs (Division) anticipates a minimal to no additional charge to the state budget, as Utah Birth Defect Network (UBDN) employees already collect pregnancy and birth outcome data. The Division has also included the new wording "Emerging Health Threats" to better adapt and expand the existing surveillance system.
B) Local governments:
The Division anticipates no addition budget increase to local governments as there is no stipulations for local governments to report to UBDN under this rule.
C) Small businesses ("small business" means a business employing 1-49 persons):
The Division anticipates minimal to no addition budget increase to small businesses as there is no additional reporting requirements with the additional wording.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The Division anticipates minimal to no addition budget increase to non-small businesses as there is no additional reporting requirements with the additional wording.

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 Division anticipates minimal to no addition budget increase to other persons as there is no additional reporting requirements with the additional wording

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

The Division anticipates minimal to no addition budget increase to other persons as there is no additional reporting requirements with the additional wording as Section R398-5-8 has always been in place.

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 review was conducted in accordance with the Governor's Executive Order No. 2021-12. The amendment adds the definition of "Emerging Health Threats", removes outdated birth defect ICD-9-CM, and updates formatting to meet Executive Order No. 2021-12 and adhere to the deadline date of 01/01/2022. There is no fiscal impact on business. Nathan Checketts, 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

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

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Nathan Checketts, 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:

Subsections	Subsection	Subsection
26-1-30(2)(c), (d), (e), (g), (p), (t)	26-10-1(2)	26-10-1(2)
Section 26-25-1		

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: 01/31/2022

10. This rule change MAY become effective on: 02/07/2022

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

Agency head or designee, and title:	Nathan Checketts, Executive Director	Date:	12/13/2021
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R398. Health, Family Health and Preparedness, Children with Special Health Care Needs.

R398-5. Birth Defects and Critical Congenital Heart Disease Reporting.

R398-5-1. Authority and Purpose.

(1) [This rule is authorized by sections 26-1-30(5), (6), (7), (9), (18), (22), 26-10-1(2), 26-10-2, and 26-10-6(1)(d).] This rule is

authorized by Subsections 26-1-30(5) through (9), (18), 26-1-30(22), 26-10-1(2), 26-10-6(1)(d), and Section 26-10-2.

(2) This rule establishes reporting requirements for birth defects, critical congenital heart disease, and stillbirths in Utah and for related test results.

R398-5-2. Definitions.

As used in this rule:

(1) "Birth defect" means any medical disorder of organ structure, function, or biochemistry ~~[which]that~~ is of possible genetic or prenatal origin. This includes any congenital anomaly, indication of hypoxia or genetic metabolic disorder listed in the ~~[ICD-9-CM (International Classification of Diseases, 9th Revision, Clinical Modification, established by the United States Center for Health Statistics) with any of the following diagnostic codes: 243, 255.2, 255.4, from 269.2 to 279.9, from 740.0 to 759.9, 760.72, from 768.0 to 768.9, and 779.5 or listed in the]ICD-10, [I]International Classification of Diseases, 10th Revision, established by the World Health Organization,}] with any of the following diagnostic codes: A92.5, E03, E25, from E70 to E90, from D55 to D58, H90.0 to H90.8, H90.A, H91.0 to H91.9, J96.00 to J96.91, P09, P35.1, P35.4, P96.1 to P96.2 and from Q00 to Q99.~~

(2) "Birthing center" means a birthing center licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(3) "CCHD" means ~~[C]critical [C]congenital [H]heart [D]disease~~.

(4) "Clinic" means physician-owned or operated clinic ~~that[which]~~ regularly provide services for the diagnosis or treatment of birth defects, genetic counseling, or prenatal diagnostic services.

(5) "~~[Critical Congenital Heart Disease (CCHD)]~~ Screening" ~~[is]means~~ a non-invasive test using pulse oximetry measuring how much oxygen is in the blood and can help to identify newborns affected with CCHD. Screening should begin after 24 hours of age or shortly before discharge if the baby is less than 24 hours of age.

(6) "Department" means the Utah Department of Health, Utah Birth Defect Network and ~~CCHD[Critical Congenital Heart Disease]~~ programs.

(7) "Emerging Health Threats" means a new health threat that may affect the pregnancy.

~~(7)~~(8) "Hospital" means general acute hospital, children's specialty hospital, ~~remote~~-rural hospital licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

~~(8)~~(9) "Institution" means a hospital, alternate birthing facility, or midwife service providing maternity or nursery services or both.

~~(9)~~(10) "SpO2" stands for peripheral capillary oxygen saturation, an estimate of the amount of oxygen in the blood.

~~(10)~~(11) "Stillbirth" means a pregnancy resulting in a fetal death at 20 weeks gestation or later.

R398-5-3. Birth Defects Reporting.

Each hospital, clinic, institution, or birthing center ~~[which]~~ that admits a patient and detects or screens for a birth defect as a result of any outcome of pregnancy, or admits a child under 24 months of age with a birth defect, or is presented with the event of a stillbirth shall report or cause to report to the department within 40 days of discharge the following:

- (1) ~~[i]~~ If live born, child's name:₂[;]
- (a) last name; and
- (b) first name.₂[;]

- (2) ~~[e]~~ Child's date of birth ~~[(or date of delivery)]~~;
- (3) ~~[e]~~ Child's medical record number.₂[;]
- (4) ~~[e]~~ Child's gender.₂[;]
- (5) ~~[m]~~ Mother's name:₂[;]
- (a) last name;
- (b) first name; and
- (c) maiden name.₂[;]
- (6) ~~[m]~~ Mother's date of birth.₂[;]
- (7) ~~[m]~~ Mother's medical record number.₂[;]
- (8) ~~[d]~~ Delivery institution.₂[;]
- (9) ~~[ICD-9-CM or]ICD - 10 birth defect codes.₂[;]~~
- (10) ~~[m]~~ Mother's state of residency at delivery.₂[; and]
- (11) ~~[m]~~ Mother's zip code of residency at delivery.

R398-5-4. Birth Defects Reporting by Laboratories.

Each laboratory operating in the state ~~[which]that~~ identifies a human chromosomal or genetic abnormality or other evidence of a birth defect shall report the following on a calendar quarterly basis to the department within 40 days of the end of the preceding calendar quarter:

- (1) ~~[i]~~ If live born, child's name:₂[;]
- (a) last name; and
- (b) first name.₂[;]
- (2) ~~[e]~~ Child's date of birth.₂[;]
- (3) ~~[m]~~ Mother's name:₂[;]
- (a) last name; and
- (b) first name.₂[;]
- (4) ~~[m]~~ Mother's date of birth.₂[;]
- (5) ~~[d]~~ Date the sample is accepted by the laboratory.₂[;]
- (6) ~~[t]~~ Test conducted.₂[;]
- (7) ~~[t]~~ Test result.₂[; and]
- (8) ~~[m]~~ Mother's state of residency at delivery.

R398-5-5. Critical Congenital Heart Disease (CCHD) Screening Reporting.

CCHD Screening results shall report or cause to report to the department within 40 days of discharge the following:

- (1) ~~[n]~~ Newborn's name:₂[;]
- (a) last name; and
- (b) first name.₂[;]
- (2) ~~[n]~~ Newborn's date of birth.₂[;]
- (3) ~~[n]~~ Newborn's gender.₂[;]
- (4) ~~[n]~~ Newborn's gestational age.₂[;]
- (5) ~~[n]~~ Newborn's birth weight.₂[;]
- (6) ~~[n]~~ Newborn's medical record number.₂[;]
- (7) ~~[n]~~ Newborn's newborn screening kit number.₂[;]
- (8) ~~[n]~~ Newborn's delivery institution.₂[;]
- (9) ~~[n]~~ Newborn's discharge unit.₂ [~~[t]~~if applicable~~];~~]
- (10) ~~[n]~~ Newborn's CCHD Screening result for each attempt:
 - (a) date;
 - (b) time;
 - (c) probe location;
 - (d) SpO2 result; and
 - (e) outcome of attempt.
- (11) Newborn's first echocardiogram.₂ [~~[t]~~if indicated~~];~~]:
 - (a) date; and
 - (b) time.
- (12) ~~[m]~~ Mother's name:₂[;]
- (a) last name;
- (b) first name; and
- (c) maiden name.₂[;]

NOTICES OF PROPOSED RULES

- (13) [m]Mother's date of birth.[; and]
- (14) [m]Mother's medical record number.

R398-5-6. Record Abstraction.

Hospitals, birthing centers, institutions, and clinics as well as community health care providers shall allow personnel from the department or its contractors to abstract information from the mother's and child's files on their demographic characteristics, family history of birth defects, prenatal and postnatal procedures, or treatments [(-)including diagnostics(-)] related to the birth defect, emerging health threats, or stillbirth, and outcomes of this and other pregnancies of the mother. Hospitals, birthing centers, institutions, and clinics as well as community health care providers shall allow personnel from the department or its contractors to abstract information from the affected child's files, throughout their lifespan.

R398-5-7. Liability.

Pursuant to Title 26, Chapter 25, Confidential Information Release, persons who report information covered by this rule may not be held liable for reporting the information to the Department. [As provided in Title 26, Chapter 25, persons who report, either voluntarily or as required by this rule, information covered by this rule may not be held liable for reporting the information to the Department of Health.]

R398-5-8. Penalties.

Pursuant to Section 26-23-6, any person that willfully violates any provision of this rule may be assessed an administrative civil money penalty not to exceed \$1,000 upon an administrative finding of a first violation and up to \$3,000 for a subsequent similar violation within two years. A person may also be subject to penalties imposed by a civil or criminal court.

KEY: birth defects, birth defect reporting, critical congenital heart disease (CCHD), CCHD screening

Date of Last Change: 2022[March 11, 2019]

Notice of Continuation: July 12, 2019

Authorizing, and Implemented or Interpreted Law: 26-1-30(2)(c), (d), (e), (g), (p), (t); 26-10-1(2); 26-10-2; 26-25-1

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R414-524	Filing ID 54192

Agency Information

1. Department:	Health
Agency:	Health Care Financing, Coverage and Reimbursement Policy
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 143102
City, state and zip:	Salt Lake City, UT 84114-3102

Contact person(s):		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R414-524. American Rescue Plan Act, Home and Community-Based Services Enhanced Funding
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this rule is to implement Section 9817 of the American Rescue Plan Act of 2021 (ARPA), to assist providers of home and community-based services (HCBS).
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 enacts supplemental payments to HCBS providers, as allowed under ARPA, to provide economic relief to businesses affected by the Coronavirus (COVID-19) pandemic.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The Department of Health expects annual costs to be about \$9,996,378 during the public health emergency period, based on legislative appropriations for HCBS funding.
B) Local governments:
There is no impact on local governments as they neither fund nor provide HCBS under the Medicaid program.
C) Small businesses ("small business" means a business employing 1-49 persons):
About 160 small businesses may see about \$1,995,276 in supplemental payments during the public health emergency period, based on a 20% share of annual appropriations.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

About 640 non-small businesses may see about \$7,981,102 in supplemental payments during the public health emergency period, based on an 80% share of annual appropriations.

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**):

Only businesses that provide HCBS may receive supplemental payments based on an annual increase to the state budget. Other persons and entities, therefore, will see no fiscal impact.

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 as this rule only supplements business revenue and increases access to services.

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):

Businesses may receive supplemental payments to mitigate lost revenue incurred during the public health emergency period. Nate Checketts, 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	\$9,976,378	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$9,976,378	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$1,995,276	\$0	\$0
Non-Small Businesses	\$7,981,102	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$9,976,378	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Nate Checketts, 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 26-1-5	Section 26-18-3	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	01/31/2022
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10. This rule change MAY become effective on: 02/07/2022

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

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	12/12/2021
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R414. Health, Health Care Financing Coverage and Reimbursement Policy.
R414-524. American Rescue Plan Act, Home and Community-Based Services Enhanced Funding.
R414-524-1. Introduction and Authority.

(1) This rule enacts supplemental payments to eligible providers as authorized under the American Rescue Plan Act of 2021 (ARPA), Pub. L. No. 117 2, Sec. 9817.

NOTICES OF PROPOSED RULES

(2) This rule is authorized under Attachment 4.19-B of the Utah Medicaid State Plan, Utah's approved home and community-based services (HCBS) waiver implementation plans, and by Sections 26-1-5 and 26-18-3.

R414-524-2. Program Eligibility.

(1) Eligible billing providers include providers who bill for services provided under Utah's approved 1915(c) HCBS waivers, and for services delivered through both traditional and self-administered service provider arrangements.

(2) State plan services delivered through fee-for-service or managed-care payment arrangements include the following:

- (a) home health services;
- (b) private duty nursing for in-home services only;
- (c) hospice services for in-home services only;
- (d) personal care services;
- (e) case management;
- (f) school-based services;
- (g) rehabilitative services for outpatient mental health and substance use treatment services; and
- (h) early and periodic screening, diagnostic, and treatment for autism spectrum disorder-related services.

(3) Eligible services include services approved by the Centers for Medicare and Medicaid Services for the HCBS Enhanced Funding Spending Plan.

R414-524-3. Program Access Requirements.

(1) To qualify for this supplemental payment, eligible billing providers must complete an attestation of the following:

- (a) an understanding that these are time-limited payments;
- (b) an agreement that providers use a portion of the funds to address direct-care worker issues; and
- (c) an agreement that providers use funds to expand, enhance, or strengthen HCBS or other applicable services authorized under ARPA Section 9817.

(2) A provider's attestation applies until the end of the program or until the provider's attestation is rescinded in writing.

(3) If a provider makes an attestation no later than March 31, 2022, the attestation becomes effective retroactively to April 1, 2021.

(4) An attestation provided in any subsequent quarter is effective only back to the first day of the quarter in which the attestation is made.

R414-524-4. Payments.

(1) The Department makes time-limited quarterly supplemental payments to eligible providers for the period authorized under ARPA, April 1, 2021, through March 31, 2024.

(2) An eligible provider's completed attestation allows the first and subsequent supplemental payment calculations.

(3) Payments are calculated based on the methodology described in the Utah Medicaid State Plan and 1915(c) waiver implementation plans.

KEY: Medicaid

Date of Last Change: 2022

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R590-132	Filing ID 54184

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule or section catchline:
R590-132. Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection
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 No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.
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. Others are changes to make the language of this rule more clear, Section R590-132-5 is being removed because penalties are already provided for in statute, and Section R590-132-7 is being updated to use the Department's current language. The sample disclosure form is being removed because the required contents are described in this rule and insurers have developed their own disclosures in the 30 years since this rule was enacted. The changes do 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 largely clerical in nature and will not change how the Department functions.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect 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 largely clerical in nature and will not affect small businesses.

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 largely clerical in nature and will not affect non-small businesses.

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

There is no anticipated cost or savings to any other persons. The changes are largely clerical 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 are no compliance costs for any affected persons. The changes are largely clerical 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):

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

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

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-2-201		
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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:	01/31/2022
--	------------

10. This rule change MAY become effective on:	02/07/2022
--	------------

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

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/08/2021
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R590. Insurance, Administration.

R590-132. Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection.

R590-132-1. Authority, Purpose and Scope.

This rule is promulgated by the ~~Insurance C~~ commissioner pursuant to ~~the authority provided under Subsections 31A-2-201(3) and (4), General Duties and Powers~~ Section 31A-2-201.

R590-132-2. Purpose and Scope.

(1) The purpose of this rule is to:

~~(a) identify and restrict certain unfairly discriminatory underwriting, classification, or declination practices regarding HIV infection, that the commissioner finds are or would be unfairly discriminatory if engaged in; and~~

~~(b) [This rule also provides] establish guidelines for the confidentiality of [AIDS-]HIV-related testing, which, if not followed, would be unfairly discriminatory or hazardous to members of the insuring public.~~

~~(2) This rule applies to every each licensee authorized to engage in the conduct insurance business of insurance in Utah under Title 31A of the Utah Code.~~

R590-132-2]3. Definitions.

~~For the purpose of this rule, the commissioner adopts the definitions set forth in Section 31A-1-301 and in addition, the following] Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:~~

~~[A. HIV infection is defined as the presence of Human Immunodeficiency Virus (HIV) in a person as detected by the following:] (1) "HIV" means the Human Immunodeficiency Virus.~~

~~(2) "HIV infection" means HIV is present in an individual and was detected by:~~

- ~~1. P(a) the presence of HIV antibodies [to HIV,] that are verified by an appropriate confirmatory test[s];~~
- ~~2. P(b) the presence of HIV antigen[;];~~
- ~~3. I(c) isolation of HIV[;]; or~~
- ~~4. D(d) demonstration of HIV proviral DNA.~~

R590-132-3]4. Rule.

~~[A. Persons-] (1) No individual with HIV infection will [not] be singled out for [either-] unfairly discriminatory or preferential treatment for insurance purposes.~~

~~[B.] (2) To properly classify risks related to covering a prospective insured[s], an insurer[s] may require reasonable testing.~~

~~(3) The [A-] application [questions-] process must conform to the [following-] guidelines[;] in Subsections (3)(a) through (f).~~

~~[+.] (a) No inquiry in an accident and health insurance application or a life insurance application [for health or life insurance coverage, or in an investigation conducted by an insurer or an insurance support organization on its behalf in connection with an application for such coverage, shall] may be directed toward determining the applicant's sexual orientation.~~

~~(b) No insurer or insurance support organization on the insurer's behalf may conduct an investigation in connection with an accident and health insurance application or a life insurance application to determine the applicant's sexual orientation.~~

~~[2.] (c) Sexual orientation may not be used in the underwriting process or [in the determination of] to determine insurability.~~

~~[C. When used, the testing of i] (d) Insurance applicant[s] must not be testing shall be administered [on an unfair basis] in a fair manner.~~

~~(e) If an insurer rates substandard or declines a prospective insured [is to be declined or rated substandard-] because of HIV infection, [such action must be based-] the insurer must base the decision on appropriate confirmatory tests.~~

~~[D. Notice and Consent. -] (f) No person [engaged in the business of insurance shall-] may require an individual applying for insurance to take an HIV test [of an individual in connection with an application for insurance-] unless the individual signs a written release [on a form which contains the following information] that includes:~~

~~1. A-] (i) a statement [of-] explaining the test's purpose, content, and use [and meaning of the test];~~

~~2. A-] (ii) a statement regarding disclosure of the test results, [including information explaining-] explaining to the applicant the following:~~

~~(A) the effect of releasing information to a person [directly engaged in the-] working in the insurance business [of insurance. The applicant should be advised that-];~~

~~(B) the insurer may disclose test results to others involved in the underwriting and claims review processes [- If-];~~

~~(C) if the HIV test is positive, the [results will be reported by those conducting the test or providers receiving test results-] person conducting the test or the provider receiving the test results will report the results to the local health department [- If the applicant does not designate a physician or other health care provider, the insurer shall report a positive test result to the local health department. If-]; and~~

~~(D) if the insurer is a member of the Medical Information Bureau ("MIB, Inc."), the insurer may report the test results to MIB, Inc. in a generic code [which-] that signifies only non-specific test abnormalities [-]; and~~

~~[3. A-] (iii) a provision [where-] for the applicant [directs that] to designate a health care professional to receive any positive screen results [be reported to a designated health care professional of his/her choice-] for post-test counseling.~~

~~[- For purposes of this section, insurers will use the following notice and consent disclosure form or a form that contains similar language. Such form is not considered part of the policy or policy application.~~

TABLE

Illustrative HIV Testing Informed Consent Form

EXAMINER	INSURER
ADDRESS	ADDRESS
.....
.....

NOTICE AND CONSENT FOR TESTING WHICH MAY INCLUDE AIDS VIRUS (HIV) ANTIBODY/ANTIGEN TESTING

To determine your insurability, the insurer named above (the insurer) is requesting that you provide a sample of your blood and/or other bodily fluid for testing and analysis. In order to adequately perform all testing procedures, it may be necessary for you to provide a sample of more than one of these bodily fluids. All tests will be performed by a licensed laboratory.

~~Unless precluded by law, tests may be performed to determine the presence of antibodies or antigens to the Human Immunodeficiency Virus (HIV), also known as the AIDS virus. The HIV antibody test performed is actually a series of tests done by a medically accepted procedure. The HIV antigen test directly identifies AIDS viral particles. These tests are extremely reliable. Other tests which may be performed include determinations of blood cholesterol and related lipids (fats), screening for liver or kidney disorders, diabetes, immune disorders, and other physical conditions.~~

~~All test results will be treated confidentially. They will be reported by the laboratory to the insurer. When necessary for business reasons in connection with insurance you have or had applied for with the insurer, the insurer may disclose test results to others such as its affiliates, reinsurers, employees, or contractors. If the insurer is a member of the Medical Information Bureau (MIB, Inc.), and should the insurer request an additional sample of bodily fluid for further testing, and you choose to decline that request, your declination to be tested will be reported to the MIB, Inc. Regardless of the number of tests requested, if the final test results for HIV antibodies/antigens are other than normal, the insurer will report to the MIB, Inc. a generic code which signifies only a non specific abnormality. If your HIV test is normal, no report will be made about it to the MIB, Inc. Other test results may be reported to the MIB, Inc. in a more specific manner. The organizations described in this paragraph may maintain the test results in a file or data bank. There will be no other disclosure of test results or even that the tests have been done except as may be required or permitted by law or as authorized by you.~~

~~If your HIV test results are normal, no routine notification will be sent to you. If the HIV test results are other than normal, the insurer will contact you. The insurer may also contact you if there are other abnormal test results which, in the insurer's opinion, are significant. The insurer may ask you for the name of a physician or other health care provider to whom you may authorize disclosure and with whom you may wish to discuss the results. The laboratory, physician or other health care provider will report positive test results to the Health Department. If you have not designated a physician or other health care provider to receive disclosure of positive test results, the insurer will report positive test results to the health department.~~

~~Positive HIV antibodies/antigen test results do not mean that you have AIDS, but that you are at significantly increased risk of developing AIDS or AIDS related conditions. Federal authorities say that persons who are HIV antibody/antigen positive should be considered infected with the AIDS virus and capable of infecting others.~~

~~Positive HIV antibody or antigen test results or other significant abnormalities will adversely affect your application for insurance. This means that your application may be declined, that an increased premium may be charged, or that other policy changes may be necessary.~~

~~I have read and I understand this notice and consent for testing which may include HIV antibodies/antigen testing. I voluntarily consent to the withdrawal from me of blood and/or other bodily fluid, the testing of that blood and/or other bodily fluid, and the disclosure of the test results as described above.~~

~~I understand that I have the right to request and receive a copy of this authorization. A photocopy of this form will be as valid as the original.~~

.....
Proposed Insured _____ Date of Birth _____

.....
Signature of Proposed Insured _____ Date _____

.....
State of Residence _____

.....
Designated Physician or Health Care Provider
that is to Receive Positive Test Results _____

.....
Street Address _____

.....
City _____ State _____ Zip] _____

R590-132-[4]5. Dissemination.

Each insurer ~~[is instructed to]~~ shall distribute a copy of this rule or an equivalent summary to all personnel engaged in activities requiring knowledge of this rule, and ~~[to]~~ shall instruct ~~[them as to its]~~ each individual engaged in those activities on the rule's purpose, scope, and operation.

R590-132-[5]. Penalties.

Any licensee that violates this rule will be subject to the forfeiture provisions set forth in Section 31A-2-308 and 31A-23-216.

R590-132-[6]. Confidentiality.

~~[Except as outlined in R590-132-3(D) above, all positive or indeterminate records of the applicant held by the licensee that refer to the HIV status shall be held as confidential records under restricted access and will not be re-disclosed unless re-disclosure is specifically authorized by the applicant.]~~ (1) Except as provided in Subsection R590-132-4(3)(f):

(a) a licensee shall hold an applicant's positive or indeterminate records that refer to HIV status as confidential records under restricted access; and

(b) a licensee may not re-release the records unless the applicant authorizes the re-disclosure.

(2) Re-release and [R]re-disclosure are required when the applicant's test results are to be used for purposes other than ~~[those included in]~~ the initial release.

R590-132-7. Severability.

~~[If any provision of this rule or its application to any person is for any reason held to be invalid, the remainder of the rule and the application of any provision to other persons or circumstances may not be affected.]~~ If any provision of this rule, Rule R590-132, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance law

Date of Last Change: 2022[March 1, 1998]

Notice of Continuation: November 25, 2019

Authorizing, and Implemented or Interpreted Law: 31A-2-201

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R590-142	Filing ID 54185

Agency Information

1. Department:	Insurance
Agency:	Administration
Room no.:	Suite 2300
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorville, UT 84129

NOTICES OF PROPOSED RULES

Mailing address: PO Box 146901		
City, state and zip: Salt Lake City, UT 84114-6901		
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R590-142. Continuing Education Rule
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 No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.
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. Other changes make the language of this rule more clear and update the new Section R590-142-10 to use the Department's current language. The current Section R590-142-10 is being removed because penalties are already provided for in statute, and Section R590-142-11 is being removed because this rule is already in force. The changes do 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 largely clerical in nature and will not change how the Department functions.
B) Local governments:
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect 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 largely clerical in nature and will not affect small businesses.

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 largely clerical in nature and will not affect non-small businesses.

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

There is no anticipated cost or savings to any other persons. The changes are largely clerical 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 are no compliance costs for any affected persons. The changes are largely clerical 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):

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

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

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-2-201	Section 31A-23a-202	Section 31A-23b-205
Section 31A-23b-206	Section 31A-26-206	

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: 01/31/2022

10. This rule change MAY become effective on: 02/07/2022

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

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/08/2021
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R590. Insurance, Administration.

R590-142. Continuing Education Rule.

R590-142-1. Authority.

[This rule is promulgated pursuant to:

~~(1) Subsection 31A-2-201(3) that authorizes the commissioner to adopt rules to implement the provisions of the Utah Insurance Code;~~

~~(2) Subsection 31A-23a-202(1) that authorizes the commissioner to adopt a rule to prescribe the continuation requirements for a producer and a consultant;~~

~~(3) Subsection 31A-23a-202(3) that authorizes the commissioner to adopt a rule to:~~

~~(a) prescribe the manner in which a producer or consultant may obtain continuing education credit; and~~

~~(b) publish a list of professional designations whose continuing education requirements can be used to meet the requirements for continuing education for a producer and a consultant;~~

~~(4) Subsection 31A-23a-202(5) that authorizes the commissioner to adopt a rule to prescribe the processes and procedures for continuing education provider registration and course approval;~~

~~(5) Subsection 31A-23b-205(2) that authorizes the commissioner to adopt a rule to prescribe how navigator training requirements may be administered;~~

~~(6) Subsection 31A-23b-206(1) that authorizes the commissioner to adopt a rule to prescribe the continuing education requirements for the a navigator;~~

~~(7) Subsection 31A-23b-206(3) that authorizes the commissioner to adopt a rule to prescribe the manner in which a navigator may obtain continuing education credit;~~

~~(8) Subsection 31A-23b-206(5) that authorizes the commissioner to adopt a rule to prescribe the processes and procedures for continuing education provider registration and course approval;~~

~~(9) Subsection 31A-26-206(1) that authorizes the commissioner to adopt a rule to prescribe the continuing education requirements for an adjuster; and~~

~~(10) Subsection 31A-30-209 that authorizes the commissioner to adopt a rule to implement the continuing education requirements for the defined contribution market]~~This rule is promulgated by the commissioner pursuant to Sections 31A-2-201, 31A-23a-202, 31A-23b-205, 31A-23b-206, and 31A-26-206.

R590-142-2. Purpose and Scope.

(1) The purpose of this rule is to implement the continuing education requirements of Sections 31A-23a-202, 31A-23b-206, and 31A-26-206~~], and 31A-26-209].~~

(2) This rule applies to a~~]~~[H] continuing education provider~~]~~[s and], and an individual producer, consultant, navigator, and adjuster licensee~~]~~[s] under Sections 31A-23a-202, 31A-23b-206, and 31A-26-206~~], and 31A-30-209].~~

R590-142-3. Definitions.

~~[For the purpose of this rule the commissioner adopts the definitions as set forth in Sections 31A-1-301, 31A-23a-102, 31A-23b-102, 31A-26-102, 31A-35-102, and the following]~~Terms used in this rule are defined in Sections 31A-1-301, 31A-23a-102, 31A-23b-102, 31A-26-102, and 31A-35-102. Additional terms are defined as follows:

- (1) "Classroom course" means:
 - (a) a course of study that:
 - (i) is taught on-site by a live instructor at the same location;
 - (ii) requires monitoring of a student; and
 - (iii) may require examination of course content ~~[to be performed]~~ by a student; or
 - (b) an interactive course of study that:
 - (i) is taught by a live instructor from a separate location;
 - (A) is delivered to a student via:

NOTICES OF PROPOSED RULES

- (I) computer;
- (II) teleconference;
- (III) webinar; or
- (IV) ~~[some-]another~~ method acceptable to the commissioner;

or

- (ii) is not taught by a live instructor;
- (A) is delivered to a student via computer; or
- (B) ~~[some-]another~~ method acceptable to the commissioner;
- (iii) requires two-way interaction between a student and the instrument of instruction;
- (iv) requires monitoring of a student; and
- (v) requires examination of course content ~~[to be performed]~~ by a student.

(2) "Credit hour" means one 50-minute period of insurance[-]related instruction consisting of:

- (a) a classroom course;
- (b) a home study course; or
- (c) ~~[some-]another~~ method acceptable to the commissioner[?].

(3) "Designated internet site" means an internet site that is designated by the commissioner for a registered provider to submit a student's course completion information.

(4) "Home[-]study course" means a non-interactive course of study that:

- (a) is not taught by a live instructor;
- (b) is completed by a student via:
 - (i) computer;
 - (ii) video recording, if the video is professionally produced;
 - (iii) text[-]book; or
 - (iv) ~~[some-]another~~ method acceptable to the commissioner;
- (c) does not require two-way interaction between a student and the instrument of instruction;

(d) does not require monitoring of a student; and
(e) requires examination of course content ~~[to be performed]~~ by the student.

(5) "Insurance[-]related instruction" means ~~[that]~~the amount of time ~~[that is]~~assigned by the commissioner to a course of study to satisfy the requirements of continuing education credit hours under this rule, ~~[in which]~~when the assignment of value shall be made based on ~~[the basis of]~~:

- (a) content;
- (b) presentation; and
- (c) format.

(6) "Monitoring of a student" means a person or system ~~[in place who]~~that verifies participation in and completion of a course.

(7) "Nonprofit provider" means an organization that fits the definition of nonprofit corporation as defined in Subsection 16-6a-102(~~[34]~~35).

(8) "Registered ~~[P]~~provider" means a person who:

- (a) satisfies the requirements of Sections R590-142-8 and R590-142-9[?]; and
- (b) offers a course of study or a program for credit ~~[to an applicant to satisfy]~~that satisfies the continuing education requirements of this rule.

R590-142-4. Continuing Education Requirements.

(1) A producer, consultant, adjuster, and navigator licensee shall comply with, and a registered provider shall be familiar with, the following continuing education requirements:

(a) upon renewal of a license, ~~[no-]~~continuing education credit hours in excess of the number required to renew the license not be carried over or applied to any subsequent licensing period;

(b) a licensee shall attend a course in its entirety ~~[in order]~~to receive credit for the course; and

(c) a licensee may repeat a course for credit but ~~[will not be permitted to]~~may not take a course for credit more than once in a license continuation period.

(2) ~~[Producer, Consultant, and Adjuster License. —]~~A producer, consultant, and adjuster licensee shall comply with, and a registered provider shall be familiar with, the following continuing education requirements:

(a) the number of credit hours of continuing education insurance[-]related instruction required to be completed ~~[biennially]~~every two years as a prerequisite to a license renewal shall be in accordance with Sections 31A-23a-202 and 31A-26-206;

(b) a producer, consultant, or adjuster licensee may obtain continuing education credit hours at any time during the two-year licensing period;

(c) not more than half of the total credit hours required shall be satisfied by courses provided to a producer, consultant, or adjuster licensee by one or more insurers;

(d) a nonresident producer, consultant, or adjuster licensee who satisfies the licensee's home state's continuing education requirement is considered to have satisfied Utah's continuing education requirement; and

(e) a producer, consultant, or adjuster licensee with a professional designation may use the continuing education credit hours required to maintain the designation to satisfy the requirement of the commissioner if:

(i) the hours are sufficient to meet the current continuing education requirement ~~[described in]~~of Sections 31A-23a-202 and 31A-26-206; and

(ii) the professional designation consists of one or more of the following:

- (A) Accredited Customer Service Representative (ACSR);
- (B) Accredited Financial Examiner (AFE) or Certified Financial Examiner (CFE);
- (C) Accredited Insurance Examiner (AIE) or Certified Insurance Examiner (CIE);
- (D) Certified Financial Planner (CFP);
- (E) Certified Insurance Counselor (CIC);
- (F) Certified Risk Manager (CRM);
- (G) Registered Employee Benefits Consultant (REBC);
- (H) Chartered Property Casualty Underwriter (CPCU) with completion of the Continuing Professional Development (CPD) program; or

(I) Certified Life Underwriter (CLU), Chartered Financial Consultant (ChFC) or Registered Health Underwriter (RHU) with completion of the Professional Achievement in Continuing Education (PACE) recertification program.

(f) ~~[A producer who solicits or sells a defined contribution plan in accordance with Section 31A-30-209 shall complete a minimum of two hours of defined contribution continuing education that includes training on use of the Utah Health Exchange and premium assistance programs:~~

- ~~—— (i) prior to soliciting or selling a defined contribution plan; and~~
- ~~—— (ii) during each subsequent two year licensing period that the producer solicits or sells a defined contribution plan.~~

~~(g-)]~~Continuing education requirements may be administered by:

- (i) the commissioner; or
- (ii) a continuing education provider approved by and registered with the commissioner.

(3) A continuing education provider, including a state or national professional producer or consultant association, may:

(a) offer a qualified program on a geographically accessible basis; and

(b) collect a reasonable fee for funding and administration of a continuing education program, subject to the review and approval of the commissioner.

(4)(a) ~~[Navigator license.]~~A navigator licensee shall comply with, and a registered provider shall be familiar with, the following continuing education requirements:

(i) ~~[for a navigator licensee,]~~the number of credit hours of continuing education ~~[related]~~instruction required to be completed annually as a prerequisite to license renewal shall be in accordance with Section 31A-23b-206; and

(ii) a navigator licensee may obtain continuing education credit hours at any time during the one-year licensing period;

(b) To act as a navigator, a person must ~~;~~
~~(i)~~ successfully complete the federal navigator training and certification program requirements as established by federal regulation under PPACA and administered through the United States Department of Health and Human Services, including any applicable training and certification or recertification requirements under that program ~~;~~ and

~~(ii) for a navigator line of authority:~~
~~(A) initially complete a minimum of two hours of defined contribution training that includes training on use of the Utah Health Exchange; and~~

~~(B) thereafter, prior to renewing the license, complete a minimum of one hour of defined contribution continuing education training on use of the Utah Health Exchange; or~~

~~(iii) for a certified application counselor line of authority:~~
~~(A) both initially and thereafter, prior to renewing the license, complete a minimum of one hour of defined contribution training that includes training on use of the Utah Health Exchange].~~

(c) A person ~~[is considered to have]~~has successfully completed the required continuing education requirements for a navigator license in accordance with Section 31A-23b-206 if the person has:

(i) met the requirements of ~~[(3)](4)(b)~~~~[above]~~; and

(ii) completed at least 2 hours of ethics course.

(d) Continuing education requirements may be administered by:

(i) the commissioner;

(ii) a continuing education provider approved by and registered with the commissioner; or

(iii) a navigator~~[-]~~-related training program administered through the United States Department of Health and Human Services.

R590-142-5. Experience Credit.

(1) Continuing education credit hours may be granted to a producer, consultant, or adjuster licensee at the discretion of the commissioner for experience credit ~~[at the discretion of the commissioner,]~~including credit for experience such as the authoring of an insurance book, course, or article.

(2) Membership by a producer or consultant in a state or national professional producer or consultant association is ~~[considered to be]~~a substitute for two credit hours for each year during which the producer or consultant is a member of the association, except as provided in Subsection (3)~~[below]~~.

(3) No more than two hours of continuing education credit ~~[shall]~~may be granted per year during the two-year license continuation period, regardless of the number of professional association ~~[s of which the]~~memberships a producer or consultant ~~[is a member]~~maintains.

(4) An approved continuing education course taught by an approved instructor holding a Utah producer, consultant, or adjuster license shall receive twice the number of credit hours allocated by the commissioner for the course, except as provided in Subsection (5)~~[below]~~.

(5) Credit for instruction of a course shall be granted no more than once per license renewal period for each course taught.

(6) Continuing education experience credit ~~[shall]~~may not be granted for committee service.

R590-142-6. Controls and Reporting of Credit Hours.

(1) Within 14 days of completion of a course of study, the registered provider shall:

(a) furnish ~~[to]~~each student successfully completing the course with a certificate of completion; and

(b) ~~[electronically]~~submit through Siron a course completion record identifying the:

(i) student that completed the course;

(ii) name and identifying course number of the course completed; and

(iii) number of credit hours completed by the student.

(2) ~~[In the event]~~If the registered provider fails to notify the commissioner of a student's course completion, the licensee may use the certificate of completion as proof of having successfully completed the course.

(3) The registered provider shall keep proof of successful electronic attendance submission on file for ~~[a period of]~~at least the current calendar year plus two years.

R590-142-7. Course Requirements.

(1) Except as permitted in Subsection R590-142-4(3), ~~[prior to]~~before offering a course for credit in Utah, a person must register as a provider and submit a completed continuing education course filing form and course outline for review by the commissioner.

(2) Upon receipt of a completed continuing education course filing form and course outline from a registered provider, the commissioner shall:

(a)(i) approve a course as qualifying for credit in accordance with the standards of this rule;

(b)(ii) issue a course number; and

(c)(iii) assign the number of hours to be awarded to the approved course; or

(d)(i) disapprove a course as not qualifying for credit; and

(e)(ii) furnish an explanation of the reason for disapproval of the course.

(3) A new course offered by a registered provider must be submitted to and approved by the commissioner at least 30 days ~~[prior to]~~before being offered, except that post~~[-]~~approval of a course may be granted by the commissioner upon submission of a written request and supporting documentation of a course attended.

(4) A course advertisement shall not state or imply that a course has been approved by the commissioner unless written confirmation of the approval has been received by the registered provider.

(5) A department employee may attend a course at no cost for the purpose of auditing the course for compliance.

(6) The following course topics are examples of subject areas that qualify for approval if they contribute to the knowledge and professional competence of an individual licensee as a producer, consultant, or adjuster, and demonstrate a direct and specific application to insurance:

(a) a particular line of insurance:

NOTICES OF PROPOSED RULES

(b) investments or securities in connection with variable contracts;

- (c) principles of risk management;
- (d) insurance laws and administrative rules;
- (e) tax laws related to insurance;
- (f) accounting~~[f]~~ or actuarial considerations in insurance;
- (g) business or legal ethics; and
- (h) other course subject areas may be acceptable if the registered provider can demonstrate that ~~[they contribute]~~ the course contributes to professional competence and otherwise meets the standards set forth in this rule.

(7) The following course topics are examples of subject areas that do not qualify for approval:

- (a) computer training and software presentations;
- (b) motivation;
- (c) psychology;
- (d) sales training;
- (e) communication skills;
- (f) recruiting;
- (g) prospecting;
- (h) personnel management;
- (i) time management; and
- (j) any course not in accordance with this rule.

(8) The following continuing education standards must be met for a course offered by a registered provider to qualify for continuing education credit:

- (a) the course must have significant intellectual or practical content to enhance and improve the insurance knowledge and professional competence of a participant[s];
- (b) the course must be developed by persons who are qualified in the subject matter and instructional design;
- (c) the course content must be up to date;
- (d) the instructor must be qualified with respect to course content and teaching methods;
- (e) the instructor may be considered qualified if, through formal training or experience, the instructor has obtained sufficient knowledge to competently instruct the course;
- (f) the number of participants and physical facilities for a course must be consistent with the teaching method specified;
- (g) the course must include some means for evaluating the quality of the course content;
- (h) the course must provide for a method to authenticate each student's identity; and
- (i) the course must be taught in a manner ~~[compliant]~~ that complies with the Americans [W]ith Disabilities Act of 1990, 42 U.S.C. 12102, to enable licensees with a physical or mental disability to complete the continuing education requirements.

(9) The following are additional requirements for an interactive computer course of study offered by a registered provider that is not taught by a live instructor:

- (a) the course shall provide one or more of the following types of exam questions at the end of each section of course material presented:
 - (i) multiple choice;
 - (ii) matching; or
 - (iii) true or false;
- (b) the exam questions shall cover material from the applicable section of the course that was presented to the student;
- (c) only upon completion of an exam and not before or during the exam, the course shall identify all incorrect responses and inform the student of the correct response with an explanation of the correct answer;

(d) the course shall require answering 70% of the inquiries for each exam correctly to demonstrate mastery of the current section before the student is allowed by the program to proceed to the next section or complete the course;

(e) in the event a student does not achieve the 70% correct response rate necessary to advance to the next section, the course shall generate a different set of inquiries for the section, which may be repeated as necessary on a random or rotating basis;

(f) the course shall provide a method to ~~[reasonably]~~ authenticate the student's identity on a periodic hourly basis, including upon entering, during, and exiting the course;

(g) the course shall provide a method to ensure that the amount of time necessary for a student to complete course instruction and exam is no less than the amount of credit hours approved for the course; and

(h) the course shall provide for a method to directly transmit the final course completion results to the registered provider or a printed course completion receipt to be sent to the registered provider for issuance of a completion certificate.

(10) A continuing education course ~~[shall]~~ may not be offered or taught by a person who has:

- (a) a lapsed, surrendered, suspended, or revoked provider registration;
 - (b) a suspended or revoked insurance license; or
 - (c) been prohibited from teaching a course.
- (11) Continuing education credit may not be granted for a course offered by a registered provider in which the course is:
- (a) not approved by the commissioner; or
 - (b) offered or taught by a person who has:
 - (i) a lapsed, surrendered, suspended, or revoked provider registration; or
 - (ii) been prohibited from teaching a course.

R590-142-8. Registered Provider Requirements.

(1) A registered provider, or a state or national professional producer, consultant, adjuster, or navigator association, may:

- (a) offer a qualified course for a license type or line of authority on a geographically accessible basis; and
- (b) collect a reasonable fee for funding and administration of a continuing education program, subject to the review and approval of the commissioner.

(2) A person ~~[must]~~ shall register with the commissioner as a provider ~~[prior to]~~ before acting as a registered provider in Utah.

(3) Except as provided in Subsection (4)~~[below]~~, to initially register as a provider, a person must:

- (a) ~~[electronically]~~ submit a completed provider registration form via Sircon; and
- (b) pay an initial registration fee, as identified in Rule R590-102.

(4)(a) To initially register as a nonprofit provider, a person must ~~[electronically]~~ submit a completed provider registration form via:

- (i) Sircon; or
- (ii) facsimile, or as a PDF attachment to an email, using a form available ~~[through]~~ on the ~~[D]~~ department's website; <https://insurance.utah.gov>.

(b) A person initially registering as a nonprofit provider is not required to pay a registration fee.

(5) To renew a provider registration, a provider, other than a nonprofit provider, must:

- (a) ~~[electronically]~~ submit a completed provider renewal form via Sircon; and

(b) pay an annual renewal fee, as identified in Rule R590-102, ~~prior to~~ before the annual renewal date.

(6)(a) To renew a nonprofit provider registration, a nonprofit provider must:

(i) ~~electronically~~ submit a completed provider renewal form via:

(A) Sircon; or

(B) facsimile, or as a PDF attachment to an email using a form available ~~through~~ on the ~~the~~ department's website; <https://insurance.utah.gov>.

(b) A nonprofit provider is not required to pay an annual renewal fee.

(7) ~~Prior to~~ Before teaching a course ~~offered by a registered provider being taught~~, a registered provider shall:

(a) ~~electronically~~ submit via Sircon, before offering the course, an ~~a course~~ outline that includes information regarding the course content and the number of credit hours requested ~~for the course prior to offering the course~~;

(b) post the course offering to a designated internet site;

(c) provide to the commissioner ~~with~~ the name and resume of ~~the~~ each instructor ~~or instructors~~ who will be teaching the course; and

(d) include identifying information ~~as to~~ about any insurance license previously or currently held by ~~the~~ each instructor ~~or instructors~~ who will be teaching the course.

(8) A registered provider shall report to the commissioner:

(a) an administrative action taken against the registered provider in any jurisdiction; and

(b) a criminal prosecution taken against the registered provider in any jurisdiction.

(9) The report required by Subsection (8) shall:

(a) be filed:

(i) ~~at the time of~~ when submitting the initial provider registration; and

(ii) within 30 days of the:

(A) final disposition of the administrative action; or

(B) initial appearance before a court; and

(b) include a copy of the complaint or other relevant legal documents related to the action or prosecution described in Subsection (8).

(10) The commissioner may prohibit any person from acting as a registered provider or instructor in Utah if the commissioner determines that:

(a) the person is not competent and trustworthy; or

(b) the person or course of study fails to meet the qualifying standards.

R590-142-9. Loss of Provider Registration and Course Disapproval.

(1) A provider registration, other than a nonprofit provider registration, shall lapse if a provider fails to~~;~~:

(a) ~~electronically~~ submit a completed provider renewal form via Sircon; and

(b) pay an annual renewal fee ~~prior to~~ before the annual renewal date.

(2) A nonprofit provider registration shall lapse if a nonprofit provider fails to ~~electronically~~ submit a completed provider renewal form via:

(a) Sircon; or

(b) facsimile, or as a PDF attachment to an email, using a form available ~~through~~ on the ~~the~~ department's website; <https://insurance.utah.gov>.

(3) To reinstate a lapsed or surrendered provider registration, other than a nonprofit provider registration, a provider must:

(a) ~~electronically~~ submit a completed provider reinstatement form via Sircon; and

(b) pay a reinstatement fee, as identified in Rule R590-102.

(4)(a) To reinstate a lapsed or surrendered nonprofit provider registration, a nonprofit provider must ~~electronically~~ submit a completed provider registration form via:

(i) Sircon; or

(ii) facsimile, or as a PDF attachment to an email, using a form available ~~through~~ on the ~~the~~ department's website; <http://insurance.utah.gov>.

(b) A nonprofit provider is not required to pay a reinstatement fee.

(5) A provider registration may be denied, suspended, or revoked~~;~~; an instructor prohibited from teaching a course~~;~~; or a course disapproved, if the commissioner determines that:

(a) a course teaching method or course content fails to meet the standards of this rule;

(b) a registered provider reports that an individual completed a course in accordance with the standards furnished for course credit, when in fact the individual has not done so;

(c) a registered provider or instructor conducting a course instructs for less than the number of credit hours approved by the commissioner, but reports the full credits for the individual attending the course;

(d) credit for a course is not electronically reported to a designated internet site in a timely manner for an individual who satisfactorily completes a course in accordance with the standards furnished for course credit;

(e) a registered provider or instructor:

(i) lacks sufficient education or experience in the subject matter of the course;

(ii) has had a provider registration suspended or revoked in another jurisdiction;

(iii) has had an insurance license suspended or revoked;

(iv) uses course material that has been plagiarized~~, or has copied course material without permission~~; or

(v) is otherwise no longer qualified in accordance with the standards of this rule; or

(f) there is other good cause ~~evidencing~~ showing that:

(i) a provider registration should be suspended or revoked;

(ii) an instructor should be disallowed from teaching a course;

or

(iii) a course should be disapproved.

(6) The commissioner may disapprove any course, ~~whether or not it had~~ even if it has been previously approved, if:

(a) the commissioner determines that the course of study fails to meet the qualifying standards;

(b) the commissioner determines that the course material has been plagiarized~~, or copied without permission~~; or

(c) a change of 50% or more has been made in the course content since the initial approval of the course, subject to resubmission of the course for review and subsequent approval of the course by the commissioner.

(7) A registered provider may re-apply for a course that has been disapproved upon providing satisfactory proof to the commissioner that the conditions responsible for the disapproval have been corrected.

(8) To reinstate a suspended or revoked provider registration, a provider must:

NOTICES OF PROPOSED RULES

- (a) submit a completed provider registration form;
 - (b) submit a course outline that includes information regarding the course content and the number of credit hours requested for the course;
 - (c) pay a reinstatement fee, as identified in Rule R590-102, except as provided in ~~[Section 8(4) of this Rule]~~ Subsection R590-142-8(4); and
 - (d) provide satisfactory proof to the commissioner that ~~[the]~~ [each condition[s]] responsible for the suspension or revocation ~~[have]has~~ been corrected.
- (9) A person with a revoked provider registration may not apply for a new registration for five years from the date the registration was revoked without the express approval ~~[by]~~ [of] the commissioner, unless otherwise specified in the revocation order.

R590-142-10. Penalties.

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

R590-142-11. Enforcement Date.

~~_____ The commissioner will begin enforcing the revised provisions of this rule on the effective date of the rule.~~

R590-142-12. Severability.

~~[If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.]If any provision of this rule, Rule R590-142, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

KEY: insurance continuing education

Date of Last Change: 2022~~[January 12, 2015]~~

Notice of Continuation: January 9, 2017

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-202; 31A-23b-205; 31A-23b-206; 31A-26-206; 31A-26-209; 31A-35-401.5

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R590-166	Filing ID 54186

Agency Information

1. Department:	Insurance
Agency:	Administration
Room no.:	Suite 2300
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorville, UT 84129
Mailing address:	PO Box 146901

City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R590-166. Home Protection Service Contract Rule
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 No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.
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. Other changes make the language of this rule more clear and update the new Section R590-166-7 to use the Department's current language. The changes do 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 largely clerical in nature and will not change how the Department functions.
B) Local governments:
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect 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 largely clerical in nature and will not affect small businesses.

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 largely clerical in nature and will not affect non-small businesses.

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

There is no anticipated cost or savings to any other persons. The changes are largely clerical 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 are no compliance costs for any affected persons. The changes are largely clerical 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):

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

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

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-2-201	Section 31A-6a-110	
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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: 01/31/2022

10. This rule change MAY become effective on: 02/07/2022

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

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/08/2021
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R590. Insurance, Administration.

R590-166. Home Protection Service Contracts[~~Rule~~].

R590-166-1. Authority.

This rule is ~~issued by the Insurance Commissioner pursuant to the authority granted under Subsection 31A-2-201(3) to adopt rules for the implementation of the Utah Insurance Code and under Subsections 31A-6a-110(1) and (2)]promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-6a-110.~~

R590-166-2. Purpose and Scope.

(1) The purpose of this rule is to:

_____ (a) establish [~~certain~~] exemptions from [~~the~~] certain requirements of [~~Chapter 6a of~~] Title 31A, Chapter 6a, Service Contracts; [~~as it relates to home protection companies as defined herein~~]

_____ (b) allow for the use of a security deposit, a surety bond, or an irrevocable letter of credit in place of a reimbursement insurance policy; and

_____ (c) establish annual report filing requirements.

_____ (2) This rule applies to a home protection company that chooses to be backed by a security deposit, a surety bond, or an irrevocable letter of credit.

R590-166-3. Definition.

[A. "Home protection service contract," also referred to as "home service contract" or "home warranty," means a service contract as defined by Subsection 31A-6a-101(4)(a) whereby a person, other than a builder, seller, or lessor of a home which is the subject of the contract, undertakes, for a specified period of time and for a predetermined fee, to repair or replace components, systems, or appliances of such home upon mechanical or operational failure, or to make indemnification to the holder of such contract for such repair or replacement.

_____ B. "Home protection company" means a service contract provider as defined by 31A-6a-101(6) who issues home protection service contracts, excluding insurers authorized for casualty insurance.] Terms used in this rule are defined in Sections 31A-1-301 and 31A-6a-101. Additional terms are defined as follows:

_____ (1) "Home protection service contract," "home service contract," or "home warranty" has the same meaning as the term "home warranty service contract" under Section 31A-6a-101.

_____ (2) "Home protection company" has the same meaning as the term "service contract provider" under Section 31A-6a-101.

R590-166-4. [~~Rule~~] Exemption from Requirements of Title 31A, Chapter 6a.

[A. Upon prior written notification to the commissioner, home protection companies doing business in this state who are, at the time of notification, in compliance with all the terms and provisions set forth in this rule and are in compliance with all of the terms and provisions of Chapter 6a of Title 31A, except those terms and provisions specifically exempted herein, shall be exempt from the requirements of Subsections 31A-6a-103(1)(a) and (b), and 31A-6a-103(2)(b)(iv) and the requirements of Subsections 31A-6a-104(1)(a) and (b), and 31A-6a-104(2)(a)(i); provided, however, that nothing herein shall abrogate the requirement that home protection companies file copies of the service contracts to be used in this state, and any modifications thereto as would otherwise be required pursuant to Subsections 31A-6a-103(2)(a) and (b). So long as a home protection company remains in compliance with this rule, the home protection company's election to be subject to this rule shall remain in effect until written notification to the commissioner by the company of the company's withdrawal of its election. Notwithstanding the foregoing, home protection companies who are doing business in this state prior to the effective date of this rule and who elect to be subject to this rule as of the rule's effective date shall have until 60 days from the rule's effective date to attain compliance with all the terms and provisions of the rule.] (1) Upon registering, a home protection company that does not maintain a reimbursement insurance policy shall maintain a security deposit, a surety bond, or an irrevocable letter of credit.

_____ (2) A home protection company that maintains a security deposit, a surety bond, or an irrevocable letter of credit is exempt from the requirements of Subsections 31A-6a-103(1)(a) and (b), 31A-6a-

103(2)(b)(iv), 31A-6a-104(1)(a) and (b), 31A-6a-104(2)(a)(i), and 31A-6a-104(3)(a)(i).

R590-166-5. Security Deposit, Surety Bond, or Irrevocable Letter of Credit.

[B. To assure the faithful performance of its obligations to its contract holders the home protection company shall deposit in accordance with Section 31A-2-206 an amount not less than \$10,000 for each 500 home protection service contracts in force in this state, but not to exceed \$100,000. In the event of any failure of the home protection company to perform its obligations to its contract holders, the commissioner may make equitable distributions to contract holders from funds held on deposit.](1) A home protection company that maintains a security deposit, a surety bond, or an irrevocable letter of credit shall comply with this subsection.

_____ (a)(i) A security deposit shall be in an amount not less than \$10,000 for each 500 home protection service contracts in force in this state, but not to exceed \$100,000.

_____ (ii) A security deposit must be made in a federally insured financial institution under a tri-party agreement that names the commissioner as a party.

_____ (iii) If a home protection company fails to perform its obligations to its contract holders, the commissioner may make equitable distributions to contract holders from funds on deposit.

[C. In lieu of the deposit required in paragraph B above, a surety bond or irrevocable letter of credit in favor of the commissioner for \$50,000 may be filed by the home protection company. When, based on the home protection company's annual report pursuant to Section 5(A) hereof, the number of home protection service contracts issued by a protection company then in force in this state exceeds 2,500, the amount of the surety bond or letter of credit shall be increased to \$100,000. The bond shall be issued by an insurer authorized to transact surety business in this state. Any letter of credit shall be from a bank approved by the commissioner and in a form acceptable to the commissioner. The surety bond or letter of credit shall be held for the same purpose as the deposit in lieu of which it is filed. No bond or letter of credit shall be cancelled or subject to cancellation unless at least 30 days advance notice, in writing, thereof is filed with the commissioner and evidence of other security is provided.](b)(i) A surety bond shall be in favor of the commissioner in the amount of \$50,000.

_____ (ii) When the number of home protection service contracts issued by a home protection company in force in this state exceeds 2,500, the amount of a surety bond shall be increased to \$100,000.

_____ (iii) A surety bond shall be issued by an insurer authorized to transact surety business in this state.

_____ (iv) A surety bond may not be cancelled or subject to cancellation unless at least 30 days advance written notice is filed with the commissioner and evidence of other security is provided.

_____ (c)(i) An irrevocable letter of credit shall be in favor of the commissioner in the amount of \$50,000.

_____ (ii) When the number of home protection service contracts issued by a home protection company in force in this state exceeds 2,500, the amount of an irrevocable letter of credit shall be increased to \$100,000.

_____ (iii) An irrevocable letter of credit shall be issued from a bank approved by the commissioner and in a form acceptable to the commissioner.

_____ (iv) An irrevocable letter of credit may not be cancelled or subject to cancellation unless at least 30 days advance written notice is filed with the commissioner and evidence of other security is provided.

~~[D. The securities, bond or letter of credit of a home protection company deposited as required by this rule shall constitute a claim fund to be administered by the commissioner for the benefit of persons sustaining actionable injury due to the insolvency or impairment of the home protection company. The commissioner may, at his option, seek assumption of an insolvent home protection company's obligations and business by a solvent company, and apply the insolvent home protection company's deposit or proceeds of any surety bond or letter of credit to this purpose.](d)(i) Proceeds from a security deposit, a surety bond, or an irrevocable letter of credit under this rule may be administered by the commissioner for the benefit of a person sustaining actionable injury due to the insolvency or impairment of a home protection company.~~

~~(ii) At the option of the commissioner, the commissioner may seek to arrange the assumption of an insolvent home protection company's obligations and business on behalf of a solvent company, and apply the insolvent home protection company's deposits or proceeds of a surety bond or an irrevocable letter of credit with the assuming company.~~

~~[E. Any deposit, surety bond or letter of credit shall be maintained unimpaired as long as the home protection company continues to do business in this state. Whenever the home protection company ceases to do business in this state and furnishes the commissioner proof that it has discharged or otherwise adequately provided for all its obligations to its home protection service contract holders in this state, the commissioner shall authorize release of the deposited securities, surety bond or letter of credit on file at that time.](2)(a) A security deposit, a surety bond, or an irrevocable letter of credit shall be maintained unimpaired while a home protection company continues to do business in this state.~~

~~(b) When a home protection company ceases to do business in this state and furnishes the commissioner proof that it has discharged or otherwise adequately provided for each of its obligations to its contract holders, the commissioner shall authorize release of a security deposit, a surety bond, or an irrevocable letter of credit on file at that time.~~

R590-166-[5]6. Annual Statement[s, Interim Reports].

~~[A.](1) A home protection company [electing to be subject to this rule]subject to this rule shall annually, within 90 days after the close of its fiscal year, file with the commissioner [its]an annual statement in a form prescribed by the commissioner[. Such annual statement shall include a current financial statement prepared in accordance with generally accepted accounting principles, reviewed by an independent certified public accountant, and verified by the home protection company's president and principal financial or accounting officer].~~

~~[B. Each annual statement shall also report the home protection company's volume of business in this state during the preceding fiscal year, the losses thereon, open depositories at year end, and a statement of assets and liabilities.](2) An annual statement shall include:~~

- ~~(a) a current financial statement prepared in accordance with generally accepted accounting principles, reviewed by an independent certified public accountant and verified by the home protection company's president and principal financial officer;~~
- ~~(b) a home protection company's volume of business in this state during the preceding fiscal year;~~
- ~~(c) a home protection company's business losses;~~
- ~~(d) a list showing each security deposit, surety bond, and irrevocable letter of credit at year end; and~~
- ~~(e) a statement of assets and liabilities.~~

~~[C.](3) A home protection company [which]that fails to timely file its annual statement [in the form and within the time provided in this rule]may be:~~

- ~~(a) fined \$500 for each month, or any part thereof, during which such delinquency continues[, and upon notice by the commissioner, its election to be subject to this rule may be suspended or revoked until such delinquency is cured to the satisfaction of the commissioner];~~
- ~~(b) subject to suspension until the delinquency is cured to the satisfaction of the commissioner; and~~
- ~~(c) subject to revocation.~~

~~[D. In addition to an annual statement, f](4) The commissioner may require [of any particular]a home protection company[, in any situation where that home protection company's ability to service its obligations to holders or creditors is in reasonable doubt, such] to file additional regular or special reports, as the commissioner [may deem]considers necessary.~~

R590-166-[6]7. Severability.

~~[If a provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provisions is not effected.]If any provision of this rule, Rule R590-166, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

KEY: insurance

Date of Last Change: 2022[January 24, 2006]

Notice of Continuation: April 3, 2019

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-6a-110

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R590-182	Filing ID 54183

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule or section catchline:

R590-182. Risk Based Capital Instructions

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

This rule is being repealed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) determined that this rule was no longer necessary and should be repealed.

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 is being repealed in its entirety. The provisions referenced in this rule are already in force in Title 31A, Insurance Code. As such, this rule is unnecessary and should properly be repealed.

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. This rule is being repealed and had no fee associated with it.

B) Local governments:

There is no anticipated cost or savings to local governments. This rule is being repealed and had no fee associated with it.

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

There is no anticipated cost or savings to small businesses. This rule is being repealed and had no fee associated with it.

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. This rule is being repealed and had no fee associated with it.

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. This rule is being repealed and had no fee associated with it.

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. This rule is being repealed and there is no cost to comply.

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

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-2-201	Subsection 31A-17-601(17)	
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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:	01/31/2022
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10. This rule change MAY become effective on:

02/07/2022

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

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/08/2021
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R590. Insurance, Administration.

~~[R590-182. Risk Based Capital Instructions.~~

~~R590-182-1. Authority:~~

~~This rule is promulgated pursuant to the general rulemaking authority granted the commissioner by Section 31A-2-201 and the specific authority granted by Subsection 31A-17-601(7).~~

~~R590-182-2. Scope:~~

~~This rule applies to all health organizations, as defined in Subsection 31A-17-601(3), to all life or accident and health insurers, as defined in Subsection 31A-17-601(4), and to all property and casualty insurers, as defined in Subsection 31A-17-601(5) required by Subsections 31A-17-602(1) or 31A-17-610(1)(a) to file risk based capital reports (RBC).~~

~~R590-182-3. Rule:~~

~~A. The instructions contained in Subsection 31A-17-602(2) shall be used by life or accident and health insurers in preparing and filing RBC reports.~~

~~B. The instructions contained in Subsection 31A-17-602(3) shall be used by property and casualty insurers in preparing and filing RBC reports.~~

~~C. The instructions contained in Subsection 31A-17-602(4) shall be used by health organizations in preparing and filing RBC reports.~~

~~R590-182-4. Severability:~~

~~If any provision of this rule or its application to any person or circumstance is, for any reason, held to be invalid, the remainder of this rule and its application to other persons or circumstances are not affected.~~

~~KEY: insurance~~

~~Date of Last Change: April 18, 2002~~

~~Notice of Continuation: December 12, 2016~~

~~Authorizing, and Implemented or Interpreted Law: 31A-17-601(4)~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R590-283	Filing ID 54187

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R590-283. Defrayal of State-Required Benefits
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being changed to better reflect actual defrayal payment practice and to modify the formula for determining how much a carrier receives in defrayal of state mandated benefits. In addition, this rule is being changed in compliance with Executive Order No. 2021-12.

During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.

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 changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards. Other changes make the language of this rule clearer, add definitions for "Defrayal payment" and "Member month," switch the order of two sections for clarity, and update the new Section R590-283-8 to use the Department's current language.

Language was added to clarify that no carrier may receive more in defrayal payments than the carrier actually expended during the calendar year.

The calculation of the defrayal payment was modified to be based on a per member per month basis rather than a per member per year basis. The state is required to reimburse based on average costs (Section 31A-30-118) and a per member per month calculation more accurately distributes the costs to the carrier that expended them.

Language was added to clarify that for reporting and for requests for defrayal payments, the carrier allowed amount as well as the carrier incurred amount must be reported. The original language only required the carrier incurred amount. Having the allowed amount makes it easier for the state to estimate the complete year defrayal payment liability while taking into account probable patterns of deductible and maximum out of pocket completion. In practice, carriers have already been providing the allowed amount; the language now codifies the practice.

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 largely clerical in nature and will not change how the Department functions.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect 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 largely clerical in nature and will not affect small businesses.

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 largely clerical in nature and will not affect non-small businesses.

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

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

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

The Department anticipates that affected carriers will need to make a minor coding change to reflect monthly membership counts rather than annual membership counts. This compliance cost for this change should not be in any way material.

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

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

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-2-201	Section 31A-30-118	
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Incorporations by Reference Information

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

	First Incorporation
Official Title of Materials Incorporated (from title page)	Adaptive Behavior Services / Applied Behavior Analysis (ABA) Billing Standard
Publisher	Utah Health Information Network
Date Issued	02/02/2019
Issue, or version	3.1

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:	01/31/2022
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10. This rule change MAY become effective on: 02/07/2022

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

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/08/2021
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R590. Insurance, Administration.

R590-283. Defrayal of State-Required Benefits.

R590-283-1. Authority.

This rule is promulgated by the commissioner pursuant to ~~[Subsections 31A-2-201(3)(a) and 31A-30-118(4)]~~ Sections 31A-2-201 and 31A-30-118.

R590-283-2. Purpose and Scope.

(1) The purpose of this rule is to establish the method and timing ~~[of defraying-]~~ for the defrayal of the cost of a state-required benefit enacted on or after January 1, 2012, that is subject to 45 CFR 155.170 of ~~[the Patient Protection and Affordable Care Act]~~ PPACA.

(2) This rule applies to a ~~[ny]~~ health benefit plan that:

- (a) is a qualified health plan;
- (b) is offered on the exchange in the individual or small group market;
- (c) has an effective date of coverage on or after January 1, 2020; and
- (d) offers a state-required benefit in excess of the Utah Essential Health Benefits Package[-].

~~(3) A health benefit plan offering a state-required benefit that is offered exclusively off exchange is not eligible for defrayal of state mandated benefits].~~

R590-283-3. Definitions.

~~[For the purposes of this rule, the commissioner adopts the definitions of Sections 31A-1-301, 31A-30-103, and Rule R590-266, and the following definitions]~~ Terms used in this rule are defined in Sections 31A-1-301 and 31A-30-103, and Rule R590-266. Additional terms are defined as follows:

(1) "Defrayal payment" means the amount payable to a carrier from the state for expenses incurred for a state-required benefit under:

- (a) 45 C.F.R. 155.170(b);
- (b) Section 31A-30-118; and
- (c) this rule.

(2) "EHB" means essential health benefits.

~~(2)3~~ "Exchange" means ~~[the federal exchange, www.healthcare.gov, that makes qualified health plans available to qualified individuals or employers]~~ exchange as defined in 45 CFR 155.20.

~~(3)4~~ "Member month" means a count of one for each month during a calendar year during which an individual has coverage under a plan subject to this rule where coverage is evaluated on the first of the month.

(5) "Qualified health plan" means a qualified health plan as defined in 45 CFR 155.20.

~~(4)6~~ "State-required benefit" means a benefit required by the state;

- (a) on or after January 1, 2012[-];
- (b) for a purpose other than ~~[for purposes of]~~ compliance with a federal requirement[-];
- (c) that is in excess of the Utah Essential Health Benefits Package; and
- (d) that is eligible for a defrayal payment.

R590-283-4. ~~Unified Rate Review Template (URRT), Rate Data Template (RDT), and Plans and Benefits Template (PBT) Modifications.~~

~~A carrier who is eligible to receive defrayal for a state-required benefit shall modify the federal rate filing template as follows:~~

~~(1) a carrier shall exclude the amount the state will defray from the rates submitted on both the URRT, as well as the RDT;~~

~~(2) a carrier shall indicate in the rate filing's actuarial memorandum:~~

~~(a) whether or not the carrier anticipates a defrayal from the state for the cost of an eligible state required benefit;~~

~~(b) that the cost of the state required benefit is not included in the premiums; and~~

~~(c) detail regarding the amount the carrier expects to receive from the state for defrayal of the state required benefit.~~

~~(3) a carrier shall not factor the state required benefits into the calculation for the "EHB Percent of Total Premium" field on the PBT, a carrier should treat the state required benefit as if it does not exist for purposes of this field, so that the state required benefits are excluded from the total premium from which the EHB percent of premium is calculated; and~~

~~(4) a carrier shall indicate in the "Benefits Information" field on the PBT that they cover the state required benefits, marking the state required benefit as "Not EHB" as the "EHB Variance Reason."~~

R590-283-5. Defrayal of a State-Required Benefit[s].

(1) A health benefit plan offering a state-required benefit that is offered exclusively off-exchange is not eligible for a defrayal payment.

(2) A carrier seeking a ~~[state required benefit]~~ defrayal payment shall, on or before April 30~~[th]~~ of each year, ~~[starting on April 30, 2021,]~~ submit to the commissioner a request that includes the following information:

(a) the state-required benefit for which the carrier is seeking a defrayal payment~~[is sought];~~

(b) the ~~[count]~~ total member months of individuals who received ~~[services for the]~~ state-required benefit services during the preceding calendar year; and

(c) the amount allowed and the amount incurred and paid by the carrier for the state-required benefit services during the preceding calendar year.

(~~[2]~~3)(a) The total defrayal payments ~~[shall be]~~ are based on an aggregate of the data received under Subsection (~~[1]~~2) from all carriers.

(b) The defrayal payment ~~[to a carrier]~~ is calculated based on the sum of the total state-required benefit defrayable costs incurred across all carriers divided by the sum of the total ~~[count]~~ member months of individuals receiving ~~[defrayable]~~ state-required benefit services across all carriers~~[. The]~~, and the result ~~[will be]~~ is multiplied by the sum of the ~~[count]~~ member months of individuals receiving ~~[defrayable]~~ state-required benefit services for each carrier.

(c) A carrier may not receive a defrayal payment in excess of the amount the carrier incurred for a state-required benefit during the preceding calendar year.

(~~[3]~~4) ~~[R]~~A request[s] for defrayal payment shall be submitted via the System for Electronic Rate and Form Filings, SERFF.

(~~[4]~~5) ~~[State required]~~ Each defrayal payment[s] is paid in arrears for the prior calendar year.

(~~[5]~~6)(a) If legislative funding is less than the total amount of requested defrayal[s] payments, all each defrayal payment[s] will be prorated.

(b) A carrier may include an adjustment to the next pricing year's rates to account for a legislative funding deficit.

(c) An~~[y]~~ adjustment shall be clearly delineated in the actuarial memorandum.

R590-283-5. Unified Rate Review Template, Rate Data Template, and Plans and Benefits Template Modifications.

(1) A carrier that expects to be eligible to receive a defrayal payment shall modify a federal rate filing template as follows:

(a) exclude the expected defrayal payment from the rates submitted on both the Unified Rate Review Template and the Rate Data Template;

(b) indicate in the rate filing's actuarial memorandum:

(i) whether the carrier anticipates a defrayal payment from the state for the cost of an eligible state-required benefit;

(ii) that the cost of the state-required benefit is not included in the premiums; and

(iii) the defrayal payment amount the carrier expects to receive; and

(c) indicate in the "Benefits Information" field on the Plans and Benefits Template that the carrier covers the state-required benefits, selecting the state-required benefit of "Not EHB" for the "EHB Variance Reason" field.

(2)(a) A carrier may not factor a state-required benefit into the calculation for the "EHB Percent of Total Premium" field on the Plans and Benefits Template.

(b) A state-required benefit may not be included in the total premium from which the "EHB Percent of Total Premium" field is calculated.

R590-283-6. Reporting.

(1) This rule incorporates by reference the Utah Health Information Network's~~[, UHIN,]~~ (UHIN) "Adaptive Behavior Services / Applied Behavior Analysis (ABA) Billing Standard" version 3.1~~[. The standard]~~, which is available on the ~~[D]~~ department's website at <https://insurance.utah.gov> or on UHIN's website at <https://uhin.org>.

(2) A carrier shall use the UHIN "Adaptive Behavior Services / Applied Behavior Analysis (ABA) Billing Standard" version 3.1 to identify and report state-required benefit claims subject to defrayal under R590-283-~~[5(1)]~~4(2)(c) and this section.

(3) ~~[For the commissioner to]~~ To project the state's defrayal ~~[costs]~~ payments, a carrier anticipating a defrayal payment shall submit to the commissioner:

(a) on or before April 15~~[th]~~ of each year~~[, starting on April 15, 2020]~~:

(i) the state-required benefit for which the carrier is seeking a defrayal payment~~[is sought];~~

(ii) the ~~[count]~~ total member months of individuals who received services for the state-required benefit during the current calendar year; and

(iii) the amount allowed and the amount incurred and paid by the carrier for the state-required benefit during the current calendar year.

(b) on or before November 15~~[th]~~ of each year~~[, starting on November 15, 2020]~~:

(i) the state-required benefit for which the carrier is seeking a defrayal payment~~[is sought];~~

(ii) the ~~[count]~~ total member months of individuals who received services for the state-required benefit during the current calendar year; and

(iii) the amount allowed and the amount incurred and paid by the carrier for the state-required benefit during the current calendar year.

(c) Reports shall be submitted via the System for Electronic Rate and Form Filings, SERFF.

R590-283-7. Claims Auditing.

The commissioner may audit a carrier's:

(1) ~~[a carrier's]state-required benefit~~ claims that are ~~[subject to]eligible for a defrayal payment~~; and

(2) ~~[a carrier's]process for determining which state-required benefit~~ claims are ~~[subject to]eligible for a defrayal payment~~.

R590-283-8. Penalties.

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

R590-283-9. Enforcement Date.

~~The commissioner will begin enforcing the provisions of this rule for applicable policies issued or renewed on or after January 1, 2020.~~

R590-283-10. Severability.

~~[If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.]If any provision of this rule, Rule R590-283, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

KEY: insurance

Date of Last Change: 2022[December 23, 2019]

Authorizing, and Implemented or Interpreted Law: 31A-30-118(4)

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

General Information

2. Rule or section catchline:

R647-1-106. Definitions

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

During the 2021 General Session, H.B. 79 was passed, which amends the definition of "Basalt" in Section 40-8-4.

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 change amends the definition for "Basalt" to match the definition in statute and makes technical changes such as adding the word subsection to appropriate citations.

Fiscal Information

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

A) State budget:

There is a total of one state agency, the Division of Oil, Gas and Mining, that will be associated with this proposed rule change. There is no estimated cost to the state as these amendments are administrative.

B) Local governments:

This rule does not apply to local governments.

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

There are a total of 559 small business mining operators (for a complete listing of North American Industry Classification System (NAICS) codes used in this analysis, please contact the agency) in the . There is no estimated cost to small businesses as these amendments are administrative.

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

There are a total of 36 non-small businesses in the Mining industry (for a complete listing of NAICS codes used in this analysis, please contact the agency) in Utah. There is no estimated cost to non-small businesses as these amendments are administrative.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation,

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R647-1-106	Filing ID 54196

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas, and Mining; Non-Coal	
Building:	Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145801	
City, state and zip:	Salt Lake City, UT 84114-5801	
Contact person(s):		
Name:	Phone:	Email:
Natasha Ballif	801-589-5486	natashaballif@utah.gov

association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change will not affect persons other than local government, small businesses, and non-small businesses.

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

There will be no compliance costs for mining operators as this amendment is administrative.

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 no fiscal impact from this rule change. Brian Steed, 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.

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 40-6-5		
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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: 02/04/2022

10. This rule change MAY become effective on: 02/23/2022

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

Agency head or designee, and title:	John Baza, Director of Oil, Gas, and Mining	Date:	12/13/2021
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R647. Natural Resources; Oil, Gas and Mining; Non-Coal.

R647-1. Minerals Regulatory Program.

R647-1-106. Definitions.

"Act" means the Utah Mined Land Reclamation Act, enacted in 1975, as amended. (Section 40-8-1, et seq. [~~UCA~~]).

"Adjudicative proceeding" means an agency action or proceeding that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including [~~any~~] agency actions to grant, deny, revoke, suspend, [~~modify~~]change, annul, withdraw, or amend an authority, right, or license; and judicial review [~~of any~~] of such actions. Those matters not governed by Title 63G, Chapter 4, Administrative Procedures Act, (1953, as amended) shall not be included within this definition.

"Agency" means a board, commission, department, division, officer, council, office, committee, commission, bureau, or other administrative unit of this state, including the agency head, agency employees, or other persons acting on behalf of or under the authority of the agency head, but does not mean the Legislature, the courts, the governor, a [~~ny~~] political subdivision of the state, or an [~~y~~] administrative unit of a political subdivision of the state.

"Agency head" means an individual or body of individuals in whom the ultimate legal authority of the agency is vested by statute.

"Amendment" is an insignificant change in the approved notice of intention.

"Approved Notice of Intention" means a formally filed notice of intention to ~~commence~~ begin mining operations, including ~~any~~ amendments or revisions thereto that is determined to be complete and contains a mining and reclamation plan, which has been approved by the Division. A notice of intention for exploration having a disturbed area of ~~five~~ 10 acres or less, or a small mining operation must be determined complete in writing by the Division, but does not require a mining and reclamation plan.

"Basalt" (a) means fine-~~dark colored igneous~~ grained mafic igneous rock formed in the tertiary or quaternary periods. (b) ~~A~~ A Utah Geological Survey or ~~the~~ a United States Geological Survey published ~~maps that classify~~ map that classifies material as "basalt" is prima facie evidence that the material meets the requirements of Subsection (a). An unmapped area ~~can~~ may be classified by a Utah Geological Survey ~~G~~ geologist or a ~~licensed~~ professional geologist licensed in the state.

"Board" means the Utah Board of Oil, Gas and Mining. The Board shall hear ~~any~~ appeals of adjudicative proceedings which commenced begin before the Division as well as ~~any~~ adjudicative proceedings and other proceedings which commenced begin before the Board. The Board may appoint a Hearing Examiner for its hearings in accordance with the Rules of Practice and Procedure before the Board of Oil, Gas and Mining.

"Deleterious Materials" means earth, waste or introduced materials exposed by mining operations to air, water, weather or microbiological processes, which would likely produce chemical or physical conditions in the soils or water that are detrimental to the biota or hydrologic systems.

"Deposit" or "mineral deposit" means an accumulation of mineral matter in the form of consolidated rock, unconsolidated materials, solutions, or otherwise occurring on the surface, beneath the surface, or in the waters of the land from which ~~any~~ useful product may be produced, extracted or obtained, or which is extracted by underground mining methods for underground storage. "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, basalt for an area not to exceed 50 acres, water, geothermal steam, and oil and gas, but includes oil shale and bituminous sands extracted by mining operations.

"Development" means the work performed in relation to a deposit following its discovery, but prior to and in contemplation of production mining operations ~~Development includes~~ aimed at preparing the site for mining operations; further defining the ore deposit by drilling or other means; conducting pilot plant operations; and constructing roads or ancillary facilities.

"Disturbed Area" means the surface land disturbed by mining operations. The disturbed area for small mining operations shall not exceed ~~five~~ ten acres in an incorporated area of a county or ~~ten~~ 20 acres in an unincorporated area of a county. The disturbed area for large mining operations shall not exceed the acreage described in the approved notice of intention.

"Division" means the Utah Division of Oil, Gas and Mining. The Division Director or designee is the Presiding Officer for ~~any~~ informal adjudicative proceedings which commenced begin before the Division in accordance with Section R647-5.

"Exempt Mining Operations" means those mining operations which were previously exempt from the Act because less than 500 tons of material was mined in a period of ~~twelve~~ 12 consecutive months or less than two acres of land was excavated or used as a disposal site in a period of ~~twelve~~ 12 consecutive months. These exemptions were eliminated by statutory amendments in 1986 and are no longer available.

"Exploration" means surface disturbing activities conducted to discover a deposit or mineral deposit, delineating the boundaries of a deposit or mineral deposit, and identifying regions or specific areas in which deposits or mineral deposits are most likely to exist. "Exploration" includes: sinking shafts; tunneling; drilling holes; digging pits or cuts; building roads and other access ways.

"Gravel" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between 4mm and 75mm, which has been deposited by sedimentary processes.

"Land affected" means the surface and subsurface of an area within the state where mining operations are being or will be conducted, including: (a) on-site private ways, roads, and railroads; (b) land excavations; (c) exploration sites; (d) drill sites or workings; (e) refuse banks or spoil piles; (f) evaporation or settling ponds; (g) stockpiles; (h) leaching dumps; (i) placer areas; (j) tailings ponds or dumps; (k) work, parking, storage, or waste discharge areas, structures, and facilities. Land affected does not include: (x) lands which have been reclaimed in accordance with an approved plan or as otherwise approved by the Board, (y) lands on which mining operations ceased ~~prior to~~ before July 1, 1977, or (z) lands on which previously exempt mining operations ceased ~~prior to~~ before April 29, 1989.

"Large Mining Operations" means mining operations which have a disturbed area of more than ~~10~~ ten surface acres at a ~~any~~ time in an incorporated area of a county or more than 20 surface acres at a ~~any~~ time in an unincorporated area of a county.

"License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by statute.

"Mining operations" means those activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit, including, surface mining and the surface effects of underground and in situ mining; on-site transportation, concentrating, milling, evaporation, and other primary processing.

"Mining operation" does not include: the extraction of sand, gravel, and rock aggregate; the extraction of basalt for an area not to exceed ~~fifty~~ 50 acres; the extraction of oil and gas; the extraction of geothermal steam; smelting or refining operations; off-site operations and transportation; reconnaissance activities; or activities which will not cause significant surface resource disturbance and do not involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

"Notice of Intention" means a notice of intention to ~~commence~~ start mining operations, that provide the complete information required for authorization to conduct mining operations, and includes ~~any~~ amendments or revisions thereto.

"Off-site" means the land areas that are outside of or beyond the on-site land.

"On-site" means the surface lands on or under which surface or underground mining operations are conducted. A series of related properties under the control of a single operator but separated by small parcels of land controlled by others will be considered a single site unless excepted by the Division.

NOTICES OF PROPOSED RULES

"Operator" means a[ny] natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative[~~of any kind~~], either public or private, owning, controlling, conducting, or managing a mining operation or proposed mining operation.

"Owner" means a[ny] natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative[~~of any kind~~], either public or private, owning, controlling, conducting, or managing a mineral deposit or the surface of lands employed in mining operations.

"Party" means the Board, Division or other person commencing an adjudicative proceeding, [any-]respondents, [any] person[s] permitted by the Board to intervene in the proceeding, and [any-]persons authorized by statute or agency rule to participate as parties in an adjudicative proceeding.

"Permit" means a notice to conduct mining operations issued by the Division. A notice to conduct mining operations is issued by the Division when either a notice of intention for a small mining operation or exploration is determined to be complete and includes a surety approved by the Division, or a notice of intention for a large mining operation or exploration with a plan of operations and surety approved by the Division.

"Person" means an individual, group of individuals, partnership, corporation, association, political subdivision or its units, governmental subdivision or its units, public or private organization [or entity of any character,] or another agency.

"Presiding Officer" means an agency head, or an individual or body of individuals designated by the agency head, by the agency's rules, or by statute to conduct an adjudicative proceeding. For these rules, the Board, or its appointed Hearing Examiner, shall be considered the Presiding Officer of an[ny] appeal[s] of informal adjudicative proceedings which [commenced]begin before the Division as well as an[ny] adjudicative proceedings which [commence]begin before the Board. The Division Director [or his/her]their designee shall be considered a Presiding Officer for an[ny] informal adjudicative proceedings which [commence]begin before the Division in accordance with this [Section]Rule R647-5. If fairness to the parties is not compromised, an agency may substitute one Presiding Officer for another during a[ny] proceeding.

"Reclamation" means actions performed during or after mining operations to shape, stabilize, revegetate, or otherwise treat the land affected [in order-]to achieve a safe and ecologically stable condition and use which will be consistent with local environmental conditions and land management practices.

"Regrade or Grade" means to physically alter the topography of [any-]land surface.

"Respondent" means a[ny] person against whom an adjudicative proceeding is initiated, whether by an agency or an[ny] other person.

"Revision" means a change to an approved [N]notice of [F]intention to Conduct Mining Operations, which will increase or decrease the amount of land affected, or alter the location and type of on-site surface facilities, such that the nature of the reclamation plan will differ substantially from that in the approved [N]notice of [F]intention.

"Rock Aggregate" means those consolidated rock materials associated with a sand deposit, a gravel deposit, or a sand and gravel deposit, that were created by alluvial sedimentary processes. The definition of rock aggregate specifically excludes[any] solid rock in the form of bedrock, other than basalt, which is exposed at the surface of the earth or overlain by unconsolidated material.

"Sand" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between 0.004mm to 4mm, which has been deposited by sedimentary processes.

"Shut Down" means an absence of on-site mining operations on [any-]land affected under a complete or approved notice of intention where the operator intends that mining operations are permanently terminated, or the Division, after notice, makes a determination pursuant to Subsection R647-3-113[~~-~~](7) or R647-4-117[~~-~~](6).

"Small Mining Operations" means mining operations which have a disturbed area of [~~10~~ten] or fewer surface acres at a[ny] time in an incorporated area of a county or 20 or fewer surface acres at a[ny] time in an unincorporated area of a county.

"Surface Mining" means mining conducted on the surface of the land including open pit, strip, or auger mining; dredging; quarrying; leaching; surface evaporation operations; reworking abandoned dumps and tailings and activities related thereto.

"Suspension" means an absence of ongoing operations on [any-]land affected under an approved notice of intention, where the operator intends that operations will eventually resume.

"Underground Mining" means mining carried out beneath the surface by [~~means of~~]shafts, tunnels or other underground mine openings.

KEY: minerals reclamation
Date of Last Change: 2022[~~October 29, 2020~~]
Notice of Continuation: January 24, 2018
Authorizing, and Implemented or Interpreted Law: 40-8-1 et seq.

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R649-3-23	Filing ID 54197

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas, and Mining; Oil and Gas	
Building:	Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145801	
City, state and zip:	Salt Lake City, UT 84114-5801	
Contact person(s):		
Name:	Phone:	Email:
Natasha Ballif	801-589-5486	natashaballif@utah.gov

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

General Information

2. Rule or section catchline:
R649-3-23. Well Workover and Recompletion
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
During the 2019 General Session, H.B. 389 was passed, which amended Section 59-5-102 and added a required report to be prepared by an independent CPA before filing Form 15 with the Division of Oil, Gas and Mining (Division). This new requirement made it difficult to submit Form 15 in the required 90 days.
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 change amends the Form 15 submission date from 90 days after a recompletion to 180 days.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is a total of one state agency, the Division, that will be associated with this proposed rule change. There is no estimated cost to the state as these amendments are administrative.
B) Local governments:
This rule does not apply to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There are a total of 303 small business oil and gas operators (for a complete listing of North American Industry Classification System (NAICS) codes used in this analysis, please contact the agency) in the . There is no estimated cost to small businesses as these amendments are administrative.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are a total of 4 non-small businesses in the oil and gas industry (for a complete listing of NAICS codes used in this analysis, please contact the agency) in Utah. There is no estimated cost to non-small businesses as these amendments are administrative.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):

This rule change will not affect persons other than local government, small businesses, and non-small businesses.

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

There will be no compliance costs for oil and gas operators as this amendment is administrative and only changes a submission deadline.

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 no fiscal impact from this rule change. Brian Steed, 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.

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 40-6-5	Section 40-6-20	Section 40-6-21
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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:	02/04/2022
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10. This rule change MAY become effective on: 02/23/2022

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

Agency head or designee, and title:	John Baza, Director of Oil, Gas, and Mining	Date:	12/13/2021
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R649. Natural Resources; Oil, Gas and Mining; Oil and Gas. R649-3. Drilling and Operating Practices. R649-3-23. Well Workover and Recompletion.

1. Requests for approval of a notice of intention to perform a workover or recompletion shall be filed by an operator with the division on Form 9, Sundry Notices and Reports on Wells, or if the operation includes substantial redrilling, deepening, or plugging back of an existing well, on Form 3, Application for Permit to Drill, Deepen or Plug Back.

2. The division shall review the proposed workover or recompletion for conformance with the Oil and Gas Conservation General Rules and advise the operator of its decision and [any] necessary conditions of approval.

3. Recompletions shall be conducted in a manner to protect the original completion interval and [any] other known productive intervals.

4. The same tests and reports are required for [any] well recompletion as are required following an original well completion.

5. The applicant shall file a subsequent report of workover on Form 9, Sundry Notices and Reports, or a subsequent report of recompletion on Form 8, Well Completion or Recompletion Report and

Log, within 30 days after completing the workover or recompletion operations.

6. [For the purpose of] To qualify [ing] for a tax credit under [S]Subsection 59-5-102(7), the operator on [his]their behalf and on behalf of each working interest owner must file a request with the division on Form 15, Designation of Workover or Recompletion. The request must be filed within [90]180 days after completing the workover or recompletion operations.

7. A workover which may qualify under [S]Subsection 59-5-102(7) shall be downhole operations conducted to maintain, restore or increase the producibility or serviceability of a well in the geologic interval that the well is currently completed in, but shall not include:

7.1. Routine maintenance operations such as pump changes, artificial lift equipment or tubing repair, or other operations that do not involve changes to the wellbore configuration or the geologic interval that it penetrates and that do not stimulate production beyond that which would be anticipated as the result of routine maintenance.

7.2. Operations to convert a [any] well for use as a disposal well or other use not associated with enhancing the recovery of hydrocarbons.

7.3. Operations to convert a well to a Class II injection well for enhanced recovery purposes may qualify if the secondary or enhanced recovery project has received the necessary board approval.

8. A recompletion that may qualify under [S]Subsection 59-5-102(7) shall be downhole operations conducted to reestablish producibility or serviceability of a well in any geologic interval.

9. The division shall review the request for designation of a workover or recompletion and advise the operator and the State Tax Commission of its decision to approve or deny the operations for the purposes of [S]Subsection 59-5-102(7).

10. The division is responsible for approval of workover and recompletion operations that qualify for the tax credit.

10.1. If the operator disagrees with the decision of the division, the decision may be appealed to the board.

10.2. Appeals of any other workover and recompletion tax credit decisions should be made to the State Tax Commission.

KEY: oil and gas law

Date of Last Change: 2022[July 27, 2020]

Notice of Continuation: July 28, 2021

Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.; 40-6-5; 40-6-20; 40-6-21

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R649-5-3	Filing ID 54198

Agency Information

1. Department:	Natural Resources
Agency:	Oil, Gas, and Mining; Oil and Gas
Building:	Natural Resources
Street address:	1594 W North Temple, Suite 1210
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 145801

City, state and zip:	Salt Lake City, UT 84114-5801	
Contact person(s):		
Name:	Phone:	Email:
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R649-5-3. Noticing and Approval of Injection Wells
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The U.S. Environmental Protection Agency sets rules and procedures for Underground Injection Well programs. For the Division to retain its Underground Injection Control (UIC) primacy status, Section R649-5-3 needs to amend the comment period for UIC applications.
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 change amends the UIC application comment period from 15 days to 30 days and makes technical changes such as adding the word subsection to appropriate citations.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is a total of one state agency, the Division of Oil, Gas and Mining, that will be associated with this proposed rule change. There is no estimated cost to the state as these amendments are administrative.
B) Local governments:
This rule does not apply to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There are a total of 303 small business oil and gas operators (for a complete listing of North American Industry Classification System (NAICS) codes used in this analysis, please contact the agency) in the . There is no estimated cost to small businesses as these amendments are administrative.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are a total of 4 non-small businesses in the oil and gas industry (for a complete listing of NAICS codes used in this analysis, please contact the agency) in Utah. There is no estimated cost to non-small businesses as these amendments are administrative.
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 affect persons other than local government, small businesses, and non-small businesses.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There will be no compliance costs for oil and gas operators as this amendment is administrative and only lengthens a comment period.
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 no fiscal impact from this rule change. Brian Steed, 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
B) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.			

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 40-6-5		

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:	02/04/2022

10. This rule change MAY become effective on:	02/23/2022
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

Agency head or designee, and title:	John Baza, Director of Oil, Gas, and Mining	Date:	12/13/2021
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R649. Natural Resources; Oil, Gas and Mining; Oil and Gas. R649-5. Underground Injection Control of Recovery Operations and Class II Injection Wells. R649-5-3. Noticing and Approval of Injection Wells.

1. Applications for injection wells submitted pursuant to Subsection R649-5-1[-](3) shall be noticed in conformance with the procedural rules of the board as part of the hearing for the recovery project. ~~Any~~ Each person desiring to object to approval of such an application for an injection well shall file the objection in conformance with the procedural rules of the board.

2. The receipt of a complete and technically adequate application, other than an application submitted pursuant to Subsection R649-5-3[-](1), shall be considered as a request for agency action by the ~~D~~ division and shall be published in a daily newspaper of general circulation in the city and county of Salt Lake and in a newspaper of general circulation in the county where the proposed well is located. A copy of the notice of agency action shall also be sent to all parties including government agencies. The notice of agency action shall contain at least the following information:

2.1. The applicant's name, business address, and telephone number.

2.2. The location of the proposed well.

2.3. A description of proposed operation.

3. If no written objection to the application for administrative approval of an injection well is received by the division within ~~45~~30 days after publication of the notice of agency action, or an aquifer exemption is not required in accordance with Section R649-5-4, and a board hearing is not otherwise required, the application may be considered and approved administratively.

4. If a written objection to an application for administrative approval of an injection well is received by the division within ~~45~~30 days after publication of the notice of application, or if a hearing is required by these rules or deemed advisable by the director, the application shall be set for notice and hearing by the board.

5. The director shall have the authority to grant an exception to the hearing requirements of Section R649-5-1[-] for conversion to injection of additional wells that constitute a modification or expansion of an authorized project provided that any such well is necessary to develop or maintain thorough and efficient recovery operations for any authorized project and provided that no objection is received pursuant to Subsection R649-5-3[-](3).

6. The director shall have authority to grant an exception to the hearing requirements of Subsection R649-5-1[-](1) for water disposal wells provided disposal is into a formation or interval that is not currently nor anticipated to be an underground source of drinking water and provided that no objection is received pursuant to Subsection R649-5-3[-](3).

KEY: oil and gas law

Date of Last Change: 2022[June 2, 1998]

Notice of Continuation: July 28, 2021

Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R649-8-11	Filing ID 54200

Agency Information

1. Department:	Natural Resources
Agency:	Oil, Gas, and Mining; Oil and Gas
Building:	Natural Resources
Street address:	1594 W North Temple, Suite 1210
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 145801

City, state and zip:	Salt Lake City, UT 84114-5801	
Contact person(s):		
Name:	Phone:	Email:
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R649-8-11. Form 10, Monthly Oil and Gas Production Report
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Ddivision of Oil, Gas and Mining (Division) is streamlining processes and procedures and making forms available digitally through their oil and gas website.
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 change amends process for operators from being sent Form 10 monthly, to operators accessing Form 10 on the Division's oil and gas website monthly.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is a total of one state agency, the Division, that will be associated with this proposed rule change. There is no estimated cost to the state as these amendments are administrative.
B) Local governments:
This rule does not apply to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There are a total of 303 small business oil and gas operators (for a complete listing of North American Industry Classification System (NAICS) codes used in this analysis, please contact the agency) in the . There is no estimated cost to small businesses as these amendments are administrative.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are a total of 4 non-small businesses in the oil and gas industry (for a complete listing of NAICS codes used in this analysis, please contact the agency) in Utah. There is no estimated cost to non-small businesses as these amendments are administrative.

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 affect persons other than local government, small businesses, and non-small businesses.

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

There will be no compliance costs for oil and gas operators as this amendment is administrative and only changes how a form is accessed.

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 no fiscal impact from this rule change. Brian Steed, 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

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

B) Department head approval of regulatory impact analysis:
 The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.

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 40-6-5

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: 02/04/2022

10. This rule change MAY become effective on: 02/23/2022
 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

Agency head or designee, and title: John Baza, Director of Oil, Gas, and Mining
Date: 12/13/2021

R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.

R649-8. Reporting and Report Forms.

R649-8-11. Form 10, Monthly Oil and Gas Production Report.

1. ~~[The division will provide this report monthly to operators of all oil and gas wells within the state. Each operator shall complete the form to properly account for all oil, gas, and water produced from each well.]~~ Each operator shall electronically submit Form 10 monthly to properly account for all oil, gas, and water produced from each well. The form may be found on the division's oil and gas website.

2. This form[report] [shall]may be submitted in conjunction with Form 11, Monthly Oil and Gas Disposition Report

before the fifteenth day of the second calendar month following the month of production.

KEY: oil and gas conservation, reporting

Date of Last Change: 2022[June 2, 1998]

Notice of Continuation: July 28, 2021

Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R649-8-17	Filing ID 54199

Agency Information

1. Department:	Natural Resources	
Agency:	Oil, Gas, and Mining; Oil and Gas	
Building:	Natural Resources	
Street address:	1594 W North Temple, Suite 1210	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145801	
City, state and zip:	Salt Lake City, UT 84114-5801	
Contact person(s):		
Name:	Phone:	Email:
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline: R649-8-17. Form 15, Designation of Workover or Recompletion
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?): During the 2019 General Session, H.B. 389 was passed, which amended Section 59-5-102 and added a required report to be prepared by an independent CPA before filing Form 15 with the Division of Oil, Gas and Mining (Division). This new requirement made it difficult to submit Form 15 in the required 90 days.
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 change amends the Form 15 submission date from 90 days after a recompletion to 180 days.

Fiscal Information

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

A) State budget:

There is a total of one state agency, the Division, that will be associated with this proposed rule change. There is no estimated cost to the state as these amendments are administrative.

B) Local governments:

This rule does not apply to local governments.

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

There are a total of 303 small business oil and gas operators (for a complete listing of North American Industry Classification System (NAICS) codes used in this analysis, please contact the agency) in the . There is no estimated cost to small businesses as these amendments are administrative.

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

There are a total of 4 non-small businesses in the oil and gas industry (for a complete listing of NAICS codes used in this analysis, please contact the agency) in Utah. There is no estimated cost to non-small businesses as these amendments are administrative.

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 affect persons other than local government, small businesses, and non-small businesses.

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

There will be no compliance costs for oil and gas operators as this amendment is administrative and only changes a submission deadline.

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 no fiscal impact from this rule change. Brian Steed, 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.

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 40-6-1 et seq.		
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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:	02/04/2022
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10. This rule change MAY become effective on:	02/23/2022
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

Agency head or designee, and title:	John Baza, Director of Oil, Gas, and Mining	Date:	12/13/2021
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R649. Natural Resources; Oil, Gas and Mining; Oil and Gas. R649-8. Reporting and Report Forms.

R649-8-17. Form 15, Designation of Workover or Recompletion.

1. In accordance with ~~[Rule]~~Section R649-3-23, each operator desiring to claim a tax credit for workover or recompletion work performed must submit this report within ~~[90]~~180 days after the workover or recompletion work is completed. Upon determination and notification by the division that the described work qualifies for a tax credit under this rule, the operator may claim the tax credit on reports submitted to the Tax Commission during the third quarter after completion of the work.

2. The following workover and recompletion operations qualify for a tax credit:

- 2.1. ~~[P]~~perforating~~[;]~~;
- 2.2. ~~[S]~~stimulation~~[-(e.g.)]~~, acid jobs, frac jobs, solvent treatments, nitrogen cleanouts~~[;]~~;
- 2.3. ~~[S]~~sand control~~[;]~~;
- 2.4. ~~[W]~~water control or shut-off~~[;]~~;
- 2.5. ~~[W]~~wellbore cleanout~~[;]~~;
- 2.6. ~~[C]~~casing or liner repair~~[;]~~;
- 2.7. ~~[W]~~well deepening~~[;]~~;
- 2.8. ~~[I]~~initiation of enhanced recovery~~[-()_excluding surface equipment and associated costs[;]]~~;
- 2.9. ~~[C]~~change of lift system~~[-()_excluding surface equipment and associated costs[;]]~~;
- 2.10. ~~[G]~~gas well tubing changes~~[-(t.e.)]~~, down-sizing~~[;]~~;
and
- 2.11. ~~[F]~~thief zone identification and elimination.

3. The following workover and recompletion operations do not qualify for a tax credit:

- 3.1. ~~[P]~~pump changes~~[;]~~;
- 3.2. ~~[R]~~rod string fishing and repair~~[/]~~ or replacement~~[;]~~;
- 3.3. ~~[T]~~tubing repair~~[/]~~ or replacement~~[;]~~;
- 3.4. ~~[S]~~surface equipment installation and repair~~[;]~~; and
- 3.5. ~~[O]~~operations generally classified as routine maintenance or repair.

4. Division approval is conditional subject to audit, and actual final expenses may be disallowed if they are not appropriate workover or recompletion expenses.

KEY: oil and gas conservation, reporting
Date of Last Change: 2022[June 2, 1998]
Notice of Continuation: July 28, 2021
Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R805-2	Filing ID 54190

Agency Information

1. Department:	Higher Education (Utah Board of)
Agency:	University of Utah, Administration
Room no.:	309
Building:	Park Building
Street address:	201 S Presidents Circle
City, state and zip:	Salt Lake City, UT 84112

Contact person(s):

Name:	Phone:	Email:
Rebekah Bradway	801-585-7002	rebekah.bradway@legal.utah.edu

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

General Information

2. Rule or section catchline:
R805-2. Government Records Access and Management Act Procedures

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

The reason for these changes is to amend processes related to a person's request to the University of Utah under the Government Records Access and Management Act (GRAMA), including by incorporating the University's use of an online records portal.

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 proposed rule: 1) amends provisions related to how a person may submit a records request to the University of Utah under GRAMA, to whom a person may appeal a University determination under GRAMA, and from where a person may obtain a fee schedule; and 2) makes technical and conforming changes.

Fiscal Information

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

A) State budget:
This rule change is not expected to have any fiscal impact on state government revenues or expenditures because the changes do not create new obligations or increase the

costs associated with any existing obligations of the University of Utah.

B) Local governments:

This rule change is not expected to have any fiscal impact on local governments' revenues or expenditures because the changes will not affect local governments.

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

This rule change is not expected to have any fiscal impact on small businesses' revenues or expenditures because the changes will not affect small businesses.

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

This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because the changes will not affect non-small businesses.

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

This rule change is not expected to have any fiscal impact on any other persons because the changes are minor operational changes.

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 anticipated compliance costs for an impacted entity because the changes are minor operational changes.

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 is not expected to have any fiscal impacts on businesses. Taylor Randall, President, University of Utah

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

B) Department head approval of regulatory impact analysis:

The President of the University of Utah, Taylor Randall, 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 63G-3-201	Section 63G-2-204	Section 63A-12-104
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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:	01/31/2022
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10. This rule change MAY become effective on: 02/07/2022

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

Agency head or designee, and title:	Phyllis Vetter, General Counsel	Date:	12/13/2021
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R805. ~~Regents~~ Higher Education (Utah Board of), University of Utah, Administration.

R805-2. Government Records Access and Management Act Procedures.

R805-2-1. Purpose.

The purpose of this rule is to establish procedures for the University of Utah in accordance with the Government Records Access and Management Act ("GRAMA").

R805-2-2. Authority.

This rule is authorized by Section[s] 63G-3-201 and Subsections 63A-12-104(2)[;] and 63G-2-204(3)(2)(d), and 63G-3-201 of the Utah Code.

R805-2-3. Allocation of Responsibility.

All operating units of the University of Utah, [e.g.,]including departments, institutes, offices, divisions, centers, schools, and colleges, [shall be considered as]are a single governmental entity for purposes of this rule.

R805-2-4. Requests for Access.

(1) The University [of Utah]is a governmental entity of the [State of Utah]state and is not an agency of the federal government. As such, the University [of Utah]is not subject to the federal Freedom of Information Act.

(2) Access to student records held by the University [of Utah]is governed by the Family Educational Rights and Privacy Act and not GRAMA.

(3) Access to records containing protected health information that are created or maintained by the University [of Utah]in [its]the University's capacity as an entity covered by the Health Insurance Portability and Accountability Act ("HIPAA"), as amended, is governed by HIPAA and not GRAMA.

~~_____ A person requesting access to a record subject to GRAMA, and held by the University of Utah, must submit a written request that identifies the requested record with reasonable specificity.~~

~~The written request must also contain the name, mailing address, and, if available, the daytime telephone number of the person making the request. Such requests shall be directed as follows:]~~

~~(4) A person making a request for a record subject to GRAMA shall submit a written request that contains:~~

~~(a) a description of the record requested that identifies the record with reasonable specificity; and~~

~~(b) the person's name, mailing address, and daytime telephone number.~~

~~(5)(a) Except as provided in Subsection (5)(b), a person making a request for a record shall submit the request electronically to an online public records portal designated by the University.~~

~~(b) A person that does not have an email address or is unwilling to accept communications related to the person's request by email shall submit, by U.S. mail or hand delivery:~~

~~(1) Requests](i) a request for personnel records [shall be sent]to the Office of the Chief Human Resources Officer[-];~~

~~(2) Requests](ii) a request pertaining to financial records [shall be sent]to the Office of the Vice President for Administrative Services[-];~~

~~(3) Requests](iii) a request pertaining to purchasing activities [shall be sent]to the [D]director of the University Purchasing Department[-];~~

~~(4) Requests](iv) a request pertaining to athletics [shall be sent]to the [A]athletics [D]director[-]; or~~

~~(5) All other requests shall be sent](v) any other request to the office of the vice president responsible for overseeing the operating unit of the University [of Utah]in which the records are maintained[-. A list of these officials follows.], which may include the following:~~

~~(a) S](A) senior [V]vice [P]president, Academic Affairs[-];~~

~~(b) S](B) senior [V]vice [P]president, Health Sciences[-];~~

~~(c) V](C) vice [P]president, Administrative Services[-];~~

~~(d) V](D) vice [P]president, General Counsel[-];~~

~~(e) V](E) vice [P]president, Government Relations[-];~~

~~(f) C](F) chief [H]human [R]resources [O]officer[-];~~

~~(g) V](G) vice [P]president, Institutional Advancement[-];~~

~~(h) V](H) vice [P]president, Research[-]; or~~

~~(i) V](I) vice [P]president, Student Affairs and Services.~~

~~(c) A person making a request in accordance with Subsection (5)(b):~~

~~(i) shall submit, with the person's request, a written statement that the person does not have an email address or is unwilling to accept communications related to the person's request by email; and~~

~~(ii) should consult the University's Web site for current mailing addresses.~~

~~(6) The Utah Open Records Portal Website created in Section 63A-12-114 does not serve as a point of access for a request for records held by the University.~~

R805-2-5. Appeals from University Determinations.

~~_____ Appeals from University determinations under GRAMA shall be directed to the Records Officer, who has been designated by the University President to hear appeals pursuant to section 63G-2-401(9).]~~

~~(1) A person appealing a University determination under GRAMA shall direct the appeal to the University chief administrative officer or, as applicable, the chief administrative officer's designee to hear appeals under Subsection 63G-2-401(9).~~

~~(2) Unless otherwise provided by the University on the University's Web site, an associate dean of the University's J. Willard Marriott Library serves as the University chief administrative officer.~~

R805-2-6. Fees.

As allowed by GRAMA, the University [of Utah]charges fees in connection with [its]the University's response to a records request. ~~[A fee schedule may be obtained from the University Records Officer.]A person may obtain a fee schedule at the online public records portal described in Subsection R805-2-4(5).~~

KEY: higher education, GRAMA, records

Date of Last Change: 2022[March 24, 2011]

Notice of Continuation: June 26, 2018

Authorizing, and Implemented or Interpreted Law: 63G-2-204(2)[3]; 63A-12-104(2); 63G-3-201

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R810-6	Filing ID 53380

Agency Information

1. Department:	Higher Education (Utah Board of)	
Agency:	University of Utah, Commuter Services	
Building:	947	
Street address:	311 S Fort Douglas Blvd	
City, state and zip:	Salt Lake City, UT 84113	
Contact person(s):		
Name:	Phone:	Email:
Jennifer Hanson	801-585-9481	Jennifer.hanson@utah.edu
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R810-6. Permit Prices and Refunds
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The University of Utah, Commuter Services Division (Division) would like to change our refund policy to align more with the industry standards.
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):
Currently permits can be returned for a prorated refund for up to 6 months after purchase date. The Division would like to change it to: Active permits may be returned for a prorated refund for up to 60 days from the date of purchase provided a request is made to Commuter Services before that time.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
Savings to our budget: 1) Will allow the Division to operate with fewer employees by allowing us to do away with all of the part-time positions that the Division has had in the past; and 2) Currently, customers returning their semester U permit after 12 weeks would receive an \$8 refund. The check to refund this money costs \$12. This would allow a small savings on money being refunded and check fees.

B) Local governments:			
This rule does not apply to local governments.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
This rule does not apply to small businesses.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
This rule does not apply to non-small businesses.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):			
The majority of permit holders that will be affected by this are the ones purchasing semester U permits. At this time, they are \$140. The Division prorates \$11 per week of use. After 60 days, the approximate remainder of permit is \$46. These permit holders would not be eligible for the \$46 refund. If refunded before 60 days, this would not be an issue. The prorated value for these permits would end long before the current 6-month refund policy. This causes disgruntle customers when our policy says they can return it for up to 6 months, but there is nothing left to return after 3 months.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There will be no compliance cost to permit holders if they return their permit within 60 days, and there will be no compliance cost to the Division.			
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 will be no effect on businesses. Ruth Watkins, President, University of Utah			
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

NOTICES OF PROPOSED RULES

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
B) Department head approval of regulatory impact analysis:			
The President of the University of Utah, Ruth Watkins, has reviewed and approved this 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 53B-3-103	Section 53B-3-107

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	01/31/2022

until:	
10. This rule change MAY become effective on:	02/07/2022
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

Agency head or designee, and title:	Ruth Watkins, President, University of Utah	Date:	03/22/2021
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R810. [Regents] Higher Education (Utah Board of), University of Utah, Commuter Services.

R810-6. Permit Prices and Refunds.

R810-6-1. Authority.

This rule is authorized by Section 53B-3-103.

R810-6-[1]2. Prices.

Permit prices are subject to change upon approval of the University Administration and Board of Trustees.

R810-6-[2]3. Prorations.

An [A] annual permit[s] [are] is purchased for one academic year. The purchase price may be prorated according to the divisions of the academic year as determined by the University.

R810-6-[3]4. Refunds.

[A partial refund may be obtained for an unused annual permit provided a request is made to Commuter Services before it is six months old.] An Active permit may be returned for a prorated refund for up to 60 days from the date of purchase provided a request is made to Commuter Services before that time.

KEY: parking facilities

Date of Last Change: 2022[May 19, 2015]

Notice of Continuation: February 13, 2017

Authorizing, and Implemented or Interpreted Law: 53B-3-103; 53B-3-107

End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text (~~example~~). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R156-37f-203	Filing ID: 54209

Agency Information

1. Department:	Commerce	
Agency:	Occupational and Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Jeff Henrie	801-530-6046	jahenrie@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R156-37f-203. Submission, Collection, and Maintenance of Data
3. Effective Date:
01/01/2022
4. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This filing adds a new subsection into the data reportable under Subsection R156-37f-203(4) to change the ASAP 4.2 field known as DSP12 (Transmission Form of Rx Origin Code) from a situation field that is reported voluntarily to a required field that cannot be null.
5. Summary of the new rule or change (What does this filing do?):
New Subsection R156-37f-203(4)(z) is added to provide that the pharmacist shall provide the data field "origin code of how the pharmacy received the prescription (DSP12)."
6. A) The agency finds that regular rulemaking would:
<input checked="" type="checkbox"/> cause an imminent peril to the public health, safety, or welfare;

cause an imminent budget reduction because of budget restraints or federal requirements; or
place the agency in violation of federal or state law.
B) Specific reasons and justifications for this finding:
The Utah Controlled Substance Database (CSD) tracks and collects data on the dispensing of known addictive drugs by most hospitals and pharmacies as a state-level intervention to improve opioid prescribing, inform clinical practice, and protect patients from harm. A review of the CSD's required ASAP 4.2 fields by DOPL's new CSD manager and newly hired Public Health Policy Manager indicates that when Utah's new e-prescribing statute will go into effect on 01/01/2022, it will be necessary to require the DSP12 field beginning on that date to accurately track e-prescribing data in relation to cases of drug over-utilization, misuse, and over-prescribing.

Fiscal Information

7. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no aggregate anticipated cost or savings to the state budget, as this amendment will simply allow the CSD to gather the DSP12 field data on a mandatory rather than a situational basis for better tracking of addictive substance prescriptions.
B) Local governments:
There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.
C) Small businesses ("small business" means a business employing 1-49 persons):
The proposed amendment will affect controlled substance prescribers and pharmacies who dispense controlled substances, (North American Industry Classification System (NAICS) 446110, 621399, 621112, 621111, 621330, 622110, 622310, 621493, 623220, 621420, 621420, and 623110), but the amendment is expected to have no measurable impact on these small businesses' revenues or expenditures as they are already subject to reporting the ASAP 4.2 DSP12 origin code on a situational basis, and any increase in time for a required report would be limited to dispensers who are not already reporting this data, and funding for electronic health records and pharmaceutical dispensing software has been available through Centers for Medicare and Medicaid Services since 2006. Additionally, any increase in cost for those not reporting at this time is inestimable as it would be based on the time spent to look at the prescription and add the applicable code and would only affect those who have such information to report, so it will vary based on the dispensing and the individual reporting and this data is unavailable.

D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
The proposed amendment will affect controlled substance prescribers and pharmacies who dispense controlled substances, but the amendment is expected to have no measurable impact on these affected persons' revenues or expenditures as they are already subject to reporting the ASAP 4.2 DSP12 origin code on a situational basis, and any increase in time for a required report would be limited to dispensers who are not already reporting this data, and funding for electronic health records and pharmaceutical dispensing software has been available through Centers for Medicare and Medicaid Services since 2006. Additionally, any increase in cost for those not reporting at this time is inestimable as it would be based on the time spent to look at the prescription and add the applicable code and would only affect only those who have such information to report, so it will vary based on the dispensing and the person reporting and this data is unavailable.
E) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
As described for other persons in Box 7(D) above, no compliance costs are expected for affected persons.
F) 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 Division of Occupational and Professional Licensing (Division) proposes an emergency amendment to the Controlled Substance Database Act Rule. The Utah CSD tracks and collects data on the dispensing of known addictive drugs by hospitals and pharmacies as a state-level intervention to improve opioid prescribing, inform clinical practice, and protect patients from harm. The CSD Manager and Public Health Policy Manager indicate that when Utah's new e-prescribing statute will go into effect on 01/01/2022, it will be necessary to require the "DSP12" field in the database beginning on that date to accurately track e-prescribing data in relation to cases of drug over-utilization, misuse, and over-prescribing.
Small Businesses: The Division does not foresee any foreseeable impact on small businesses since this amendment is made to make the rule comport to necessary requirements. Thus, the fiscal impacts cannot be estimated due to the lack of data necessary for such a calculation.
Regulatory Impact to Non-Small Businesses: This change will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses. These costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

Margaret W. Busse, Executive Director

Citation Information

8. 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 58-1-106(1)(a)	Subsection 58-37f-301(1)	
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Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Division Director	Date:	12/13/2021
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R156. Commerce, Occupational and Professional Licensing.

R156-37f. Controlled Substance Database Act Rule.

R156-37f-203. Submission, Collection, and Maintenance of Data.

(1) Under Subsection 58-37f-203(1), each pharmacy or pharmacy group shall submit the data required in this section on a daily basis, either in real time or daily batch file reporting. The submitted data shall be from the point of sale date.

(a) If the data is submitted by a single pharmacy entity, the data shall be submitted in chronological order according to the date each prescription was sold.

(b) If the data is submitted by a pharmacy group, the data shall be sorted by individual pharmacy within the group, and the data of each individual pharmacy within the group shall be submitted in chronological order according to the date each prescription was sold.

(2) Under Subsections 58-37f-203(2), (3), and (6), the data required by this section shall be submitted to the Database through one of the following methods:

(a) electronic data sent via a secured internet transfer method, including sFTP site transfer;

(b) secure web base service; or

(c) another electronic method approved by the Database administrator prior to submission.

(3) Under Subsections 58-37f-203(2), (3), and (6), the format for submission to the Database shall be Version 4.2 of the ASAP Format for Controlled Substances. The Division may approve alternative formats substantially similar to this standard.

(4) Under Subsection 58-37f-203(6), the pharmacist-in-charge and the pharmacist identified in Subsections 58-37f-203(2) and (3) shall provide the following data fields to the Division:

(a) version of ASAP used to send transaction (ASAP 4.2 code TH01);

(b) transaction control number (TH02);

(c) date transaction created (TH05);

(d) time transaction created (TH06);

(e) file type (production or test) (TH07);

(f) segment terminator character (TH09);

(g) information source identification number (IS01);

(h) information source entity name (IS02);

(i) reporting pharmacy's:

(i) National Provider Identifier (PHA01); and

(ii) identifier assigned by NCPDP or NABP (PHA02), or

if none, then DEA registration number (PHA03);

(j) patient last name (PAT07);

(k) patient first name (PAT08);

(l) patient address (PAT12);

(m) patient city of residence (PAT14);

(n) patient zip code (PAT 16);

(o) patient date of birth (PAT18);

(p) dispensing status - new, revised, or void (DSP01);

(q) prescription number (DSP02);

(r) date prescription written by prescriber (DSP03);

(s) number of refills authorized by prescriber (DSP04);

(t) date prescription filled at dispensing pharmacy (DSP05);

(u) if current dispensed prescription is a refill, the number of the refill being dispensed (DSP06);

(v) product identification qualifier (DSP07);

(w) NDC 11-digit drug identification number (DSP08);

(x) quantity of drug dispensed in metric units (DSP09);

(y) days supply dispensed (DSP10);

(z) origin code of how the pharmacy received the prescription (DSP12);

([z]aa) date drug left the pharmacy, meaning date sold (DSP17);

([aa]bb) DEA registration number of prescribing practitioner (PRE02);

([bb]cc) state that issued identification of individual picking up dispensed drug (AIR03);

([ee]dd) type of identification used by individual picking up dispensed drug (AIR04);

([ee]cc) identification number of individual picking up dispensed drug (AIR05);

([ee]ff) last name of individual picking up dispensed drug (AIR07);

([ff]gg) first name of individual picking up dispensed drug (AIR08);

([gg]hh) dispensing pharmacist last name or initial (AIR09);

([hh]ii) dispensing pharmacist first name (AIR10);

([ii]jj) number of detail segments included for the pharmacy (TP01);

([jj]kk) transaction control number (TT01); and

([kk]ll) total number of segments included in the transaction (TT02).

(5) Under Subsection 58-37f-203(6), if no controlled substance required to be reported has been dispensed since the previous submission of data, then the pharmacist-in-charge and the pharmacist shall submit a zero report to the Division, which shall include the following data fields:

(a) version of ASAP used to send transaction (TH01);

(b) transaction control number (TH02);

(c) date transaction created (TH05);

(d) time transaction created (TH06);

(e) file type (production or test) (TH07);

(f) segment terminator (TH09);

(g) information source identification number (IS01);

(h) information source entity name (IS02);

(i) date range (IS03);

(j) reporting pharmacy's:

(i) National Provider Identifier (PHA01); and

(ii) identifier assigned by NCPDB or NABP (PHA02), or

if none, then DEA registration number (PHA03);

(k) patient last name [=] "Report" (PAT07);

(l) patient first name [=] "Zero" (PAT08);

(m) date prescription dispensed at dispensing pharmacy (DSP05);

NOTICES OF 120-DAY (EMERGENCY) RULES

- (n) number of detail segments included for the pharmacy (TP01);
 - (o) transaction control number (TT01); and
 - (p) total number of segments included in the transaction (TT02).
- (6) Under Subsection 58-37f-203(2), a Class A, B, D, or E pharmacy or pharmacy group that has a controlled substance license but is not dispensing controlled substances and does not anticipate doing so in the immediate future may request a waiver or submit a certification, in a form preapproved by the Division, in lieu of daily zero reports:
- (a) The pharmacy or pharmacy group shall renew its waiver or certification at the end of each calendar year.
 - (b) If a pharmacy or pharmacy group with a current waiver or certification dispenses a controlled substance:
 - (i) the waiver or certification shall immediately and automatically terminate;
 - (ii) the Database reporting requirements of Subsections 58-37f-203(1) and R156-37f-203(1) shall apply to the pharmacy or pharmacy group immediately upon the dispensing of the controlled substance; and
 - (iii) the pharmacy or pharmacy group shall notify the Division in writing of the waiver or certification termination within 24 hours or the next business day of the dispensing of the controlled substance, whichever is later.
 - (7) The Database shall collect information regarding the prescription noncontrolled substance 1-(Aminomethyl)-cyclohexaneacetic acid (Gabapentin), in accordance with Subsection 58-37f-203(8).
 - (8) The Database shall collect information regarding "any substance which contains any quantity of a derivative of barbituric acid or any salt of any of them" (Butalbital), in accordance with Subsection 58-37-4(2)(c)(ii) which designates this as a Schedule III controlled substance.

KEY: controlled substance database, licensing
Date of Last Change: January 1, 2022
Notice of Continuation: December 21, 2017
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-37f-301(1)

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R380-65	Filing ID: 54182

Agency Information

1. Department:	Health
Agency:	Administration
Room no.:	430
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 141000
City, state and zip:	Salt Lake City, UT 84114

Contact person(s):		
Name:	Phone:	Email:
Michelle Hofmann	801-538-6111	udohedo@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:	R380-65. Public Health Emergency Protocols
3. Effective Date:	12/07/2021
4. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):	The reason for the change is to establish Department of Health (Department) protocols to administer, dispense, and distribute vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance in the event of a declaration of a national, state, or local emergency
5. Summary of the new rule or change (What does this filing do?):	This rule explains the criteria necessary for when this rule will be in effect. This rule establishes the requirements for the Department to administer, dispense, distribute, and issue standing prescription drug orders for the medication. This rule also includes record keeping and confidentiality requirements.
6. A) The agency finds that regular rulemaking would:	<input checked="" type="checkbox"/> cause an imminent peril to the public health, safety, or welfare; <input type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or <input type="checkbox"/> place the agency in violation of federal or state law.
B) Specific reasons and justifications for this finding:	The U.S. Food and Drug Administration and the Centers for Disease Control and Prevention continue to review and approve additional medications and treatments, including antivirals. As new medications and treatments become available, it is necessary to establish protocols by which they can be administered, dispensed, and distributed to the public. Therefore, an emergency rule is necessary to outline the protocols by which the Department will administer, dispense, and distribute these vaccines, antivirals, antibiotics, or other prescription medications that are not a controlled substance.

Fiscal Information

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

A) State budget:

Related to this rule, there is no anticipated savings. The cost to the state budget is unknown. Any anticipated cost would be dependent on the specific medication to be administered, dispensed, and distributed. Factors related to the cost could include whether the medication would be provided by the federal government in full, if it would be subsidized, if there would be federal funding made available for expenses related to the administration, dispensing, and distribution.

B) Local governments:

Any cost or savings to the local governments would depend on how the medication is dispensed or distributed. Potential cost could be if the Local Health Departments were part of the dispensing or distribution process. There could be a cost for personnel to either administer medication or support staff for record keeping. The overall cost would depend on the level of expertise required for the specific situation.

Additional considerations related to the cost or savings would be funding provided by either the federal government, state government, or other sources

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

Any cost or savings to small business will be related to the distribution or dispensing of the medication; and any record keeping involved. The cost would be relative to the skills needed and the extent they would be involved with providing the medication to the public. Any effect on small business would be specific to the specific public health emergency. To what extent small business would be involved in the distribution, dispensing, or writing of prescriptions for the public would depend on the situation. Any increase in their staff would be evaluated, including skill level required or additional clerical support.

Additional considerations related to the cost would be if funding were available through federal or state government or if the cost would be passed on to the small business.

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

Any cost or savings to other than small business will be related to the distribution or dispensing of the medication and any record keeping involved. The cost would be relative to the skills needed and the extent they would be involved with providing the medication to the public. Any effect on these businesses would be specific to the public

health emergency. To what extent these businesses would be involved in the distribution, dispensing, or writing of prescriptions for the public, would be evaluated based on the specific situation. Any increase in their staff would include skill level required or additional clerical support.

Additional considerations related to the cost would be if funding would be available or if cost would be passed on to the small business.

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

Any compliance cost for affected persons is unknown at this time. Considerations would be evaluated based on the emergency situation, cost of medication, staffing concerns, and volume of the public needing the services. Additional consideration related to the cost for compliance expenses would include potential funding from federal and state government, as well as other sources.

F) 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 fiscal impact to businesses is inestimable since any cost or savings will be related to the specific activities required by the public health emergency in the distribution or dispensing of the medication and any record keeping involved. Nate Checketts, Executive Director

Citation Information

8. 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 58-1-307(6)	Subsection 58-1-307(7)	Subsection 58-1-307(8)
Subsection 58-1-307(9)	Title 26, Chapter 3	Title 26, Chapter 23b
Title 26, Chapter 25		

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	12/07/2021
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R380. Health, Administration.

R380-65. Public Health Emergency Protocols.

R380-65-1. Authority and Purpose.

(1) Pursuant to Section 26-1-5 and Subsection 58-1-307(6)(b), this rule establishes the Department's protocols to administer, dispense, and distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance in the event of a declaration of a national, state or local emergency.

(2) The protocols shall only be in effect during a public health emergency.

R380-65-2. Definitions.

(1) "Administer" means the direct application of a prescription drug, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient.

(2) "Controlled Substance" means the same as defined in Section 58-37-2.

(3) "Declaration of Emergency" means the declaration of a national emergency pursuant to federal law, a state emergency pursuant to Section 53-2a-206, a local emergency pursuant to Section 53-2a-208 or a public health emergency pursuant to Section 26-23b-104.

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

(5) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration or use.

(6) "Distribute" means to deliver a drug or device other than by administering or dispensing.

(7) "Public health emergency" means the same as defined in Subsection 26-23b-102(9).

R380-65-3. Administration of Medication.

(1) Upon the declaration of a public health emergency, the Department may administer a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance.

(2) The Department shall administer a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance in accordance with all licensing requirements in Title 58, Occupations and Professions.

R380-65-4. Dispensing Medication.

(1) Upon the declaration of an emergency, the Department may dispense or coordinate dispensing a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance for distribution, dispensing and administration.

(2) The Department may dispense a medication authorized in Subsection (1) in accordance with Section R380-65-5 or upon receipt of a valid prescription drug order issued by an individual licensed under Title 58, Occupation and Professions, who is authorized to issue a prescription drug order.

(3) The Department shall retain prescription files and other records in accordance with Title 58, Occupations and Professions.

(4) The Department may establish a written protocol for a prescription drug order that it considers necessary for dispensation of a medication.

R380-65-5. Distribution of Medication.

(1) Upon the declaration of an emergency, the Department may coordinate the distribution of a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance for distribution, dispensing and administration.

(2) The Department, through the medical director or other person with authority to prescribe, may issue a valid standing prescription drug order that authorizes a pharmacist and a pharmacist intern licensed under the Pharmacy Practice Act, Title 58, Chapter 17b, to dispense according to the requirements of the standing order.

(3) When the Department coordinates the distribution of a medication without issuing a valid standing prescription drug order, the Department may:

(a) distribute the medication;

(b) distribute the medication through local health departments pursuant to Section R380-60; or

(c) enter into an agreement with a third party to distribute the medication.

R380-65-6. Protocol for Issuance of a Standing Prescription Drug Order.

Each standing prescription drug order issued under this rule shall adhere to the requirements of Subsection 58-1-307(6). In addition, each standing order shall also include the following:

(1) the conditions justifying dispensing the medication under a statewide standing prescription;

(2) a requirement specifying the persons or entities authorized to dispense the medication;

(3) the conditions required for a patient to receive the medication;

(4) the conditions, if any, for refill of the prescription;

(5) a requirement that those authorized to dispense the medication to make and retain a record of each person to whom the medication is dispensed pursuant to the recordkeeping requirements in this rule; and

(6) the expiration date of the standing order.

R380-65-7. Record Keeping for Standing Prescription Drug Orders.

(1) A person authorized to dispense medication in the standing order shall make and retain a record that includes the following information:

(a) the name, age, address and contact information of each patient receiving the medication;

(b) the NDC, or other identifying code, of the medication dispensed; and

(c) any other relevant information required by the standing order issued by the Medical Director or a physician designated by the Executive Director.

(2) A person authorized to distribute medication shall make and retain a record that includes the name, address and contact information of each entity receiving the medication and any other relevant information required by the Department at the time of distribution.

(3) If the circumstances of the emergency make it impossible to comply with this section, the Executive Director of the Department may grant an exception in writing to this requirement and limit the record keeping requirement to records as are appropriate and possible in the circumstances of the emergency.

(4) If no exception is made by the Executive Director of the Department as described in Subsection R380-65-7(3), record keeping shall be in effect as required by Section R156-37-602.

R380-65-8. Confidentiality.

Information created or collected by the department for activities conducted under this rule, or a standing order, is confidential and protected, and the use, access, or disclosure of such information is subject to the specific provisions of applicable law, rule, or regulation governing the activity. Where there is a conflict between two applicable provisions of law, the provision that is the most protective of the privacy of the information shall govern. Where there is no other more specific or applicable provision of law, the information shall be subject to Title 26, Chapter 3, Health Statistics.

R380-65-9. Compliance with Inventory Management.

(1) Recipients of vaccine, antiviral, antibiotic, or other prescription medications shall maintain inventory records in accordance with Department requirements. The Department may also obtain and review records of the recipient at any time.

(2) If the circumstances of the emergency make it impossible to keep inventory records, the Executive Director of the Department may grant an exception in writing to this requirement limiting the record keeping requirement to such records as are appropriate and possible in the circumstances of the emergency.

(3) If no exception is made by the Executive Director of the Department as described in Subsection R380-65-9(2), record keeping shall be in effect as required by law.

KEY: public health emergency, medication protocols, standing orders, distribution of medication

Date of Last Change: December 7, 2021

Authorizing, and Implemented or Interpreted Law: 58-1-307; 26-3; 26-23b; 26-25

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at 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.):	R51-2	Filing ID: 52891
Effective Date:	12/02/2021	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Administration	
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
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R51-2. Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food

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 63G-4-203 which allows agencies to prescribe procedures for informal administrative procedures in rule, as well as Section 4-1-104 which requires that proceedings comply with the Administrative Procedures Act.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it gives the public clear notice of the procedures that that the Department of Agriculture and Food will follow should they be involved in an administrative dispute, including hearing procedures and representation and reconsideration rights. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Butters, Commissioner	Date:	12/02/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R156-37	Filing ID: 50266
Effective Date:	12/14/2021	

Agency Information

1. Department:	Commerce	
Agency:	Occupational and Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Larry Marx	801-530-6254	lmarx@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R156-37. Utah Controlled Substances 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 37, provides for the regulation of controlled substances. 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 58-37-6(1) provides that the Division may adopt rules relating to the licensing and control of the manufacture, distribution, production, prescription, administration, dispensing, conducting of research with, and performing of laboratory analysis upon controlled substances within this state. This rule was enacted to clarify the provisions of Title 58, Chapter 37, with respect to controlled substances.
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 February 2017, the rule has been amended two 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 is necessary because it provides a mechanism to inform potential licensees and licensees of the rules relating to controlled substances, as allowed under statutory authority provided in Title 58, Chapter 37. This rule is applicable to occupations and professions involved with controlled substances which are regulated by the Division. This rule also provides information to ensure applicants for licensure are knowledgeable about controlled substance requirements of the Division with respect to items that are not covered separately in each occupational/professional rule. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Division Director	Date:	10/04/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-419	Filing ID: 53607
Effective Date:	12/02/2021	

Agency Information

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

General Information

2. Rule catchline:
R277-419. Pupil Accounting

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 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; Subsection 53E-3-501(1)(e) which directs the Board to establish rules and standards regarding cost-effectiveness, school budget formats, and financial, statistical, and student accounting requirements; Subsection 53E-3-602(2) which requires a local school board's auditing standards to include financial accounting and student accounting; Subsection 53E-3-301(3)(d), which requires the Superintendent to present to the Governor and the Legislature data on the funds allocated to LEAs; Section 53G-4-404 which requires annual financial reports from all school districts; and Subsection 53G-5-404(4) which requires charter schools to make the same annual reports required of other public schools.
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 continues to be necessary because it specifies pupil accounting procedures used in apportioning and distributing state funds for education. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	12/02/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-499	Filing ID: 54092
Effective Date:	12/02/2021	

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state and zip:	Salt Lake City, UT 84111

Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R277-499. Seal of Biliiteracy
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 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 allows the Board to establish rules and minimum standards for graduation requirements.
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 continues to be necessary because it establishes rules and procedures for a student to earn a Seal of Biliiteracy in conjunction with a high school diploma. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	12/02/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-615	Filing ID: 52862
Effective Date:	12/07/2021	

Agency Information

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

General Information

2. Rule catchline:
R277-615. Standards and Procedures for Student Searches
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 the Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board; Section 53G-8-509 which directs the Board and LEAs to adopt rules to protect students against unreasonable and excessive intrusion of personal rights; 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:
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 continues to be necessary because it directs local education agencies (LEAs) to adopt policies to protect student rights with procedures and provisions that balance students' rights and privacy with the responsibility of school officials for the safety and protection of students and adults while on school property or at school-sponsored events. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	12/07/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-702	Filing ID: 53402
Effective Date:	12/02/2021	

Agency Information

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

General Information

2. Rule catchline:
R277-702. Procedures for the Utah High School Completion Diploma
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 the Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board; Subsection 53E-3-501(1)(b) which directs the Board to adopt rules regarding access to programs, competency levels, and graduation requirements; 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:
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 continues to be necessary because it describes the standards and procedures required for an individual to obtain a Utah High School Completion Diploma. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	12/02/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R277-915	Filing ID:	50562
Effective Date:	12/02/2021		

Agency Information

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

General Information

2. Rule catchline:
R277-915. Work-based Learning 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 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 Section 53G-7-902 which allows schools to offer work-based learning (WBL) programs in accordance with Board rules.

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 continues to be necessary because it provides standards for work-based learning programs. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	12/02/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R333-13	Filing ID:	50814
Effective Date:	12/06/2021		

Agency Information

1. Department:	Financial Institutions		
Agency:	Banks		
Room no.:	201		
Street address:	324 S State St		
City, state and zip:	Salt Lake City, UT 84111-2393		
Mailing address:	PO Box 146800		
City, state and zip:	Salt Lake City, UT 84114-6800		
Contact person(s):			
Name:	Phone:	Email:	
Paul Allred	801-538-8761	pallred@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R333-13. Rule Designating Applicable Federal Law for Banks Subject to the Jurisdiction of the Department of Financial Institutions

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

This rule designates which one or more federal laws are applicable to a bank subject to the jurisdiction of the Department of Financial Institutions (Department). This rule establishes that designated federal law may only be enforced by the Department by taking action permitted under Title 7 and the applicable chapters set forth in Section 7-1-325. The statutory provision states that the "...department shall by rule...designate which one or more federal laws are applicable to an institution subject to the jurisdiction of the department."

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 supporting or opposing written comments have been received since the last notice of continuation.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Section 7-1-325 requires that the Department designate, by rule, which one or more federal laws are applicable to an institution subject to the jurisdiction of the Department. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	G. Edward Leary, Commissioner	Date:	12/06/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R339-12	Filing ID: 50833
Effective Date:	12/06/2021	

Agency Information

1. Department:	Financial Institutions	
Agency:	Industrial Loan Corporations	
Room no.:	201	
Street address:	324 S State St	
City, state and zip:	Salt Lake City, UT 84111-2393	
Mailing address:	PO Box 146800	
City, state and zip:	Salt Lake City, UT 84114-6800	
Contact person(s):		
Name:	Phone:	Email:
Paul Allred	801-538-8761	pallred@utah.gov

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

General Information

2. Rule catchline:
R339-12. Rule Designating Applicable Federal Law for Industrial Loan Corporations Subject to the Jurisdiction of the Department of Financial Institutions

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 designates which one or more federal laws are applicable to an industrial loan corporation subject to the jurisdiction of the Department of Financial Institutions (Department). This rule establishes that designated federal law may only be enforced by the Department by taking action permitted under Title 7 and the applicable chapters set forth in Section 7-1-325. The statutory provision states that the "...department shall by rule...designate which one or more federal laws are applicable to an institution subject to the jurisdiction of the department."

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 supporting or opposing written comments have been received since the last notice of continuation.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Section 7-1-325 requires that the Department designate, by rule, which one or more federal laws are applicable to an institution subject to the jurisdiction of the Department. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	G. Edward Leary, Commissioner	Date:	12/06/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R414-1	Filing ID: 53952
Effective Date:	12/13/2021	

Agency Information

1. Department:	Health
Agency:	Health Care Financing, Coverage and Reimbursement Policy

Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143101	
City, state and zip:	Salt Lake City, UT 84114-3101	
Contact person(s):		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R414-1. Utah Medicaid Program
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 26-18-3 requires the Department of Health (Department) to implement Medicaid policy through administrative rules, which allow the Department to administer the Medicaid program. Additionally, Section 26-1-5 authorizes the Department to adopt rules that provide services and eligibility for Medicaid members.
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 did not receive any written comments regarding this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The Department has decided that this rule continues to be necessary because it sets forth services and eligibility for the Medicaid program, specifies provider and member policy, specifies the role of certain entities within the Medicaid program, specifies the availability of program manuals and policies, and serves as the basis for all other rules in the Medicaid program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	12/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R414-10A	Filing ID: 50957
Effective Date:	12/13/2021	

Agency Information

1. Department:	Health	
Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143101	
City, state and zip:	Salt Lake City, UT 84114-3101	
Contact person(s):		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R414-10A. Transplant Services Standards
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 26-18-3 requires the Department of Health (Department) to implement Medicaid policy through administrative rules, which allow the Department to administer the Medicaid program. Additionally, Section 26-1-5 allows the Department to adopt rules that provide access to Medicaid services, and 42 CFR 482.68 sets forth special requirements for transplant 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:
The Department did not receive any written comments regarding this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The Department has decided that this rule continues to be necessary because it defines important terms and provisions, sets forth eligibility and access requirements, specifies service coverage and prior authorization, clarifies covered and non-covered services for stem cell

transplantation, and lists criteria for requests of non-covered services. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	12/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R414-21	Filing ID:	50967
Effective Date:	12/13/2021		

Agency Information

1. Department:	Health		
Agency:	Health Care Financing, Coverage and Reimbursement Policy		
Building:	Cannon Health Building		
Street address:	288 N 1460 W		
City, state and zip:	Salt Lake City, UT 84116		
Mailing address:	PO Box 143101		
City, state and zip:	Salt Lake City, UT 84114-3101		
Contact person(s):			
Name:	Phone:	Email:	
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R414-21. Physical Therapy and Occupational Therapy
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 26-18-3 requires the Department of Health (Department) to implement Medicaid policy through administrative rules, which allow the Department to administer the Medicaid program. Additionally, Section 26-1-5 authorizes the Department to adopt rules that provide access to Medicaid services, and 42 CFR 440.110 authorizes qualified therapists to provide or supervise physical therapy and occupational therapy services.

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 did not receive any written comments regarding this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Department has decided that this rule continues to be necessary because it implements physical therapy and occupational therapy for Medicaid members and implements reimbursement to service providers. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	12/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R414-38	Filing ID:	50998
Effective Date:	12/13/2021		

Agency Information

1. Department:	Health		
Agency:	Health Care Financing, Coverage and Reimbursement Policy		
Building:	Cannon Health Building		
Street address:	288 N 1460 W		
City, state and zip:	Salt Lake City, UT 84116		
Mailing address:	PO Box 143101		
City, state and zip:	Salt Lake City, UT 84114-3101		
Contact person(s):			
Name:	Phone:	Email:	
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R414-38. Personal Care Services

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 26-18-3 requires the Department of Health (Department) to implement Medicaid policy through administrative rules, which allow the Department to administer the Medicaid program. Additionally, Section 26-1-5 authorizes the Department to adopt rules that provide services and eligibility for Medicaid members.
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 did not receive any written comments regarding this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The Department has decided that this rule continues to be necessary because it implements personal care services for Medicaid members and reimbursement for personal care providers, by referencing the Personal Care Utah Medicaid Provider Manual and the Medicaid State Plan. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	12/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R495-810	Filing ID: 52591
Effective Date:	12/11/2021	

Agency Information

1. Department:	Human Services	
Agency:	Administration	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R495-810. Government Records Access and Management 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:
This rule is authorized by Department of Human Service's authority to establish rules under Section 62A-1-111 and Section 63G-2-204 which authorizes governmental entities to make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall be directed.
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 establishes the process for submitting GRAMA requests and appeals, the fees associated with these records, and the records modification and clarification in accordance with the Government Records Access and Management Act and Section 63G-2-204. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	12/10/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R590-102	Filing ID: 53271
Effective Date:	12/08/2021	

Agency Information

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

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

General Information

2. Rule catchline:
R590-102. Insurance Department Fee Payment 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:
Section 31A-3-103 requires the Department of Insurance (Department) to set regulatory fees and publish them as a list.
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 is necessary because it is specifically required by law and because it makes it easy for the public to see all of the fees charged by the Department. It also provides regular opportunities for the public to make comment regarding changes to the fee schedule. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R590-103	Filing ID: 53858
Effective Date:	12/08/2021	

Agency Information

1. Department:	Insurance
Agency:	Administration
Room no.:	Suite 2300
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W

City, state and zip:	Taylorville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-103. Security Deposits
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 31A-2-201(3) authorizes the insurance commissioner to write rule to implement Title 31A, Insurance Code. Subsection 31A-2-206(17) authorizes the insurance commissioner to write rules regarding the receipt and handling of deposits, and the type of securities that may be qualified in those deposits.
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 of Insurance 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 requires insurance companies to deposit a certain amount of money into an account to take care of claims in case they go out of business. The deposits help pay for claims, which are also covered in part by a guaranty association that most companies are associated with. However, the most important use of these deposits is to help cover the administrative costs of a liquidation. This rule provides guidelines that help ensure that the deposits are federally secured and the financial institution is holding the required amount. Without these safeguards, it would be very difficult to be sure that the funds are actually deposited, as required by law. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R590-121	Filing ID: 53909
Effective Date:	12/08/2021	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-121. Rate Modification Plan 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:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement the provisions of Title 31A, Insurance Code. Section 31A-2-203 authorizes the insurance commissioner to make rules pertaining to a financial condition and market regulation surveillance system, and annual financial reporting requirements. Section 31A-19a-203 authorizes the insurance commissioner to write a rule to set procedures for submitting rate filings electronically.
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 of Insurance 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 gives guidance to licensees about how they can develop alternative rating plans. This rule establishes

criteria that must be applied to all policies written outside of a standard rating structure. This rule establishes guidelines that reduce the possibility of unfair rating by property and casualty insurers and rate service organizations. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R590-126	Filing ID: 51351
Effective Date:	12/08/2021	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-126. Accident and Health Insurance Standards
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 31A-2-201(3)(a) authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Sections 31A-2-202 and 31A-23a-412 authorize the insurance commissioner to request reports, conduct examinations, and inspect records of any licensee. Subsection 31A-22-605(4) required the insurance commissioner to adopt rules to establish standards for disclosure in the sale of and benefits provided by individual and franchise accident and health

policies. Section 31A-22-623 authorizes the insurance commissioner to establish by rule minimum standards of coverage for dietary products for inborn metabolic errors. Section 31A-22-626 authorizes the insurance commissioner to establish by rule minimum standards of coverage for diabetes for accident and health insurance. Subsection 31A-23a-402(8) authorizes the insurance commissioner to define by rule acts and practices that are unfair and unreasonable. Subsection 31A-26-301(1) authorizes the insurance commissioner to set standards for timely payment of claims.

This rule provides reasonable standardization and simplification of terms and coverages of insurance policies in order to facilitate public understanding and comparison to prohibit provisions that may be misleading or confusing in connection with the purchase of accident and health insurance or with the settlement of claims, and to provide full disclosure in the sale of such insurance.

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 of Insurance 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:

Products in the individual market require closer regulation because there is not an employer entity that can bargain for an equitable contract on behalf of the individual. This rule sets forth benefits to be offered for certain products, yet still allows products with lesser benefits to be offered if marketed as "limited benefits." This helps individuals assess what type of product is being offered. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R590-133	Filing ID:	51359
Effective Date:	12/08/2021		

Agency Information

1. Department:	Insurance
Agency:	Administration
Room no.:	Suite 2300
Building:	Taylorville State Office Building

Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R590-133. Variable Contracts

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 31A-2-201(3) authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Subsection 31A-20-106(1)(b)(ii) authorizes the insurance commissioner to regulate the issuance and sale of variable contracts.

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 of Insurance 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 provides guidance to both insurers and producers selling variable life insurance products to maintain compliance with the insurance code. This rule provides consumer protection by requiring disclosure and annual reports for the product purchased. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R590-143	Filing ID:	51358
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Effective Date:	12/13/2021
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Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-143. Life And Health Reinsurance Agreements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.
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 of Insurance 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 prevents insurers from reducing a liability or increasing an asset when any of the listed provisions exist. This rule contains scenarios that should not exist relating to the Life and Health reinsurance agreements to assure transfer of risk. Risk transfer is essential if a large event (claim) should occur that would cause the insurer to make a monetary settlement beyond its surplus capacity. This rule requires that contracts be written in a manner that assures the reinsurer is assuming the risk to prevent a significant drain of the insurer's surplus. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/13/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R698-1	Filing ID:	51849
Effective Date:	12/02/2021		

Agency Information

1. Department:	Public Safety	
Agency:	Administration	
Building:	Calvin Rampton Complex	
Street address:	4501 S 2700 W 1st Floor	
City, state and zip:	Salt Lake City, UT 84119-5994	
Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact person(s):		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R698-1. Public Petitions for Declaratory Orders
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 under Section 63G-4-503, which requires each agency issue rules that provide for the form, contents, and filing of petitions for declaratory orders; provide for the disposition of the petitions; define the classes of circumstances in which the agency will not issue a declaratory order; are consistent with the public interest and with the general policy of this chapter; and facilitate and encourage agency issuance of reliable advice.
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 during and since the last five-year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because there is a statutory requirement under Section 63G-4-503 that the agency issue rules that provide for the form, contents, and filing of petitions for declaratory orders; provide for the disposition of the petitions; define the classes of circumstances in which the agency will not issue a declaratory order; are consistent with the public interest and with the general policy of this chapter; and facilitate and encourage agency issuance of reliable advice. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jess L. Anderson, Commissioner	Date:	12/02/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R698-2	Filing ID:	51855
Effective Date:	12/02/2021		

Agency Information

1. Department:	Public Safety		
Agency:	Administration		
Building:	Calvin Rampton Complex		
Street address:	4501 S 2700 W 1st Floor		
City, state and zip:	Salt Lake City, UT 84119-5994		
Mailing address:	PO Box 141775		
City, state and zip:	Salt Lake City, UT 84114-1775		
Contact person(s):			
Name:	Phone:	Email:	
Kim Gibb	801-556-8198	kgibb@utah.gov	

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

General Information

2. Rule catchline:
R698-2. Government Records Access and Management Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized under Subsection 63G-2-204(3) which states that a governmental entity may make rules specifying where and to whom requests for records access shall be directed. This rule needs to be updated to include current statutory references and corrected information as to how to obtain records from the Department of Public Safety (Department). A rule filing will be submitted following reauthorization to amend the text of this rule.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have not been any written comments received during or since the last five-year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is authorized under Section 63G-2-204 and is needed in order to provide direction to individuals who are interested in obtaining records from the Department. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jess L. Anderson, Commissioner	Date:	12/02/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R698-3	Filing ID:	51850
Effective Date:	12/09/2021		

Agency Information

1. Department:	Public Safety		
Agency:	Administration		
Building:	Calvin Rampton Complex		
Street address:	4501 S 2700 W 1st Floor		
City, state and zip:	Salt Lake City, UT 84129-5994		
Mailing address:	PO Box 141775		
City, state and zip:	Salt Lake City, UT 84114-1775		
Contact person(s):			
Name:	Phone:	Email:	
Kim Gibb	801-556-8198	kgibb@utah.gov	

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

General Information

2. Rule catchline:
R698-3. Americans With Disabilities Act (ADA) Complaint Procedure
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 Subsection 63G-3-201(3), which requires rulemaking when an agency issues a written interpretation of a state or federal legal mandate. The federal mandate that is interpreted in this rule is 28 CFR 35.107, Designation of responsible employee an adoption of grievance procedures. The references in this rule are outdated and will be corrected in a subsequent rule amendment filing.
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 not been any comments received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is required under Subsection 63G-3-201(3) to provide interpretation of 28 CFR 35.107. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jess L. Anderson, Commissioner	Date:	12/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R728-401	Filing ID: 51941
Effective Date:	12/09/2021	

Agency Information

1. Department:	Public Safety	
Agency:	Peace Officer Standards and Training	
Street address:	410 W 9800 S	
City, state and zip:	Sandy, UT 84070	
Contact person(s):		
Name:	Phone:	Email:
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

2. Rule catchline:
R728-401. Training Academy 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:
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, Peace Officer Standards and Training Act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have not been any comments received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary in order to outline procedures for the operation of law enforcement training programs. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Major Scott Stephenson	Date:	12/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R728-403	Filing ID: 53854
Effective Date:	12/09/2021	

Agency Information

1. Department:	Public Safety	
Agency:	Peace Officer Standards and Training	
Street address:	410 W 9800 S	
City, state and zip:	Sandy, UT 84070	

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Contact person(s):		
Name:	Phone:	Email:
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

2. Rule catchline:
R728-403. Procedures for Certification
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 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, Peace Officer Standards and Training Act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have not been any comments received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary in order to outline procedures for a dispatcher or peace officer to become certified or reactivate certification. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Major Scott Stephenson	Date:	12/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R728-409	Filing ID: 52730
Effective Date:	12/09/2021	

Agency Information

1. Department:	Public Safety
Agency:	Peace Officer Standards and Training
Street address:	410 W 9800 S

City, state and zip:	Sandy, UT 84070	
Contact person(s):		
Name:	Phone:	Email:
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

2. Rule catchline:
R728-409. Suspension, Revocation, or Relinquishment of Certification
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 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, Peace Officer Standards and Training Act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have not been any comments received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary in order to outline procedures for the suspension, revocation, or relinquishment of a respondent's certification. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Major Scott Stephenson	Date:	12/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R728-410	Filing ID: 51942
Effective Date:	12/09/2021	

Agency Information

1. Department:	Public Safety	
Agency:	Peace Officer Standards and Training	
Street address:	410 W 9800 S	
City, state and zip:	Sandy, UT 84070	
Contact person(s):		
Name:	Phone:	Email:
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

2. Rule catchline:
R728-410. Guidelines Regarding Annual Statutory Training
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 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, Peace Officer Standards and Training Act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have not been any comments received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary in order to outline procedures regarding the reporting of annual statutory training. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Major Scott Stephenson	Date:	12/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R728-411	Filing ID: 51944
Effective Date:	12/09/2021	

Agency Information

1. Department:	Public Safety	
Agency:	Peace Officer Standards and Training	
Street address:	410 W 9800 S	
City, state and zip:	Sandy, UT 84070	
Contact person(s):		
Name:	Phone:	Email:
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

2. Rule catchline:
R728-411. Guidelines for Administrative Action Against Individuals Functioning As Peace Officers Without Valid Peace Officer Certification
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 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, Peace Officer Standards and Training Act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have not been any comments received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary in order to outline procedures for administrative action when an individual is found to be exercising the authority of a peace officer without valid peace officer certification. Therefore, this rule should be continued.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Agency Authorization Information

Agency head or designee, and title:	Major Scott Stephenson	Date:	12/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R746-348	Filing ID: 51964
Effective Date:	12/08/2021	

Agency Information

1. Department:	Public Service Commission	
Agency:	Administration	
Building:	Heber M Wells Building	
Street address:	160 E 300 S, 4th Floor	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 4558	
City, state and zip:	Salt Lake City, UT 84114-4558	
Contact person(s):		
Name:	Phone:	Email:
Yvonne Hogle	801-530-6709	yhogle@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R746-348. Interconnection

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 54-8b-2.2 tasks the Public Service Commission (PSC) with adopting rules that implement competitive facilities-based local telecommunications services, as well as competitive telecommunications services crossing local exchange boundaries of local exchange carriers. The language in Subsection 54-8b-2.2(2)(a) is mandatory, stating, in part, "[t]he [PSC] *shall* adopt rules ... which implements by December 31, 1996, the competitive provision of facilities-based intraLATA toll and local exchange services."

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 have been 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:

Open, fair, and competitive negotiation among telecommunications providers for access to networks within the state is still required to ensure continuation of competition within the telecommunications industry. This will, in turn, impact the quality of the telecommunications services provided to Utah customers. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Thad LeVar, PSC Chair	Date:	12/08/2021
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

EXTENSIONS are governed by Subsection 63G-3-305(6).

NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Utah Admin. Code Ref (R no.):	R590-142	Filing ID: 51369
New Deadline Date:	05/09/2022	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-142. Continuing Education Rule
3. Reason for requesting the extension and the new deadline date:
The Department of Insurance (Department) filed an amendment to Rule R590-142 on 12/08/2021 which will be published in the January 1, 2022, Bulletin with a first possible effective date of 02/07/2022. The five-year review of this rule is due on 01/09/2022. The Department

requests an extension to keep this rule in place until the amendment is made effective and the review can be done.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/08/2021
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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Utah Admin. Code Ref (R no.):	R590-147	Filing ID: 51372
New Deadline Date:	05/09/2022	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

General Information

2. Rule catchline:
R590-147. Annual and Quarterly Statement Filing Instructions
3. Reason for requesting the extension and the new deadline date:
An amendment to this rule was filed on 11/08/2021 which was published in the December 1, 2021, Bulletin. The earliest possible effective date is 01/10/2022, which is after the five-year review deadline of 01/09/2022. The Department of Insurance requests an extension to keep this rule in place until the amendment can be made effective and to properly format this rule's amended language.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/10/2021
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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Utah Admin. Code Ref (R no.):	R590-150	Filing ID: 51367
New Deadline Date:	05/09/2022	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-150. Commissioner's Acceptance of Examination Reports

3. Reason for requesting the extension and the new deadline date:
An amendment to this rule was filed on 11/08/2021 which was published in the December 1, 2021, Bulletin. The earliest possible effective date is 01/10/2022, which is after the five-year review deadline of 01/09/2022. The Department of Insurance requests an extension to keep this rule in place until the amendment can be made effective and to properly format this rule's amended language.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/10/2021
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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Utah Admin. Code Ref (R no.):	R592-14	Filing ID: 51466
New Deadline Date:	05/09/2022	

Agency Information

1. Department:	Insurance	
Agency:	Title and Escrow Commission	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R592-14. Unfair or Deceptive Acts or Practices Affecting Title to Real Property
3. Reason for requesting the extension and the new deadline date:
An amendment to this rule was filed on 11/08/2021 which was published in the December 1, 2021, Bulletin. The earliest possible effective date is 01/10/2022 which is after

the five-year review deadline of 01/09/2022. In addition, the Title and Escrow Commission has rulemaking authority over rules in Title R592. The Commission did not meet in December; it may meet in January and is required to meet in February. This extension is requested to keep this rule in place until the Commission has time to meet to approve the review.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	12/10/2021
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End of the Notices of Five-Year Review Extensions Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

Plant Industry

No. 54002 (Amendment) R68-24: Industrial Hemp License for Growers

Published: 11/01/2021

Effective: 12/10/2021

No. 53989 (Amendment) R68-30: Independent Cannabis Testing Laboratory

Published: 10/15/2021

Effective: 11/30/2021

Alcoholic Beverage Control

Administration

No. 53938 (Amendment) R82-1-102: Definitions

Published: 10/01/2021

Effective: 12/01/2021

No. 53939 (Amendment) R82-1-304: General

Published: 10/01/2021

Effective: 12/01/2021

No. 53940 (Amendment) R82-2-302: Advertising, Promotion, and Listing of Products

Published: 10/01/2021

Effective: 12/01/2021

No. 53941 (Amendment) R82-2-306: Operational Restrictions

Published: 10/01/2021

Effective: 12/01/2021

No. 53942 (Amendment) R82-2-308: Consignment Inventory Package Agencies

Published: 10/01/2021

Effective: 12/01/2021

No. 53943 (Amendment) R82-3-102: Violation Schedule

Published: 10/01/2021

Effective: 12/01/2021

No. 53944 (Amendment) R82-5-202: Retail License Renewals

Published: 10/01/2021

Effective: 12/01/2021

Commerce

Consumer Protection

No. 54059 (Repeal and Reenact) R152-23: Health Spa Services Protection Act Rule

Published: 11/15/2021

Effective: 12/23/2021

No. 54063 (Amendment) R152-32a: Pawnshop and Secondhand Merchandise Transaction Information Act Rule

Published: 11/15/2021

Effective: 12/23/2021

Occupational and Professional Licensing

No. 54045 (Amendment) R156-31b: Nurse Practice Act rule

Published: 11/15/2021

Effective: 12/27/2021

No. 54001 (Amendment) R156-37f: Controlled Substance Database Act Rule

Published: 11/01/2021

Effective: 12/09/2021

No. 54046 (Amendment) R156-47b: Massage Therapy Practice Act Rule

Published: 11/15/2021

Effective: 12/27/2021

NOTICES OF RULE EFFECTIVE DATES

Crime Victim Reparations

Administration
No. 53432 (Amendment) R270-1: Award and Reparations Standards
Published: 11/15/2021
Effective: 12/22/2021

Education

Administration
No. 54024 (Amendment) R277-318: Teacher Salary Supplement Program
Published: 11/01/2021
Effective: 12/09/2021

No. 54025 (Amendment) R277-421: Out-of-State Tuition Reimbursement
Published: 11/01/2021
Effective: 12/09/2021

No. 54026 (Repeal) R277-502: Educator Licensing and Data Retention
Published: 11/01/2021
Effective: 12/09/2021

No. 54027 (Amendment) R277-746: Driver Education Programs for Utah Schools
Published: 11/01/2021
Effective: 12/09/2021

No. 54028 (Amendment) R277-922: Digital Teaching and Learning Grant Program
Published: 11/01/2021
Effective: 12/09/2021

Environmental Quality

Air Quality
No. 53891 (Repeal) R307-121: General Requirements: Clean Air and Efficient Vehicle Tax Credit
Published: 09/15/2021
Effective: 12/02/2021

Waste Management and Radiation Control, Radiation
No. 53919 (Amendment) R313-16-290: Inspection of Radiation Machines and Facilities
Published: 10/01/2021
Effective: 12/13/2021

Waste Management and Radiation Control, Waste Management
No. 53912 (Amendment) R315-260-10: Definitions
Published: 10/01/2021
Effective: 12/13/2021

No. 53913 (Amendment) R315-261-9: Requirements for Universal Waste
Published: 10/01/2021
Effective: 12/13/2021

No. 53914 (Amendment) R315-264-1: General - Purpose, Scope and Applicability
Published: 10/01/2021
Effective: 12/13/2021

No. 53915 (Amendment) R315-265: Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
Published: 10/01/2021
Effective: 12/09/2021

No. 53916 (Amendment) R315-268-1: Land Disposal Restrictions - Purpose, Scope, and Applicability
Published: 10/01/2021
Effective: 12/13/2021

No. 53917 (Amendment) R315-270-1: Hazardous Waste Permit Program -- Purpose and Scope of These Rules
Published: 10/01/2021
Effective: 12/13/2021

No. 53918 (Amendment) R315-273: Standards for Universal Waste Management
Published: 10/01/2021
Effective: 12/09/2021

Water Quality

No. 53968 (Amendment) R317-1-7: TMDLs
Published: 10/01/2021
Effective: 12/15/2021

Government Operations

Administration
No. 54065 (New Rule) R13-5: Use of Electronic Meetings for the Government Operations Rate Committee
Published: 11/15/2021
Effective: 12/23/2021

Health

Health Care Financing, Coverage and Reimbursement Policy
No. 54017 (Amendment) R414-320-16: Benefits
Published: 11/01/2021
Effective: 12/13/2021

Family Health and Preparedness, Primary Care and Rural Health
No. 54048 (Amendment) R434-45: Rural Physician Loan Repayment
Published: 11/15/2021
Effective: 12/23/2021

No. 54032 (Amendment) R434-50: Assistance for People with Bleeding Disorders
Published: 11/15/2021
Effective: 12/23/2021

Human ServicesRecovery Services

No. 54004 (Repeal) R527-302: Income Withholding Fees
Published: 11/01/2021
Effective: 12/09/2021

No. 54005 (Amendment) R527-378: Amendment
Published: 11/01/2021
Effective: 12/09/2021

No. 54015 (Repeal) R527-800: Acquisition of Real Property, and Medical Support Cooperation Requirements
Published: 11/15/2021
Effective: 12/23/2021

No. 54016 (Repeal) R527-928: Lost Checks
Published: 11/01/2021
Effective: 12/09/2021

Services for People with Disabilities

No. 53937 (Amendment) R539-10: Short-Term Limited Waiting List Services
Published: 10/01/2021
Effective: 12/07/2021

Juvenile Justice Services

No. 54070 (Repeal) R547-3: Juvenile Jail Standards
Published: 11/15/2021
Effective: 12/23/2021

No. 54071 (Repeal) R547-7: Juvenile Holding Room Standards
Published: 11/15/2021
Effective: 12/23/2021

No. 54072 (Repeal) R547-10: Ex-Offender Policy
Published: 11/15/2021
Effective: 12/23/2021

No. 54069 (Repeal) R547-12: Division of Juvenile Justice Services Classification of Records
Published: 11/15/2021
Effective: 12/23/2021

No. 54067 (Amendment) R547-14: Possession of Prohibited Items in Juvenile Detention Facilities
Published: 11/15/2021
Effective: 12/23/2021

InsuranceAdministration

No. 53998 (Amendment) R590-79: Life Insurance Disclosure Rule
Published: 11/01/2021
Effective: 12/09/2021

No. 53999 (Amendment) R590-83: Unfair Discrimination on the Basis of Gender or Marital Status
Published: 11/01/2021
Effective: 12/09/2021

No. 54018 (Amendment) R590-140: Reference Filings of Rate Service Organization Prospective Loss Costs
Published: 11/01/2021
Effective: 12/09/2021

No. 54000 (Amendment) R590-161: Income Replacement Insurance Policy Disclosure
Published: 11/01/2021
Effective: 12/09/2021

No. 54019 (Amendment) R590-267: Personal Injury Protection Relative Value Study
Published: 11/15/2021
Effective: 01/01/2022

Title and Escrow Commission

No. 54038 (Amendment) R592-15: Schedule of Minimum Charges for Escrow Services
Published: 11/15/2021
Effective: 12/23/2021

No. 54039 (Amendment) R592-16: Escrow Settlement Closing Transactions
Published: 11/15/2021
Effective: 12/23/2021

No. 54040 (Amendment) R592-17: Requirements for an Interest Bearing Account Used for Trust Fund Deposits
Published: 11/15/2021
Effective: 12/23/2021

Labor CommissionIndustrial Accidents

No. 54054 (Amendment) R612-300-4: Workers' Compensation Medical Procedures
Published: 11/15/2021
Effective: 12/23/2021

Public SafetyAdministration

No. 54036 (Repeal and Reenact) R698-4: Certification of the Law Enforcement Agency of a Private College or University
Published: 11/15/2021
Effective: 12/27/2021

Driver License

No. 54012 (Repeal and Reenact) R708-2: Commercial Driver Training Schools
Published: 11/01/2021
Effective: 12/09/2021

No. 54041 (Repeal and Reenact) R708-41: Requirements for Acceptable Documentation, Storage, and Maintenance
Published: 11/15/2021
Effective: 12/23/2021

NOTICES OF RULE EFFECTIVE DATES

No. 54052 (Amendment) R708-46: Refugee or Approved Asylee Knowledge Test in Applicant's Native Language
Published: 11/15/2021
Effective: 12/23/2021

No. 54042 (New Rule) R708-53: Driver Education Instructor Preparation Course Requirements
Published: 11/15/2021
Effective: 12/23/2021

Fire Marshal
No. 54053 (New Rule) R710-16: Rules Pursuant to Fire Service Certification and Nonaffiliated Training Organizations
Published: 11/15/2021
Effective: 12/27/2021

Highway Patrol
No. 54055 (Amendment) R714-510: 24-7 Sobriety Program
Published: 11/15/2021
Effective: 12/27/2021

Criminal Investigations and Technical Services, Criminal Identification
No. 54003 (Amendment) R722-300: Conceal Firearm Permit and Instructor Rule
Published: 11/01/2021
Effective: 12/09/2021

Peace Officer Standards and Training
No. 54043 (New Rule) R728-507: Minimum Standards for Use of Force Policies to be Adopted by Public Safety Agencies That Employ Peace Officers
Published: 11/15/2021
Effective: 12/27/2021

No. 54049 (New Rule) R728-508: Police Service Patrol and SWAT Canine Training, Certification, and Recertification Standards
Published: 11/15/2021
Effective: 12/27/2021

Tax Commission

Administration
No. 53926 (Amendment) R861-1A-9: State Board of Equalization Procedures Pursuant to Utah Code Ann. Sections 59-2-212, 59-2-1004, and 59-2-1006
Published: 10/01/2021
Effective: 01/01/2022

Property Tax
No. 53921 (Amendment) R884-24P-37: Separate Values of Land and Improvements Pursuant to Utah Code Ann. Sections 59-2-301 and 59-2-305
Published: 10/01/2021
Effective: 01/01/2022

No. 53922 (Amendment) R884-24P-5: Abatement or Deferral of Property Taxes of Indigent Persons Pursuant to Utah Code Ann. Sections 59-2-1107 through 59-2-1109 and 59-2-1202(5)
Published: 10/01/2021
Effective: 01/01/2022

No. 53995 (Amendment) R884-24P-53: 2021 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.
Published: 10/15/2021
Effective: 12/09/2021

Workforce Services

Administration
No. 54083 (New Rule) R982-502: Low-income ADU Loan Guarantee Pilot Program
Published: 11/15/2021
Effective: 12/22/2021

Housing and Community Development
No. 54023 (Amendment) R990-200: Private Activity Bonds Amendment
Published: 11/15/2021
Effective: 12/22/2021

End of the Notices of Rule Effective Dates Section