UTAH STATE BULLETIN

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Nancy L. Lancaster, Managing Editor

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

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

Office of Administrative Rules, Salt Lake City 84114

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EXECUTIVE DOCUMENTS

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

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

PROCLAMATION

WHEREAS, since the adjournment of the 2022 General Session of the Sixty-fourth Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature into Special Session;

NOW, THEREFORE, I, Spencer J. Cox, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the laws of the State of Utah, do by this Proclamation call the Sixty-fourth Legislature of the State of Utah into a Special Session at the Utah State Capitol, in Salt Lake City, Utah, on the 25th day of March, 2022, at 2:00 pm to consider the following:

1. an indemnification provision regarding the enforcement of House Bill 11, Student Eligibility in Interscholastic Activities from the 2022 General Session, and related legal issues.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 22nd day of March 2022.

(State Seal)

Spencer J. Cox
Governor

ATTEST:

Deidre M. Henderson
Lieutenant Governor

2022/1/S

End of the Executive Documents Section

NOTICES OF
PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between March 02, 2022, 12:00 a.m., and March 15, 2022, 11:59 p.m. are included in this, the April 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 May 02, 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 July 30, 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.):	**R277-406**	**Filing ID 54420**

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:

R277-406. Early Learning Program and Benchmark Assessments

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

This rule is being amended to update requirements for the Early Learning Program.

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 update definitions, deadlines, and requirements for implementing 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. There is no fiscal impact because the amendment updates definitions, deadlines, and other requirements for implementing the Early Learning Program.

B) Local governments:

This rule change is not expected to have fiscal impact on local government revenues or expenditures. There is no fiscal impact because the amendment updates definitions, deadlines, and other requirements for implementing the Early Learning Program.

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

This rule change is not expected to have fiscal impact on small business revenues or expenditures. There is no fiscal impact because the amendment updates definitions, deadlines, and other requirements for implementing the Early Learning Program.

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. There is no fiscal impact because the amendment updates definitions, deadlines, and other requirements for implementing the Early Learning Program.

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. There is no fiscal impact because the amendment updates definitions, deadlines, and other requirements for implementing the Early Learning Program.

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	Section 53E-3-521	Section 53F-2-503
Subsection 53E-3-401(4)	Section 53E-4-307	

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:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022

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:**	03/15/2022

R277. Education, Administration.
R277-406. Early Learning Program and Benchmark Assessments.
R277-406-1. 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 53F-2-503(14)(a), which directs the Board to develop rules for implementing the Early Learning Program;

(d) Section 53E-3-521, which requires the board to define the components of the early mathematics plan and establish a state[-]wide target using data from the mathematics benchmark assessment; and

(e) Section 53E-4-307, which requires the Board to approve a benchmark assessment for statewide use to assess the reading and mathematics competency of students in grades one, two, and three[~~; and~~].

[~~(f) Section 53E-4-307.5, which requires the Board to approve a benchmark assessment statewide for use to assess the mathematics competency of students in grades one, two, and three.~~]

(2) The purpose of this rule is to outline the responsibilities of the Superintendent and LEAs for implementation of Section 53F-2-503 and the Board's administration of Early Learning in the state, including to:

(a) set expectations for LEA Early Learning Plans;

(b) establish timelines for LEA Early Learning Plans;

(c) provide definitions and designate assessments required in Sections 53E-4-307 and 53E-4-307.5;

(d) provide testing reporting windows, and timelines; and

(e) require LEAs to submit student reading and mathematics assessment data to the Board.

R277-406-2. Definitions.

(1) "Benchmark reading assessment" means the Acadience Reading assessment that:

(a) is given three times each year;

(b) gives teachers information to:

(i) plan appropriate instruction; and

(ii) evaluate the effects of instruction; and

(c) provides data about [~~the extent to which students are prepared to be successful~~]student preparation for success on an end of year criterion referenced test.

(2) "Benchmark mathematics assessment" means [~~the Board approved assessment that is administered in accordance with the requirements established by the Superintendent.~~]the Acadience Math assessment that:

(a) is given three times each year;

(b) gives teachers information to:

(i) plan appropriate instruction; and

(ii) evaluate the effects of instruction; and

(c) provides data about student preparation for success on an end of year criterion referenced test.

(3) "Components of early mathematics" means the key areas of mathematical learning including:

(a) conceptual understanding;

(b) procedural fluency;

(c) strategic and adaptive mathematical thinking; and

(d) productive disposition.

(4) "Conceptual understanding" means the comprehension and connection of concepts, operations, and relations.

(5) "Evidence-based" means a strategy that has demonstrated a statistically significant effect on improving student outcomes.

(6) "Parental notification requirements" means notice by any reasonable means, including electronic notice, notice by telephone, written notice, or personal notice.

(7) "Plan" means the [~~literacy and mathematics proficiency improvement plan required in the Early Learning Program that is submitted by a public school district or a charter school, as required in Subsection 53F-2-503(4) and~~]Early Learning plan described in Section 53G-7-218.

(8) "Procedural fluency" means the meaningful, flexible, accurate, and efficient use of procedures to solve problems.

(9) "Productive disposition" means the attitude of a student who sees mathematics as useful and worthwhile while exercising a steady effort to learn mathematics.

(10) "Program money" means the same as that term is defined in Section 53F-2-503.

(11) "Scoring below or well below benchmark" means that a student:

(a) performs below or well below the benchmark score on the benchmark reading or benchmark mathematics assessment; and

(b) requires additional instruction beyond that provided to typically-developing peers[~~ in order~~] to close the gap between the student's current level of achievement and that expected of all students in that grade.

(12) "Remediation interventions" means reading or mathematics instruction or activities, or both, given to students in addition to their regular instruction, during another time in the school day, outside regular instructional time, or in the summer, which is focused on specific needs as identified by reliable and valid assessments.

(13) "Strategic and adaptive mathematical thinking" means the ability to formulate, represent, and solve mathematical problems with the capacity to justify the logic used to arrive at the solution.

(14) "Utah eTranscript and Record Exchange" or "UTREx" means the same as that term is defined in Section R277-404-2.

R277-406-3. Benchmark Reading and Mathematics Assessments.

(1) Subject to legislative appropriations, and except as provided in Subsection (2), an LEA shall administer the benchmark reading and mathematics assessments in grade 1, grade 2, and grade 3 annually within the following testing windows:

(a) the first benchmark [~~before~~]between the first day of school and September 30;

(b) the second benchmark between December 1 and January 31; and

(c) the third benchmark between [~~the middle of~~]April 15 and June 15.

[~~(2) For the 2020-2021 school year, the Superintendent shall determine the testing and reporting deadlines.~~]

([~~3~~]2) An LEA shall annually report benchmark reading and mathematics assessment results to the Superintendent by:

(a) October 30;

(b) [~~the last day of~~]February 28; and

(c) June 30.

([~~4~~]3) If the benchmark reading or mathematics assessment indicates a student is scoring below or well below benchmark:

(a) for reading, the LEA shall implement the parental notification requirements and evidence-based reading remediation interventions described in Section 53E-4-307;

(b) for mathematics, the LEA shall implement [~~a remediation intervention as required by the Superintendent~~]parental notification requirements similar to those described for reading in Subsection (4)(a) and evidence-based reading remediation interventions.

([~~5~~]4) An LEA shall report benchmark reading and mathematics assessment results annually to parents of students in grade 1, grade 2, and grade 3 by:

(a) October 30;

(b) [~~the last day of~~]February 28; and

(c) June 30.

([~~6~~]5) An LEA shall annually submit to UTREx the following information from the benchmark reading and mathematics assessment:

(a) whether or not each student received remediation intervention; and

(b) UTREx Special Codes related to the benchmark reading and mathematics assessment.

[~~(7) An LEA that selects the reading assessment technology shall use the assessment consistent with Board directives.~~]

R277-406-4. Early Learning Plans -- LEA and Superintendent Requirements - Timelines.

(1) [~~Beginning with the 2019-20 school year, to~~]To receive program money, an LEA shall submit:

(a) a plan in accordance with Subsections:

(i) 53F-2-503(4); and

(iii) 53G-7-218; and

(b) a plan that contains the components of early mathematics; and

(b) other required materials within established deadlines.

(2)(a) Any time before [~~July~~]August 1, an LEA may submit its plan to the Superintendent for pre-approval; and

(b) For each LEA that submits a plan for pre-approval, the Superintendent shall provide feedback in preparation for the LEA submitting the plan to its local board;

(3) An LEA shall submit a final plan to the Superintendent no later than September 1[~~*~~] by 5:00 p.m. including:

(a) [~~proof~~]documentation that:

(i) the LEA's governing board reviewed and approved the LEA's plan in an open and public meeting; and

(ii) the plan [~~has been~~]was uploaded to the appropriate system as required by the Superintendent; and

(b) if necessary, a revised plan reflecting changes made to the LEA's plan by the LEA's governing board.

([~~5~~]4) Within three weeks of an LEA submitting a final, local board-approved plan to the Superintendent, the Superintendent shall notify the LEA if the plan [~~has been~~]was approved or if modifications to the plan are required.

([~~6~~]5) If the Superintendent does not approve an LEA's plan, the LEA may, by October 15:

(a) incorporate needed changes or provisions;

(b) obtain approval for the amended plan from the LEA's governing board; and

(c) resubmit the amended plan in accordance with Subsection (3)(a) of this part.

([~~7~~]6) If an LEA timely resubmits a plan that includes the required modifications, the Superintendent shall approve the plan by November 1.

([~~8~~]7) If an LEA fails to timely resubmit an acceptable plan by October 15, the LEA is not eligible for funding in the current school year.

([~~9~~]8) When reviewing an LEA plan for approval, the Superintendent shall evaluate:

(a) the extent to which the LEA's goals within the plan are ambitious, yet attainable; and

(b) whether the plan uses evidence-based curriculum, materials, and practices, which will support the LEA in meeting its growth goals.

([~~10~~]9) An LEA's goals, as outlined in the LEA's plan, shall be reported to the Superintendent using a digital reporting platform.

R277-406-5. Accountability and Reporting on Early Learning Plans.

(1) An LEA shall annually report progress toward the goals outlined in the LEA's plan to the Superintendent by June 30[~~ each year~~].

(2) In accordance with Section 53F-2-503 and 53G-7-218, a growth goal in an LEA's plan:

(a) is calculated using the percentage of students in an LEA's grades 1 through 3 who made typical, above typical, or well-above typical progress from the beginning of the year to the end of the year, as measured by the benchmark reading and mathematics assessment;

(b) sets the literacy target percentage of students in grades 1 through 3 making typical or better progress [~~or better~~]at a minimum of 60[~~ percent~~]%; and

(c) sets the mathematics target percentage of students in grades 1 through 3 making typical or better progress at a minimum of 60%[~~set by the Superintendent~~] beginning in the 2021-2022 school year.

(3) The Superintendent shall use the information provided by an LEA described in Subsection R277-406-4 to determine the progress of each student in grades 1 through 3 within the following categories:

(i) well-above typical;

(ii) above typical;

(iii) typical;

(iv) below typical; or

(v) well-below typical.

(4) If an LEA does not make sufficient progress toward its plan goals for two consecutive years, as defined in Subsection (5), the Superintendent shall assign the LEA [~~shall be in~~]to the [~~Board~~]Early Learning System of Support and require[~~d~~] the LEA to participate in interventions to improve early literacy, early mathematics, or both.

(5) Accept as provided for in Subsection (6), consistent with Section 53G-7-218, sufficient progress toward plan goals means the LEA meets:

(a) the [~~LEA's~~]state's growth goals for literacy and math[~~, as described in Subsection 53F-2-503(4)(a)(v)~~]; and

(b) at least one of the LEA-designated goals addressing performance gaps[~~, as described in Subsection 53F-2-503(4)(a)(vi)~~]. [~~(6) For the 2020-2021 school year, an LEA shall provide two local goals for literacy and zero local goals for mathematics.~~]

([~~7~~]6) The Superintendent shall establish the strategies, interventions, and techniques for schools that are [~~in~~]part of the [~~Board~~]Early Learning System of Support to [~~help~~]assist schools to achieve early learning goals.

KEY: reading, improvement, goals
Date of Last Change: 2022[~~November 9, 2020~~]
Notice of Continuation: January 13, 2022
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-521; 53E-4-307; 53E-4-307.5; 53F-2-503(14)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R277-489**	**Filing ID 54421**

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:

R277-489. Kindergarten Entry and Exit Assessment - Enhanced Kindergarten Program

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 update this rule regarding implementation of the Kindergarten Entry and Exit Profile (KEEP) program.

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 updates to definitions and KEEP program requirements.

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. There is no fiscal impact because the amendment updates program definitions and KEEP program requirements.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. There is no fiscal impact because the amendment updates program definitions and KEEP program requirements.

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. There is no fiscal impact because the amendment updates program definitions and KEEP program requirements.

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. There is no fiscal impact because the amendment updates program definitions and KEEP program requirements.

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. There is no fiscal impact because the amendment updates program definitions and KEEP program requirements.

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 53F-2-507

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:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022

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:**	03/15/2022

R277. Education, Administration.
R277-489. Kindergarten Entry and Exit Assessment - Enhanced Kindergarten Program.
R277-489-1. 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 permits the Board to make rules to execute the Board's duties and responsibilities under the Utah constitution and state law; and

(c) Section 53F-2-507, which directs the Board to distribute funds appropriated for the enhanced kindergarten program to LEAs that apply for the funds.

(2) The purpose of this rule is to require LEAs to administer a kindergarten entry and exit assessment and establish criteria and procedures to administer the enhanced kindergarten program.

R277-489-2. Definitions.

(1) "Enhanced Kindergarten [~~p~~]Program" means a program that provides additional instruction to kindergarten age students[~~:~~].

[~~(a) as additional hours before or after school;~~

~~(b) full day; or~~

~~(c) through other means.~~]

(2) "Enrollment" means class enrollment of not more than the student enrollment of other kindergarten classes within the school.

(3) "LEA plan" means the enhanced kindergarten program plan submitted by an LEA and approved and accepted for funding by the Superintendent.

(4) "Kindergarten System of Support" means interventions to improve kindergarten literacy outcomes, numeracy outcomes, or both.

(5) Utah eTranscript and Record Exchange" or "UTREx" means a system that allows individual detailed student records to be exchanged electronically between public education LEAs and the Board, and allows electronic transcripts to be sent to any post-secondary institution, private or public, in-state or out-of-state, that participates in the e-transcript service.

R277-489-3. Administration of Kindergarten Entry and Exit Assessments.

(1) Except as provided in Subsection (2), an LEA shall administer:

(a) a kindergarten entry assessment, approved by the Superintendent, to each kindergarten student sometime [~~within:~~

~~(i) three weeks before the first day of kindergarten; and~~

~~(ii) three weeks after the first day of kindergarten~~]during the three weeks before through the three weeks after the first day of kindergarten; and

(b) a kindergarten exit assessment, approved by the Superintendent, to each kindergarten student sometime during the four weeks before the last day of school.

(2) [~~A charter school~~]An LEA that does not participate in the enhanced kindergarten program or the [~~K-3~~]Early Interactive Reading Software Program described in Rule R277-496 is not required to administer the kindergarten entry and exit assessments.

(3) The days used for the assessment shall be consistent with Subsection R277-419-[~~11(3)(c)~~]5(6)(d).

(4) An LEA shall submit to the Data Gateway:

(a) kindergarten entry assessment data by September 30; and

(b) kindergarten exit assessment data by June 15.

(5) In accordance with Section R277-114, the Superintendent may recommend action to the Board, including withholding of funds, if an LEA fails to provide complete, accurate, and timely reporting under Subsection (4).

R277-489-4. Use of Kindergarten Entry and Exit Assessment Data.

(1) The Superintendent or an LEA may use entry and exit assessment data obtained in accordance with Section R277-489-3 to:

(a) provide insights into current levels of academic performance upon entry and exit of kindergarten;

(b) identify students in need of early intervention instruction and promote differentiated instruction for all students;

(c) understand the effectiveness of programs, such as extended-day kindergarten and [~~pre-school~~]preschool;

(d) provide opportunities for [~~data~~]data-informed decision making and cost-benefit analysis of early learning initiatives;

(e) identify effective instructional practices or strategies for improving student achievement outcomes in a targeted manner; and

(f) understand the influence and impact of full-day kindergarten on at-risk students in both the short- and long-term.

(2) An LEA may not use entry and exit assessment data obtained in accordance with Section R277-489-3 to:

(a) justify early enrollment of a student who is not currently eligible to enroll in kindergarten, such as a student with a birthday falling after September 1;

(b) evaluate an educator's teaching performance; or

(c) determine whether a student should be retained or promoted between grades.

R277-489-5. Enhanced Kindergarten Program.

(1) The Superintendent shall accept applications from LEAs for enhanced kindergarten programs that satisfy the requirements of Section 53F-2-507, and [~~the provisions of~~]this rule.

(2) The Superintendent shall establish timelines for submission of applications.

(3) An LEA application for enhanced kindergarten program funds shall include:

(a) the names of schools for which program funds [~~must~~]shall be used;

(b) a description of the delivery methods that may be used to serve eligible students, such as:

(i) full-day kindergarten;

(ii) [~~extra~~]additional hours; or

(iii) other means.

(c) a description of the evidence-based early intervention model used by the LEA;

(d) a description of how the program focuses on age-appropriate literacy and numeracy skills;[~~and~~]

(e) a description of how the program targets at-risk students; and

([~~g~~]f) other information as requested by the Superintendent[~~and approved by the Board~~].

(4) An LEA shall submit the appropriate kindergarten UTREx code to the Superintendent through UTREx by June 15 annually.

([~~4~~]5) The Superintendent shall distribute funds to eligible charter schools based on a formula identifying the percentage of students in public schools and the percentage of students with the greatest need for an enhanced kindergarten program consistent with Subsection 53F-2-507(4)(a).

([~~5~~]6) The Superintendent shall distribute funds to eligible school districts by determining the number of students eligible to receive free lunch in the prior school year for each school district and prorating the remaining funds based on the number of students eligible to receive free lunch in each school district.

([~~6~~]7) The Superintendent shall establish timelines for distribution of enhanced kindergarten program funds.

[~~(7) The Superintendent shall require all funded programs to submit an annual report.~~]

(8) An LEA may not require a student to participate in an enhanced kindergarten program.

R277-489-6 Eligibility for Enhanced Kindergarten Programs Grant Funds--Use of Funds.

(1)(a) The Superintendent shall review data gathered from previous year kindergarten entry and exit assessments to determine [~~the following performance measures:~~]an LEA's ongoing eligibility for enhanced kindergarten program grant funds.

[~~(a) average percentage of students state-wide with increases in literacy scores;~~

~~(b) average percentage of students state-wide with increases in numeracy scores;~~

~~(c) average percentage of students state-wide with decreases in literacy scores;~~

~~(d) average percentage of students state-wide with decreases in numeracy scores;~~

~~(2)(a) An eligible LEA that received program funds for the current school year may reapply to receive program funds for the next school year if 50% of the participating LEA's schools performed better than the state average in at least three of the four performance measures outlined in Subsection (1);~~]

(b) The Superintendent shall calculate individual student performance on the kindergarten entry and exit assessment and then average school-level results to determine whether a particpating school meets the cut score.

(2) An eligible LEA shall have 75% of its participating schools achieve a school-level cut score of meets expectations, which includes the school-level average progress score in literacy and numeracy.

([~~b~~]3) If an eligible LEA does not meet performance measures, as defined in Subsection (2)[~~(a)~~], the Superintendent shall require the LEA [~~shall be~~]to participate in the [~~enhanced kindergarten system of support~~]Kindergarten System of Support [~~and required to participate in interventions~~]to improve outcomes.

[~~(c) An eligible LEA that does not meet the performance standards outlined in Subsection (2)(a) for three consecutive years will have funding reduced to exclude failing programs.~~]

([~~3~~]4) The Superintendent shall establish the strategies, interventions, and techniques for LEAs that are in the [~~enhanced kindergarten system of support~~]Kindergarten System of Support to help schools achieve performance outcomes on the [~~KEEP~~]kindergarten entry and exit assessment.

([4]5) An LEA governing board shall use program money for enhanced kindergarten programs and supports that have proven to significantly increase the percentage of students who are proficient in literacy and mathematics, including:

(a) salary and benefits for individuals teaching and supporting enhanced kindergarten programs; and

(b) evidence-based intervention curriculum.

KEY: enhanced kindergarten
Date of Last Change: 2022[~~July 9, 2020~~]
Notice of Continuation: January 13, 2022
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-507

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R277-622**	**Filing ID 54422**

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:

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

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

This rule is being amended to provide updates to the funding structure of the program to remove portions that are no longer useful and to clarify allowable uses of carryforward funds.

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 remove the requirement that funding distribution be 25% upfront and 75% on a reimbursement basis. It changes this program's funding to be completely on a reimbursement basis. It also clarifies that carryforward funds in the program can be used by an LEA exclusively for training of school personnel by qualified personnel.

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. There is no expected fiscal impact because the purpose of the amendment is to provide updates to the funding structure or the program, removing portions that are no longer useful and clarifying the allowable uses of carryforward funds.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. There is no expected fiscal impact because the purpose of the amendment is to provide updates to the funding structure or the program, removing portions that are no longer useful and clarifying the allowable uses of carryforward funds.

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. There is no expected fiscal impact because the purpose of the amendment is to provide updates to the funding structure or the program, removing portions that are no longer useful and clarifying the allowable uses of carryforward funds.

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. There is no expected fiscal impact because the purpose of the amendment is to provide updates to the funding structure or the program, removing portions that are no longer useful and clarifying the allowable uses of carryforward funds.

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. There is no expected fiscal impact because the purpose of the amendment is to provide updates to the funding structure or the program, removing portions that are no longer useful and clarifying the allowable uses of carryforward funds.

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	Section 53E-3-401	Section 53E-4-302

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:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022

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:**	03/15/2022

R277. Education, Administration.
R277-622. School-based Mental Health Qualifying[~~ied~~] Grant Program.
R277-622-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

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

(i) procedures for submitting a plan for the School-based Mental Health Qualifying[~~ied~~] Grant Program;

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

(iii) annual reporting requirements for an LEA that receives funds pursuant to the School-based Mental Health Qualifying[~~ied~~] Grant Program.

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

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

(ii) funding distribution methods; and

(iii) additional requirements including reporting and accountability.

R277-622-2. Definitions.

(1) "Licensed" means an individual who may lawfully practice in an area described in Section 53F-2-415:

(a) under an interstate compact; or

(b) as authorized by:

(i) the Division of Occupational Professional Licensing;

(ii) the Department of Health and Human Services; or

(iii) the Board through an associate or professional license as described in R277-306.

([~~1~~]2) "Plan" means a School-based Mental Health Qualifying[~~ied~~] Grant plan described in Section R277-622-3.

([~~2~~]3) "Qualifying[~~ied~~] [~~P~~]personnel" means the same as the term is defined in Subsection 53F-2-415(1) including being licensed.

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

([~~4~~]5) "Related [~~S~~]services" means:

(a) mental-health or school nursing services provided by:

(i) qualifying personnel within the scope of their practice;

(ii) the local mental health authority; or

(iii) or a private provider through a contract[~~.~~]; or

(b) training provided by qualifying personnel for school personnel.

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

(1) To qualify for a School-based Mental Health Qualifying[~~ied~~] Grant, an LEA shall submit a plan to the Superintendent.

(2) The plan shall include:

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

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

(c) plan for how qualifying personnel will increase access to mental health service including for students who are underserved or at risk;[~~plan for improving access to students who are underserved or at risk;~~

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

([~~e~~]d) a process for utilization of qualifying[~~ied~~] personnel in participating with an LEA's [~~care~~]multi-disciplinary team as outlined in R277-400;

([~~f~~]e) the source of the LEA's matching funds; and

([~~g~~]f) a timeline and process for [~~stakeholder~~]school personnel training in trauma-informed practices including documentation of compliance.

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

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

([~~5~~]4) An LEA's approved plan is valid for three years and may be required to be reapproved after three years of implementation.

([~~6~~]5) An LEA may submit a revised plan for approval by the board, in a manner described by the Superintendent, if the LEA identifies deficiencies with the LEA's ability to implement the LEA's plan including a change in available funding.

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

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

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

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

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

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

(a) $25,000; and

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

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

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

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

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

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

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

(a) contracting of services for qualifying[~~ied~~] personnel; or

(b) hiring qualifying[~~ied~~] personnel.

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

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

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

(a) the aggregate total of undistributed funds;

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

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

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

R277-622-6. Matching Funds.

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

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

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

(i) an unrestricted donation; or

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

(b) funds generated from property tax;

(c) charter school local replacement funds;

(d) unrestricted MSP Basic program funds;

(e) money distributed to the LEA under Section 53G-7-1303; or

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

(3) Funds may not qualify as a match if:

(a) the funds are from restricted state funds including:

(i) funds granted to an LEA for a specific program created in statute or rule;

(ii) funds that have already been used as a match in a different state grant program; or

(iii) funds from a federal source; or

(b) the funds are described in Subsection 53F-2-415(5).

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

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

R277-622-7. Allowable Uses of Funds.

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

(a) salary and benefits for the hiring of qualifying[~~ied~~] personnel; or

(b) procuring a contract for related services;

(2) An LEA may only use carryforward funds for contracts of related services associated with training as described in Subsection R277-622-2(5)(b).

[~~(2) If an LEA fails to hire qualified personnel by January 31 the allocated funds shall be returned to the Board.~~

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

([4]3) An LEA shall use the LEA's matching funds and allocation within the fiscal year the funds are distributed.

([~~5~~]4) An LEA that has remaining balances at year end shall report the remaining balances in the LEA's annual program report described in R277-484.

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

R277-622-8. Annual Reporting and Accountability.

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

(2) The annual report shall include:

(a) a total baseline count of qualifying[~~ied~~] personnel in an LEA before receiving the initial funding allocation;

(b) the number of qualifying[~~ied~~] personnel hired above the baseline count using the funding allocation;

(c) the progress made toward achieving goals and outcomes outlined in the LEA's plan; and

(d) other information requested by the Superintendent.

KEY: mental health, programs, reporting
Date of Last Change: 2022[~~April 1, 2021~~]
Notice of Continuation: January 13, 2022
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53E-4-302(1)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R277-726**	**Filing ID 54423**

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:
R277-726. Statewide Online Education Program
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
Rule R277-726 is being updated due to increased awareness of certain provisions needing to be updated

now that the program has been expanded to private (non-LEA) providers.

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 provide clarification on: 1) monitoring vs. auditing requirements; 2) a provider's responsibility to provide information to USBE; and 3) a provider's responsibility to administer certain assessments.

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. There is no expected fiscal impact because the amendment updates certain provisions now that the program has been expanded, providing clarification on requirements for private (non-LEA) providers.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. There is no expected fiscal impact because the amendment updates certain provisions now that the program has been expanded, providing clarification on requirements for private (non-LEA) providers.

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

This rule change is not expected to have fiscal impacts on small businesses' revenues or expenditures. There is no expected fiscal impact because the amendment updates certain provisions now that the program has been expanded, providing clarification on requirements for private (non-LEA) providers.

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. There is no expected fiscal impact because the amendment updates certain provisions now that the program has been expanded, providing clarification on requirements for private (non-LEA) providers.

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. There is no expected fiscal impact because the amendment updates certain provisions now that the program has been expanded, providing clarification on requirements for private (non-LEA) providers.

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 53F-4-514

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:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022
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:**	03/15/2022

R277. Education, Administration.
R277-726. Statewide Online Education Program.

R277-726-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Section 53F-4-514, which requires the Board to make rules:

(i) providing for the administration of the applicable statewide assessments to students enrolled in online courses;

(ii) that establish a course credit acknowledgment form and procedures for completing and submitting the form to the Board; and

(iii) that establish protocols for an online course provider to obtain approval to become a certified online course provider; and

(c) 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) The purpose of this rule is to:

(a) define necessary terms;

(b) provide and describe a program registration agreement; and

(c) provide other requirements for an LEA, the Superintendent, a parent and a student, and a provider for program implementation and accountability.

R277-726-2. Definitions.

(1) "Actively participates" means the student actively participates as defined by the provider.

(2) "Applicable statewide assessments" means:

(a) the high school assessment described in Section 53E-4-304 and Subsection R277-404-2(6);

(b) a standards assessment as defined in [~~Subsection R277-404-2(9)~~]Section 53E-4-303;

[~~(c) a statewide assessment as defined in Subsection R277-404-2(10);~~] and

[~~(d)~~](c) a Utah alternative assessment as defined in Subsection R277-404-2[~~(12)~~](13).

(3) "Certified online course provider" means the same as the term is defined in Subsection 53F-4-501(1).

(4) "Course completion" means that a student has completed a course with a passing grade and the provider has transmitted the grade and credit to the primary LEA of enrollment.

(5)(a) "Course Credit Acknowledgment" or "CCA" means an agreement and registration record using the Statewide Online Education Program application provided by the Superintendent.

(b) Except as provided in Subsection 53F-4-508(3)(h), the CCA shall be signed by the designee of the primary school of enrollment, and the qualified provider.

(6)(a) "Eligible student" means a student enrolled in grades 6-12 in a secondary environment in a course that:

(i) is offered by a public school; and

(ii) provides the student the opportunity to complete middle school requirements or earn high school graduation credit.

(b) "Eligible student" does not include a student enrolled in an adult education program.

(7) "Enrollment confirmation" means the student initially registered and actively participated, as defined under Subsection(1).

(8)(a) "Executed CCA" means a CCA that has been executed pursuant to Subsection 53F-4-508(3) and received by the Superintendent.

(b) Following enrollment confirmation and participation, Superintendent directs funds to the provider, consistent with Sections 53F-4-505 through 53F-4-507.

(9) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(10) "Online course" means a course of instruction offered through the Statewide Online Education Program.

(11) "Online course payment" means the amount withheld from a student's primary LEA and disbursed or otherwise paid to the designated provider following satisfaction of the requirements of the law, and as directed in Subsection 53F-4-507(2).

(12) "Online course provider" or "provider" means:

(a) a school district school with an approved application described in Subsection R277-726-3(1)(a);

(b) a charter school with an approved application described in Subsection R277-726-3(1)(a);

(c) an LEA program created [~~for the purpose of serving~~]to serve Utah students in grades 7-12 online with an approved application described in Subsection R277-726-3(1)(a); or

(d) a program of an institution of higher education described in Subsection 53F-4-504(3) with an approved application described in Subsection R277-726-3(1)(b).

(13) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program, and which reports the student to be in regular membership, and special education membership, if applicable.

(14) "Primary school of enrollment" means:

(a) a student's school of record within a primary LEA of enrollment; and

(b) the school that maintains the student's cumulative file, enrollment information, and transcript for purposes of high school graduation.

(15) "Resident school" means the district school within whose attendance boundaries the student's custodial parent or legal guardian resides.

(16) "Section 504" means Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.

(17) "Standard of active participation" means the measure of student engagement that is used by the certified online course provider to count a student as in attendance for a course.

(18) "Statewide Online Education Program" or "program" means courses offered to students under Title 53F, Chapter 4, Part 5, Statewide Online Education Program Act.

(19) "Teacher of record" means the teacher who is employed by a provider and to whom students are assigned for purposes of reporting and data submissions to the Superintendent in accordance with Section R277-484-3.

(20) "Underenrolled student" means a student with less than a full course load, as defined by the LEA, during the regular school day at the student's primary school of enrollment.

(21) "USBE course code" means a code for a designated subject matter course assigned by the Superintendent.

(22) "Withdrawal from online course" means that a student withdraws or ceases participation in an online course as follows:

(a) within 20 calendar days of the start date of the course, if the student enrolls on or before the start date;

(b) within 20 calendar days of enrolling in a course, if the student enrolls after the start date;

(c) within 20 calendar days after the start date of the second 0.5 credit of a 1.0 credit course; or

(d) as the result of a student suspension from an online course following adequate documented due process by the provider.

R277-726-3. Incorporation of Provider Applications by Reference.

(1) This rule incorporates by reference the June 2021 edition of:

(a) the LEA SOEP Provider Application and Statewide Services Agreement;

(b) the Higher Education SOEP Provider Application and Statewide Services Agreement, Utah Public Institutions of Higher Education;

(c) the Certified Online Provider SOEP Provider Application and Statewide Services Agreement; and

(d) the Certified Online Provider SOEP Provider Application and Statewide Services Agreement for Program Re-Admission.

(2) A copy of each provider application is located at:

(a) https://schools.utah.gov/[~~administrativerules/documentsincorporated~~]edonline/prospectiveproviders; and

(b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah 84111.

R277-726-4. Course Credit Acknowledgment (CCA) Process.

(1) A student, a student's parent, a counselor, or a provider may initiate a CCA.

(2)(a) A counselor designated by a student's primary school of enrollment shall review the student's CCA to ensure consistency with:

(i) graduation requirements;

(ii) the student's plan for college and career readiness;

(iii) the student's IEP;

(iv) the student's Section 504 plan; or

(v) the student's international baccalaureate program.

(b) The primary school of enrollment shall return the CCA to the Superintendent within 72 business hours.

(3)(a) The primary school of enrollment is not required to meet with the student or parent for approval of a course request.

(b) The Superintendent shall notify a primary school of enrollment of a student's enrollment in the program.

(4) If a student enrolling in the program has an IEP, Section 504 plan, or qualifies for multilingual supports, the primary LEA or school of enrollment shall forward the IEP or description of 504 accommodations and other relevant supports to the provider within 72 business hours of receiving notice from the Superintendent that the provider has accepted the enrollment request.

(5) The Superintendent shall develop and administer procedures for facilitation of a CCA that informs the appropriate parties.

R277-726-5. Eligible Student and Parent Rights and Responsibilities.

(1) An eligible student may register for program credits consistent with Section 53F-4-503.

(2) An eligible student may exceed a full course load during a regular school year if:

(a) the student's plan for college and career readiness indicates that the student intends to complete high school graduation requirements and exit high school before the rest of the student's high school cohort; and

(b) the student's schedule demonstrates progress toward early graduation.

(3) In accordance with Subsection 53F-4-509(5), if a student enrolled in a program course exceeds a full course load during a regular school year, a primary LEA of enrollment may mark the student as an early graduate and increase membership in accordance with Section R277-419-8 and Rule R277-484 to account for credits in excess of full-time enrollment in a local Student Information System.

(4)(a) An eligible student is expected to complete courses in which the student enrolls in a timely manner consistent with Section 53F-4-505 and requirements for attendance and participation in accordance with Subsection R277-726-(8)(15).

(b) If a student changes the student's enrollment for any reason, it is the student's or student's parent's responsibility to notify the provider immediately.

(5) A student should enroll in online courses, or declare an intention to enroll, during the school course registration period designated by the primary LEA of enrollment for regular course registration.

(6) A student may alter a course schedule by dropping a traditional course and adding an online course in accordance with the primary school of enrollment's same established deadline for dropping and adding traditional courses.

(7)(a) Notwithstanding Subsection (6), an underenrolled student may enroll in an online course at any time during a calendar year.

(b) If an underenrolled student enrolls in an online course as described in Subsection (7)(a), the primary school of enrollment may immediately claim the student for the adjusted portion of enrollment.

R277-726-6. LEA Requirements and Responsibilities.

(1) A primary school of enrollment shall facilitate student enrollment with any [~~and all~~]eligible providers selected by an eligible student consistent with course credit limits.

(2) A primary school of enrollment or a provider LEA shall use the CCA application, records, and processes provided by the Superintendent for the program.

(3) A primary school or LEA of enrollment shall provide information about available online courses and programs:

(a) in registration materials;

(b) on the LEA's website; and

(c) on the school's website.

(4) A primary school or LEA of enrollment shall provide the notice required under Subsection (3) concurrent with the high school course registration period designated by the LEA for the upcoming school year to facilitate enrollment as required by Section 53F-4-513.

(5) A primary school of enrollment shall include a student's online courses in the student's enrollment records and, upon course completion, include online course grades and credits on the student's transcripts.

(6) A primary school of enrollment shall recognize credit earned toward high school graduation by a participating secondary student through courses completed [~~prior to~~]before grade 9 for purposes of high school graduation provided that:

(a) the student has in the student's records documentation of the student's intention to graduate early; and

(b) the student is enrolled at a middle school or junior high school and a high school accredited in accordance with Rule R277-410.

(7) A primary school of enrollment shall determine fee waiver eligibility for participating public school students pursuant to R277-407.

(8)(a) If a participating student qualifies for a fee waiver, the student's primary LEA or school of enrollment shall provide the participating student access to an online course by:

(i) allowing a student access to necessary technology in a computer lab or other space within the school building during a school period or during the regular school day for the student to participate in an online course; or

(ii) providing a participating student technology and wi-fi needed for the student to participate outside of the school building.

(b) If a participating student who qualifies for a fee waiver is a home or private school student, the online course provider shall provide the participating home or private school student access to the online course.

(9) A primary school of enrollment shall provide participating students access to facilities for the student to participate in an online course during the regular school day, sports, extracurricular and co-curricular activities, and graduation services consistent with local policies governing participation irrespective of relative levels of participation in traditional courses versus Statewide Online Education courses.

(10)(a) If a participating student's primary school of enrollment is a middle school or junior high as defined in Rule R277-700, course completions will be recorded in a student's record of credit and course completion for grade 9 to allow recognition toward grades 9-12, high school graduation requirements, and post-secondary requirements.

(b) A primary LEA of enrollment accepting credit toward high school requirements is not required to independently verify:

(i) early graduation status; or

(ii) the non-supplanting nature of SOEP courses.

(11) When a student satisfactorily completes an online semester or quarter course, in accordance with the LEA's procedures, a designated counselor or registrar at the primary school of enrollment shall forward records of grades and high school graduation credit for students participating [~~prior to~~]before grade 9 to the student's grade 9 primary school of enrollment for recording grades and credit per Subsection (10) once a student completes grade 8.

R277-726-7. Superintendent Requirements and Responsibilities.

(1) The Superintendent shall provide a website for the program, including information required under Section 53F-4-512 and other information as determined by the Board.

(2) The Superintendent shall direct a provider to administer the Utah standards and high school assessments, as applicable,[~~statewide assessment~~] consistent with Section 53F-4-514 and Rule R277-404.

(3)(a) The [~~Board~~]Superintendent may determine space availability standards and appropriate course load standards for online courses consistent with Subsection 53F-4-512(3)(d).

(b) Course load standards may differ based on subject matter.

(4) The [~~Board~~]Superintendent shall withhold funds from a primary LEA of enrollment and make payments to a provider consistent with Sections 53F-4-505 through 53F-4-507.

(5) The [~~Board~~]Superintendent may refuse to provide funds under a CCA if the [~~Board~~]Superintendent finds that information has been submitted fraudulently or in violation of the law or Board rule by any of the parties to a CCA.

(6) The Superintendent shall receive and investigate complaints, and impose sanctions, if appropriate, regarding course integrity, financial mismanagement, enrollment fraud or inaccuracy, or violations of the law or this rule specific to the requirements and provisions of the program.

(7) If a [~~Board~~]Superintendent or federal entity's investigation finds that a provider has violated the IDEA or Section 504 provisions for a student taking online courses, the provider shall compensate the student's primary LEA of enrollment for costs related to compliance.

(8)[~~(a)~~] The Superintendent may monitor[~~audit, at the Board's sole discretion,~~] an LEA's or program provider's[~~participant's~~] compliance with any requirement of state or federal law or Board rule under the program.

[~~(b) A participant shall provide timely access to records, student information, financial data or other information requested by the Board, the Board's auditors, or the Superintendent upon request.~~]

(9) The [~~Board~~]Superintendent may withhold funds from a program provider[~~participant~~] for the participant's failure to comply with a reasonable request for records or information.

(10) Program records are available to the public subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(11) The Superintendent shall withhold online course payment from a primary LEA of enrollment and payments to an eligible provider at the nearest monthly transfer of funds, subject to verification of information, in an amount consistent with, and [~~at the time~~]when a provider qualifies to receive payment, under Subsection 53F-4-505(4).

(12) The Superintendent shall pay a provider consistent with Minimum School Program funding transfer schedules.

(13)(a) The Superintendent may make decisions on questions or issues unresolved by Title 53F, Chapter 4, Part 5, Statewide Online Program Act or this rule on a case-by-case basis.

(b) The Superintendent shall report decisions described in Subsection (13)(a) to the Board consistent with the purposes of the law and this rule.

R277-726-8. Provider Requirements and Responsibilities.

(1)(a) A provider shall administer the applicable statewide assessments to a participating private or home school student as directed by the Superintendent, including proctoring the applicable statewide assessments, consistent with Section 53F-4-510 and Rule R277-404.

(b) A provider shall pay administrative and proctoring costs for the applicable statewide assessments described in Subsection (1)(a).

(2) A provider shall provide a parent or a student with email and telephone contacts for the provider during regular business hours to facilitate parent contact.

(3) A provider and any third party working with a provider shall, for all eligible students, satisfy Board requirements for:

(a) consistency with course standards;

(b) criminal background checks for provider employees;

(c) documentation of student enrollment and participation; and

(d) compliance with:

(i) the IDEA;

(ii) Section 504; and

(iii) requirements for multilingual students.

(4) A provider shall receive payments for a student properly enrolled in the program from the Superintendent consistent with:

(a) Board procedures;

(b) Board timelines; and

(c) Sections 53F-4-505 through 53F-4-508.

(5)(a) A provider may charge a fee consistent with other secondary schools.

(b) If a provider intends to charge a fee of any kind, the provider:

(i) shall notify the primary school of enrollment with whom the provider has the CCA of the purpose for fees and amounts of fees;

(ii) shall provide timely notice to a parent of required fees and fee waiver opportunities;

(iii) shall post fees on the provider website;

(iv) shall be responsible for fee waivers for an eligible student, including materials for a student designated fee waiver eligible by a student's primary school of enrollment;

(v) shall satisfy the requirements of Rule R277-407, as applicable; and

(vi) shall provide fee waivers to home school or private school students who meet fee waiver eligibility at the provider's expense.

(6) A provider shall maintain a student's records and comply with the federal Family Educational Rights and Privacy Act, Title 53E, Chapter 9, Part 3, Utah Family Educational Rights and Privacy Act, and Rule R277-487, including:

(a) protecting the confidentiality of a student's records and providing a parent and an eligible student access to records; and

(b) providing a parent or student documentation of educational performance, including:

(i) test scores;

(ii) grades;

(iii) progress and performance measures; and

(iv) completion of credit.

(7) Except as otherwise provided in this Rule R277-726, a provider shall submit a student's credit and grade to the Superintendent, using processes and applications provided by the Superintendent for this purpose, to a designated counselor or registrar at the primary school of enrollment, and the student's parent no later than:

(a) 30 days after a student satisfactorily completes an online semester or quarter course; or

(b) June 30 of the school year.

(8) A provider may not withhold a student's credits, grades, or transcripts from the student, parent, or the student's school of enrollment for any reason.

(9)(a) If a provider suspends or expels a student from an online course for disciplinary reasons, the provider shall notify the student's primary LEA of enrollment by placing the student on disciplinary withdrawal.

(b) A provider is responsible for due process procedures for student disciplinary actions in the provider's online program.

(c)(i) A provider shall notify the Superintendent of a student's administrative withdrawal, if the student is inactive in a course for more than ten days, using forms and processes developed by the Superintendent for this purpose.

(ii) If a student, parent, or counselor fails to request reinstatement following notification under Subsection (c)(i), the provider shall formally withdraw the student within 72 hours and notify the student, parent, and primary LEA of the action.

(10) If a student entitled to services under the IDEA is removed from an online program, the primary LEA shall work with the student and the student's parents to identify alternatives to provide a free and appropriate public education.

(11)(a) A provider shall provide to the Superintendent a list of course options using USBE-provided course codes.

(b) Program courses shall be coded as semester or quarter courses.

(c) A provider shall update the provider's course offerings annually.

(12) A provider shall serve a student on a first-come-first-served basis who desires to take courses and who is designated eligible by a primary school of enrollment if desired courses have space available.

(13) A provider shall maintain and provide records and systems[~~maintained~~] as part of a public online school or program, including:

(a) financial and enrollment records;[~~ and~~]

(b) information for accountability, program monitoring, and audit purposes[~~ upon request by the Superintendent and the provider's external auditors.~~]; and

(c) providing timely documentation of student participation, enrollment, educator credentials, and other additional data for purposes including giving a student's primary school of enrollment access to the student's records to appropriately support the student.

(14) A provider shall maintain the following for at least five calendar years after the student graduates[~~ exits the provider's or third party's program~~]:

(a) test scores;

(b) student grades;

(c) completion of credit; and

(d) other progress and performance measures.

(15)(a) A provider is responsible for complete and timely submissions of record changes to executed CCAs and submission of other reports and records as required by the Superintendent.

(b) A provider shall update CCAs to the nearest credit value earned by June 30 annually.

(c) A provider may only maintain an CCA open after June 30 if a student remains actively engaged in coursework, meeting the provider's standard of active participation.

(16) A provider shall inform a student and the student's parent of expectations for active participation [~~prior to~~]before the inception of course work, including informing the student and the student's parent of travel expectations to fulfill course requirements.

(17)(a) An LEA may participate in the program as a provider by offering a school or program consistent with Rule R277-115 to a Utah secondary student in grades 6-12 who is not a resident student of the LEA and a regularly-enrolled student of the LEA consistent with Sections 53F-4-501 and 53F-4-503.

(b) An LEA program created in accordance with Subsection (18)(a) for serving students in grades 9-12 online must partner with an accredited school and shall:

(i) report grades and credit earned by a student to the Superintendent; and

(ii) record educator assignments consistent with Rule R277-484.

(18) A program school or program shall:

(a) be accredited by the accrediting entity adopted by the Board consistent with Rule R277-305;

(b) have a designated administrator who meets the requirements of Rule R277-520;

(c) ensure that a student who qualifies for a fee waiver receives services offered by and through the public schools consistent with Section 53G-7-504 and Rule R277-407;

(d) maintain student records consistent with:

(i) the federal Family Educational Rights and Privacy Act, 20 U.S.C. Sec 1232g and 34 CFR Part 99;

(ii) Rule R277-487;

(iii) this Rule R277-726; and

(e) shall offer course work:

(i) aligned with Utah Core standards;

(ii) in accordance with program requirements; and

(iii) in accordance with Rules R277-700 and R277-404;

(f) shall not issue transcripts under the name of a third party provider; and

(g) shall record teaching assignments by November 15 annually consistent with Rule R277-484 and Section R277-512-7, either directly or through a partner school in accordance with Subsection (18)(b).

(19) An LEA that offers an online program or school as a provider under the program:

(a) shall employ only educators licensed in Utah as teachers;

(b) may not employ an individual whose educator license has been suspended or revoked;

(c) shall require employees to meet requirements of Title 53G, Chapter 11, Part 4, Background Checks, [~~prior to~~]before the provider offering services to a student;

(d) may only employ teachers who meet the requirements of Rule R277-301, Educator Licensing - Highly Qualified Assignment;

(e) for a provider that provides an online course to a private or home school student, shall agree to administer and have the capacity to proctor and carry out the applicable statewide assessments, consistent with Sections 53E-4-302, 53F-2-103, and Rule R277-404;

(f) in accordance with Section R277-726-8, shall provide services to a student consistent with requirements of the IDEA, Section 504, and Title VI of the Civil Rights Act of 1964 for multilingual students;

(g) shall [~~maintain copies of~~]submit CCAs to the Superintendent before the provider initiating instruction of a student[~~for audit purposes~~];

(h) may not begin offering instruction to a student until the Superintendent issues a notice of enrollment for the student for each course the student participates in; and

[~~(h)~~](i) shall agree that funds shall be withheld by the Superintendent consistent with Sections 53F-4-505, 53F-4-506, and 53F-4-508.

[~~(20) A provider shall cooperate with the Superintendent in providing timely documentation of student participation, enrollment, educator credentials, and other additional data consistent with Board directives and procedures and as requested.~~]

(21) A provider shall post required information online on the provider's individual website including required assessment and accountability information.

(22)(a) A provider contracting with a third party to provide educational services to students participating with the provider through the Statewide Online Education Program shall:

(b) develop a written monitoring plan to supervise the activities and services provided by the third party provider to ensure:

(i) a third party provider is complying with:

(A) federal law;

(B) state law; and

(C) Board rules;

(ii) curriculum provided by a third party provider is aligned with the Board's core standards and rules;

(iii) a third party provider has access to curriculum for alignment and adjustment to ensure the curriculum is consistent with the Utah core standards in Rule R277-700 and a Board approved core code;

(iv) supervision of third party facilitation and instruction by an educator licensed in Utah:

(A) employed by the provider, and

(B) reported as teacher of record per Section R277-484-3 and Subsection R277-726-2(3); and

(iv) consistent with the LEA's administrative records retention schedule, maintenance of documentation of the LEA's supervisory activities.

(23) A provider shall offer courses consistent with standards outlined in an applicable Statewide Services Agreement, which may be updated or amended to reflect changes in law, rule or recommended practice.

(24) A provider shall maintain a course completion rate of at least 80% annually to remain in good standing with the program.

(25) A provider is subject to the same approval and annual performance review as described for a certified online course provider in Subsections R277-726-12(1)[~~-(10)~~] through (10) while utilizing the applicable applications for a provider described in Subsections R277-726-3(1)(a) and (b).

R277-726-9. Services to Students with Disabilities Participating in the Program.

(1)(a) If a student wishes to receive services under Section 504 of the Rehabilitation Act of 1973, the student shall make a request with the student's primary school of enrollment.

(b) The primary school of enrollment shall evaluate a student's request under Subsection (1)(a) and determine if a student is eligible for Section 504 accommodations.

(c) If the primary school of enrollment determines the student is eligible, the school shall prepare a Section 504 plan and implement the plan in accordance with Subsection (2)(b).

(2)(a) If a student requests services related to an existing Section 504 accommodation, a provider shall:

(i) except as provided in Subsection (2)(b), review and implement the plan for the student; and

(ii) provide the services or accommodations to the student in accordance with the student's Section 504 plan.

(b) An LEA of enrollment shall provide a Section 504 plan of a student to a provider within 72 business hours if:

(i) the student is enrolled in a primary LEA of enrollment; and

(ii) the primary LEA of enrollment has a current Section 504 plan for the student.

(3) For a student enrolled in a primary LEA of enrollment, if a student participating in the program qualifies to receive services under the IDEA:

(a) the student's primary LEA of enrollment shall:

(i) working with a provider LEA representative, review or develop an IEP for the student within ten days of enrollment;

(ii) working with a provider LEA representative, update an existing IEP with necessary accommodations and services, considering the courses selected by the student;

(iii) provide the IEP described in Subsection (3)(a)(i) to the provider within 72 business hours of completion of the student's IEP; and

(iv) continue to claim the student in the primary LEA of enrollment's membership; and

(b) the provider shall provide special education services and accommodations to the student in accordance with the student's IEP described in Subsection (3)(a)(i).

(4) If a home or private school student requests an evaluation for eligibility to receive special education services:

(a) the home or private school student's resident school shall:

(i) evaluate the student's eligibility for services under the IDEA;

(ii) if eligible, the student may enroll in the LEA that will prepare an IEP for the student, with input from the provider LEA, in accordance with the timelines required by the IDEA;

(iii) provide the IEP described in Subsection (4)(a)(ii) to the provider within 72 business hours of completion of the student's IEP; and

(b) the provider shall provide special education services and accommodations to the student in accordance with the student's IEP described in Subsection (4)(a)(i) including in cases where the provider utilizes a third party provider for delivery of educational or other services.

R277-726-10. Home and Private School Appropriation.

(1) The Superintendent shall allocate the annual appropriation for home and private school tuition, along with any carryover or unobligated funds, as follows:

(a) [~~Prior to~~]Before December 1 annually, the Superintendent shall accommodate home school students with at least 50% of the total appropriation for home and private school students, unless the home school demand is less.

(b) After December 1 annually, until available funds are obligated, the Superintendent shall:

(i) receive and accept enrollment requests on a first come, first served basis; and

(ii) offer preference to home school students in the event demand exceeds available funding.

(3) If home school or private school student funds remain by December 1, the Superintendent may release the funds for any pending enrollment requests.

R277-726-11. Other Information.

(1) A primary school of enrollment shall set reasonable timelines and standards.

(2) A provider shall adhere to timelines and standards described in Subsection (1) for student grades and enrollment in online courses for purposes of:

(a) school awards and honors;

(b) Utah High School Activities Association participation; and

(c) high school graduation.

R277-726-12. Certified Online Course Provider Application Approval, Program Requirements, and Fees.

(1) An entity other than an online course provider may become a certified online course provider if the entity submits an application described in Subsection R277-726-3(1)(c).

(2) An entity other than an online course provider shall submit the application described in Subsection R277-726-3(1)(c) on or before the annual deadline established by the Superintendent.

(3) The Superintendent shall review each application within a reasonable amount of time.

(4) If the Superintendent finds the application submitted is satisfactory, including a demonstration of the entity's ability to adhere to requirements within the application, this Rule R277-726, and state law, the Superintendent shall forward the application to the Board for final approval.

(5) Once approved by the Board, an entity shall become a certified online course provider.

(6) A certified online course provider shall adhere to requirements to remain certified and in good standing within the program including:

(a) requirements applicable to an online course provider described in this Rule R277-726, including the requirement to maintain a course completion rate of at least 80%;

(b) additional requirements prescribed in the application described in Subsection R277-726-3(1)(c); and

(c) state laws applicable to an online course provider including [~~Subsections~~]Sections 53F-4-501 et. seq.

(7) A certified online course provider shall be subject to an annual performance review by the Superintendent.

(8) If the Superintendent finds the certified online course provider is not in compliance with any requirement as outlined in [~~s~~]Subsection (6) of this part, the Superintendent shall provide the certified online course provider with a list of non-compliance issues and a reasonable timeline for the certified online course provider to cure the instances of non-compliance.

(9) If the certified online course provider fails to correct instances of non-compliance within the allotted timeline, the certified online course provider shall be removed from the program.

(10) A certified online course provider that has been removed from the program may apply in the application round following removal from the program for re-admission to the program using the application described in Subsection R277-726-3(1)(d).

(11) A certified online course provider shall remit fees to the Superintendent for participation in the program as follows:

(a) 5% of revenue collected for the first $200,000 received pursuant to Section 53F-4-505; and

(b) 1% of revenue collected after the first $200,000 received pursuant to Section 53F-4-505.

KEY: statewide online education program
Date of Last Change: 2022[~~September 22, 2021~~]
Notice of Continuation: January 13, 2022
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-4-510; 53F-4-514; 53E-3-401

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R277-733**	**Filing ID 54424**

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:

R277-733. Adult Education Programs

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

This rule is being amended with an updated version of the document incorporated by reference in this 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)**:**

The amendments to the document incorporated by reference changed the funding structure of the program to set aside 3% of the allocated funds for incentives to local education agencies (LEA) programs, that results in students advancing toward an alternative high school diploma. It outlines other percentages set aside for corrections programs versus adult education programs.

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. There is no fiscal impact because this rule is being amended with an updated version of the document incorporated by reference in this rule.

B) Local governments:

There will be varied impacts by LEA (funding may go up or down) but this amendment is an effort to stabilize funding across the system and provide stability and predictability to LEAs.

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. There is no fiscal impact because this rule is being amended with an updated version of the document incorporated by reference in this rule.

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. There is no fiscal impact because this rule is being amended with an updated version of the document incorporated by reference in this rule.

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. There is no fiscal impact because this rule is being amended with an updated version of the document incorporated by reference in this rule.

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

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)	Section 53E-10-202
Subsection 53E-3-401(4)	Section 53F-2-401	

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)	Utah Adult Education Policies and Procedures Guide
Publisher	Utah State Board of Education
Date Issued	January 2022
Issue, or version	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:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022
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:**	03/15/2022

R277. Education, Administration.
R277-733. Adult Education Programs.
R277-733-1. 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) Section 53E-10-202 which vests general control and supervision over adult education in the Board;

(d) Subsection 53E-3-501(1), which allows the Board to adopt minimum standards for programs; and

(e) Section 53F-2-401, which vests the Board with responsibility to provide education to persons in the custody of the Utah Department of Corrections.

(2) The purpose of this rule is to describe curriculum, program standards, allocation formulas, and operation procedures for the adult education program for adult education students both in and out of state custody.

R277-733-2. Incorporation of Utah Adult Education Policies and Procedures Guide by Reference.

(1) The rule incorporates by reference the Utah Adult Education Policies and Procedures Guide, [~~April 2021~~]January 2022 Revision, which provides day-to-day operating standards and technical assistance to eligible providers for operation of adult education programs.

(2) A copy of the guide is located at:

(a) https://www.schools.utah.gov/[~~adulteducation?mid=2654&tid=2v~~]file/0e56fc1a-e2bc-4d7e-8572-ead9046799e9; and

(b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah 84111.

R277-733-3. Definitions.

(1) "Adult" means an individual 18 years of age or over.

(2) "Adult education" means organized educational programs below the postsecondary level, other than regular full-time K-12 secondary education programs:

(a) provided by an LEA or an eligible provider;

(b) provided for out-of-school youth (16 years of age and older) or adults who have or have not graduated from high school; and

(c) provided to improve literacy levels and to further high school level education.

(3) "Adult Basic Education" or "ABE" means a program of instruction at or below the 8.9 academic grade level, which prepares adults for advanced education and training.

(4) "Adult Education and Family Literacy Act" or "AEFLA" means Title II of the Workforce Innovation Opportunity Act of 2014, which provides the principle source of federal support for:

(a) academic instruction and education services below the post-secondary level to receive a high school diploma or its recognized equivalent; and

(b) transition to post-secondary education, training, and employment.

(5) "Adult Secondary Education" or "ASE" means a program of academic instruction at the 9.0 grade level or above in Board-approved subjects for an eligible adult education student who is seeking an Adult Education Secondary Diploma or its equivalent.

(6) "College and Career Readiness Plan" or "CCRP" means a plan developed by a student in consultation with an adult education program counselor, teacher, and administrator that:

(a) is initiated at the time of entrance into an adult education program;

(b) identifies a student's skills and objectives;

(c) identifies a career pathway strategy to guide a student's course selection; and

(d) links a student to post-secondary education, training, or employment using a program-defined adult education transition process.

(7) "Custody," for purposes of this rule, means the status of being legally in the control of another adult person or public agency.

(8)(a) "Eligible adult education student" means an individual who provides documentation that the individual:

(i) is a primary and permanent resident of Utah;

(ii) is one of the following:

(A) 17 years of age or older, and whose high school class has graduated;

(B) under 18 years of age and is married;

(C) has been emancipated or adjudicated as an adult; or

(D) an out-of-school youth 16 years of age or older who has not graduated from high school; and

(iii) meets any of the following:

(A) is basic skills deficient;

(B) does not have a secondary school diploma, its recognized equivalent, or an equivalent level of education; or

(C) is an ELL; or

(b) A non-resident eligible adult education student in accordance with an individual agreement between an eligible provider and another state.

(9) "Eligible Provider" may include:

(a) an LEA;

(b) a community-based or faith-based organization;

(c) a voluntary literacy organization;

(d) an institution of higher education;

(e) a public or private non-profit agency;

(f) a library;

(g) a public housing authority;

(h) a non-profit institution not described in Subsections (a) through (g) that can provide adult education and literacy activities to eligible adult education students;

(i) a consortium or coalition of providers identified in Subsections (a) through (h); or

(j) a partnership between an employer and a provider identified in Subsections (a) through (i).

(10) "English Language Learner" or "ELL" means an individual:

(a) who has limited ability in reading, writing, speaking, or comprehending the English language and whose native language is a language other than English; or

(b) who lives in a family or community where a language other than English is the dominant language.

(11) "FERPA" means the Family Educational Rights and Privacy Act, 20 USC 1232g, and its implementing regulations.

(12) "Inmate" means an offender who is incarcerated in state or county correctional facilities located throughout the state.

(13) "High School Equivalency Exam" or "HSE" means a Board approved examination whose modules are aligned with current high school core standards and adult education College and Career Readiness standards.

(14) "Out-of-school youth" means a student 16 years of age or older who has not graduated from high school and is no longer enrolled in a K-12 program of instruction.

(15) "Utah High School Completion Diploma" means a diploma issued by the Board and distributed by a Board approved contractor to an individual who has passed all subject modules of an HSE exam at an HSE testing center.

(16) "Utah Online Performance Indicators for Adult Education" or "UTopia" means a statewide database for tracking adult education student progress and outcomes.

_____(17) "Weighted pupil unit" or "WPU" means the basic per pupil unit used to calculate the amount of state funds for which a school district is eligible.

R277-733-4. Federal Adult Education Funds.

The Superintendent shall follow the standards and procedures contained in AEFLA and the WIOA state plan adopted by the Board pursuant to AEFLA to administer federal funding of adult education programs.

R277-733-5. Compliance with State and Federal Laws.

Adult education programs shall comply with state and federal law and administrative regulations and follow the procedures contained in the Utah Adult Education Policies and Procedures Guide described in Section R277-733-2.

R277-733-6. State Fund Distribution, Carryover, and Recapture.

(1) The Superintendent shall allocate state funds for adult education in accordance with Section 53F-2-401.

(2) An LEA may carryover ten percent of the state adult education funds allocated to the LEA's adult education programs with written approval from the Superintendent.

(3) An LEA shall submit a request to carryover funds for approval.

(4) The Superintendent shall consider excess funds in determining an LEA's allocation for the next fiscal year.

(5) The Superintendent shall recapture an LEA's fund balances in excess of ten percent annually.

(6) The Superintendent shall allocate recaptured funds to an LEA's adult education program through the supplemental award process described in Section R277-733-10.

R277-733-7. Adult Education Pupil Accounting.

(1) An LEA administered adult education program shall receive WPU funding for a student consistent with the criteria and rate outlined in the Utah Adult Education Policies and Procedures Guide described in Section R277-733-2.

R277-733-8. Program, Curriculum, Outcomes and Student Mastery.

(1) The Utah Adult Education Program shall offer courses consistent with the Elementary and Secondary General Core under R277-700.

(2) An LEA shall ensure adult secondary education includes the following prerequisite courses:

(a) ELL competency AEFLA levels one through six; or

(b) ABE competency AEFLA levels one through four.

(3) An LEA shall establish policies allowing or disallowing adult education student participation in graduation activities or ceremonies.

(4) An LEA may establish reasonable timelines and may require adequate and timely documentation of authenticity for credits and grades submitted from other eligible providers.

(5) An LEA adult education program is the final decision-making authority for the awarding of credit and grades from non-accredited sources.

(6) An eligible provider shall offer an adult education student seeking a Utah High School Completion Diploma a course of academic instruction designed to prepare the student to take an HSE exam.

(7) Following completion of requirements for a Utah Adult Education Secondary Diploma or a Utah High School Completion Diploma, an eligible provider shall only allow a student to continue in an adult education program if:

(a) the student's academic skills are less than 9.0 grade level in an academic area of reading, math or English; and

(b) the student lacks sufficient mastery of basic educational skills to enable the student to function effectively in society.

R277-733-9. Adult Education Programs--Tuition and Fees.

(1) An eligible provider may charge a tuition or fee consistent with Section 53E-10-205 and the Utah Adult Education Policies and Procedures Guide described in Section R277-733-2.

(2) An eligible provider shall report annually to the Superintendent the amount of tuition and fees collected.

(3) An eligible provider may not:

(a) comingle or report fees and tuition collected from adult education students with community education funds or any other public education fund;

(b) count collected fees and tuition toward meeting federal matching, cost sharing, or maintenance of effort requirements related to the adult education program's award; and

(c) calculate carryover balance amounts using funds collected from fees and tuition.

(4) An eligible provider receiving state or federal adult education funds shall provide annual written assurances to the Superintendent that all fees and tuition collected are:

(i) returned or delegated, except for indirect costs, to the local adult education program;

(ii) used solely and specifically for adult education programming; and

(iii) not withheld and maintained in a general maintenance and operation fund.

R277-733-10. Providing Corrections Education.

(1) The Board may contract to provide educational services inmates with:

(a) local school boards;

(b) state post-secondary educational institutions;

(c) other state agencies; or

(d) private providers recommended by a local school board.

(2) A contract made in accordance with Subsection (1) shall be in writing and shall provide for:

(a) services to students in an appropriate environment for student behavior and educational performance;

(b) compliance with relevant Board standards;

(c) program monitoring by the Superintendent in accordance with R277-733: and

(d) coordination of services with non-custodial programs to enable an inmate in custody to continue the inmate's public-school education with minimal disruption following discharge.

(3) A school district may sub-contract with local educational service providers for the provision of educational services to students in custody.

(4) Custodial status does not qualify an individual for services under the IDEA.

(5) When a student inmate is transferred to a new program, the sending program shall update and finalize all school records in UTopia releasing the student's records as soon as possible after receiving notice of the transfer.

(6) An educational service provider shall only disclose educational records of a student inmate, before or after release from custody, consistent with FERPA.

(7) A transcript or diploma prepared for an inmate in custody shall:

(a) include the name of the contracted educational agency which also provides service to non-custodial offenders; and

(b) not reference the inmate's custodial status.

(8) A corrections education provider shall keep an inmate's education records which refer to custodial status, inmate court records, and related matters separate from permanent school records.

R277-733-11. Supplemental Awards.

An LEA may receive a supplemental award if the LEA:

(1) has an adult education program with no carryover funds;

(2) demonstrates that the award funds will only be used for special program needs or professional development; and

(3) provides in writing the level of need for the award.

R277-733-12. State Workforce Development Board.

(1) The Superintendent shall represent adult education programs on the State Workforce Development Board as a voting member, in accordance with WIOA.

(2) The Superintendent may assign Board staff to State Workforce Development Board WIOA committees for the purpose of implementation of the State's WIOA Unified Plan.

R277-733-13. Oversight, Monitoring, Evaluation, and Reports.

(1) The Board may designate up to two percent of the total legislative appropriation for oversight, monitoring, and evaluation of adult education programs.

(2) The Superintendent may recommend that the Board withhold state or federal funds in accordance with R277-114 for noncompliance with:

(a) Board rule;

(b) adult education state policy and procedures;

(c) associated reporting timelines; and

(d) program monitoring outcomes, as defined by the Board, including:

(i) lack of program improvement; and

(ii) unsuccessful student outcomes.

KEY: adult education
Date of Last Change: 2022[~~December 3, 2021~~]
Notice of Continuation: January 13, 2022
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-10-202; 53E-3-501(1); 53E-3-401(4); 53F-2-401; [~~53F-2-401;~~]53E-10-205

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R277-916**	**Filing ID 54425**

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:

R277-916. College and Career Awareness

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

The change updates terminology and requirements related to college and career awareness program funds.

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 update terminology, clarify use of college and career awareness funds, and set additional requirements for program implementation.

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. There is no expected fiscal impact because the purpose of the amendment is to update terminology, clarify the use of college and career awareness funds, and set additional requirements for program implementation.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. There is no expected fiscal impact because the purpose of the amendment is to update terminology, clarify the use of college and career awareness funds, and set additional requirements for program implementation.

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

This rule change is not expected to have fiscal impacts on small businesses' revenues or expenditures. There is no expected fiscal impact because the purpose of the amendment is to update terminology, clarify the use of college and career awareness funds, and set additional requirements for program implementation.

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. There is no expected fiscal impact because the purpose of the amendment is to update terminology, clarify the use of college and career awareness funds, and set additional requirements for program implementation.

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. There is no expected fiscal impact because the purpose of the amendment is to update terminology, clarify the use of college and career awareness funds, and set additional requirements for program implementation.

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	Section 53F-2-311	Section 53E-3-507
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:	05/02/2022
10. This rule change MAY become effective on:	05/09/2022
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:**	03/15/2022

R277. Education, Administration.
R277-916. College and Career Awareness.
R277-916-1. 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) Section 53E-3-507, which allows the Board to establish minimum standards for career and technical education programs in the public education system; and

(d) Section 53F-2-311, which directs the Board to distribute specific funds to LEAs.

(2) The purpose of this rule is to establish standards and procedures for LEAs seeking to qualify for College and Career Awareness Program funds administered by the Board.

R277-916-2. Definitions.

(1) "Approved school" means a school approved by the Superintendent through an application process.

([~~1~~]2)(a) "College and Career Awareness" means a 7th grade or 8th grade core course comprised of activities encouraging students to explore college and career opportunities.

(b) "College and Career Awareness" is coordinated with the [~~Comprehensive~~]School Counseling [~~and Guidance~~]program.

([~~2~~]3) "Weighted Pupil Unit" or "WPU" means the unit of measure that is computed in accordance with Section 53F-2-[~~306~~]302, [~~for the purpose of determining~~]to determine the costs of a program on a uniform basis for each LEA.

([~~3~~]4) "Work-Based Learning" or "WBL" means a continuum of awareness, exploration, preparation, and training activities that combine structured learning and authentic work experiences implemented through industry and education partnerships.

R277-916-3. Disbursement of Funds.

(1)(a) An LEA shall utilize College and Career Awareness funds to purchase and maintain needed student equipment and supplies for the course, subject to the following:

(i) LEA expenditures shall be reasonable and necessary to sustain the College and Career Awareness program;

(ii) LEA expenditures shall be adequately documented;

(iii) an LEA may not use for personnel costs;

([~~iii~~]iv) an LEA may not use funds to cover the cost of goods and services for teacher personal use, such as teacher equipment, materials, and supplies;

([~~iv~~]v) an LEA may not use funds for costs associated with:

(A) entertainment;

(B) amusement;

(C) diversion;[~~ and~~]

(D) social activities;[~~ and~~]

(E) incentives;

(F) marketing materials; or

(G) thank you gifts; and

(vi) an LEA may only use funds for costs that will directly achieve program outcomes for students.

(b) Notwithstanding, Subsection (1)(a), an LEA may use up to 15% of available funds for teachers[~~,~~] and counselors[~~, and administrators~~] to participate in on[~~-~~]going professional development sponsored by the Board.

(2) An LEA shall meet all requirements of this [~~R277-916~~]rule [~~in order~~]to receive College and Career Awareness funding.

(3) College and Career Awareness funds shall be allocated to an LEA for an approved school using a base amount per school.

(4) The Superintendent shall distribute funds remaining after funds are distributed under Subsection (3) to approved schools, based on the prior school year's October 1 grade 7 enrollment.[~~enrollment in grade 7 to approved schools based on the prior year's October 1 enrollment report for the previous year.~~]

(5) An LEA shall annually complete a funding application with assurances of each school meeting College and Career Awareness standards.

(6) The Superintendent shall annually provide training to personnel from each school receiving funds under this Subsection (3).

(7) The Superintendent shall allocate continued funding to an LEA based on the LEA's success in meeting established standards.

R277-916-4. Standards.

(1) An LEA may qualify for College and Career Awareness funds consistent with the following:

(a) College and Career Awareness [~~program funds may not be used for personnel costs~~]standards are implemented in their entirety regardless of LEA scheduling;

(b) [~~a school shall teach 180 days of College and Career Awareness as a stand alone course with distinct credit, incorporating each element set forth in Subsection R277-916-2(1);~~

~~(c)~~]College and Career Awareness teachers and counselors shall have appropriate licenses and endorsements;

([~~d~~]c) a school shall utilize the services of a WBL coordinator, where available, to integrate grade level appropriate WBL activities into College and Career Awareness[~~,~~];

([~~e~~]d) if a WBL coordinator is not available, the College and Career Awareness team shall plan and provide WBL activities;

([~~f~~]e) a school shall integrate [~~career development applications into the College and Career Awareness program and use~~]the services of a school counselor in the program;

([~~g~~]f) an LEA shall support staff development activities relevant to the core College and Career Awareness content adopted by the Board; and

([~~h~~]g) a College and Career Awareness [~~personnel~~]team in a school shall fully participate in[~~:~~] a program evaluation every four years.

[~~(i) evaluating the current program;~~

~~(ii) recommending changes or modifications; and~~

~~(iii) pilot testing and implementing new activities, materials, and resources; and~~

~~(i) College and Career Awareness personnel shall participate in the CTE Program Approval evaluation every three years.~~]

KEY: college and career awareness, public schools
Date of Last Change: 2022[~~April 10, 2017~~]
Notice of Continuation: February 9, 2022
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-507; 53F-2-311

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R313-12-3**	**Filing ID 54410**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
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:
R313-12-3. Definitions
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
On June 12, 2015, the NRC published in the Federal Register (80 FR 33987) final revisions to the federal radioactive materials regulations regarding the packaging and transportation of radioactive material. These amendments made conforming changes to the NRC's regulations based on the International Atomic Energy Agency's (IAEA) 2009 standards for the international

transportation of radioactive material and resulted in maintaining consistency with the U.S. Dept. of Transportation's regulations, which were promulgated on July 11, 2014 (79 FR 40590). In addition, the NRC amended the federal regulations to re-establish restrictions on radioactive materials that qualify for the fissile material exemption, clarify requirements, update administrative procedures, and make editorial changes.

In Section R313-12-3, the definition of "Special form radioactive material" is amended to match the corresponding federal regulatory definition in 10 CFR 71.4, as revised by the NRC on June 12, 2015, in order to maintain regulatory compatibility with the NRC, as required as an Agreement State with the NRC.

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 amendment updates the definition of "Special form radioactive material" so that it is current with the definition as it appears in the federal regulations. In addition, the Division of Waste Management and Radiation Control, Radiation has corrected typographical and formatting errors in this rule.

Fiscal Information

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

A) State budget:

There is no cost or savings impact to the state budget because the proposed changes to the definition of "special form radioactive material" do not create any license conditions or rule requirements that fall within the regulatory jurisdiction of an Agreement State, such as Utah. Rather, the referenced conditions and requirements within the definition are reserved for the exclusive regulatory jurisdiction of the NRC, but nonetheless are required to be adopted as a matter of regulatory compatibility.

B) Local governments:

There is no cost or savings impact to local governments because the proposed changes to the definition of "special form radioactive material" do not create any license conditions or rule requirements that fall within the regulatory jurisdiction of an Agreement State, such as Utah. Rather, the referenced conditions and requirements within the definition are reserved for the exclusive regulatory jurisdiction of the NRC, but nonetheless are required to be adopted as a matter of regulatory compatibility.

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

There is no cost or savings impact to small businesses because the proposed changes to the definition of "special form radioactive material" do not create any license conditions or rule requirements that fall within the regulatory jurisdiction of an Agreement State, such as Utah. Rather, the referenced conditions and requirements within the definition are reserved for the exclusive regulatory jurisdiction of the NRC, but nonetheless are required to be adopted as a matter of regulatory compatibility.

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

There is no cost or savings impact to non-small businesses because the proposed changes to the definition of "special form radioactive material" do not create any license conditions or rule requirements that fall within the regulatory jurisdiction of an Agreement State, such as Utah. Rather, the referenced conditions and requirements within the definition are reserved for the exclusive regulatory jurisdiction of the NRC, but nonetheless are required to be adopted as a matter of regulatory compatibility.

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

There is no cost or savings impact to persons other than small businesses, non-small businesses, state, or local governments because the proposed changes to the definition of "special form radioactive material" do not create any license conditions or rule requirements that fall within the regulatory jurisdiction of an Agreement State, such as Utah. Rather, the referenced conditions and requirements within the definition are reserved for the exclusive regulatory jurisdiction of the NRC, but nonetheless are required to be adopted as a matter of regulatory compatibility.

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 persons affected by these changes because the proposed changes to the definition of "special form radioactive material" do not create any license conditions or rule requirements that fall within the regulatory jurisdiction of an Agreement State, such as Utah. Rather, the referenced conditions and requirements within the definition are reserved for the exclusive regulatory jurisdiction of the NRC, but nonetheless are required to be adopted as a matter of regulatory compatibility.

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 on businesses because the proposed changes to the definition of "special form radioactive material" do not create any license conditions or rule requirements that fall within the regulatory jurisdiction of an Agreement State, such as Utah. Rather, the referenced conditions and requirements within the definition are reserved for the exclusive regulatory jurisdiction of the NRC, but nonetheless are required to be adopted as a matter of regulatory compatibility. Kimberly D. Shelley, 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 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 19-3-104	Section 19-6-104	

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:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022

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:	Douglas J. Hansen, Division Director	**Date:**	03/10/2022

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.
R313-12. General Provisions.
R313-12-3. Definitions.

As used in [~~these rules~~]Rules R313-12, R313-14 through R313-19, R313-21, R313-22, R313-24 through R313-26, R313-28, R313-30, R313-32, R313-34 through R313-38 and R313-70, these terms shall have the definitions set forth [~~below~~]in Section R313-12-3. Additional definitions used only in a certain rule will be found in that rule.

"A1" means the maximum activity of special form radioactive material permitted in a Type A package.

"A2" means the maximum activity of radioactive material, other than special form radioactive material, low specific activity, and surface contaminated object material permitted in a Type A package. These values are either listed in 10 CFR 71, Appendix A, which is incorporated by reference in Section R313-19-100 or may be derived in accordance with the procedures prescribed in 10 CFR 71, Appendix A, which is incorporated by reference in Section R313-19-100.

"Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

"Accelerator produced radioactive material" means material made radioactive by a particle accelerator.

"Act" means Utah Radiation Control Act, Title 19, Chapter 3.

"Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

"Adult" means an individual 18 or more years of age.

"Address of use" means the building or buildings that are identified on the license and where radioactive material may be received, used or stored.

"Advanced practice registered nurse" means an individual licensed by this state to engage in the practice of advanced practice registered nursing. See Sections 58-31b-101 through 58-31b-801, Nurse Practice Act.

"Agreement State" means a state with which the United States Nuclear Regulatory Commission or the Atomic Energy Commission has entered into an effective agreement under Section 274 b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

"Airborne radioactive material" means a radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

"Airborne radioactivity area" means: a room, enclosure, or area in which airborne radioactive material exists in concentrations:

(a) In excess of the derived air concentrations (DACs), specified in Rule R313-15[~~,~~]; or

(b) To [~~such~~]a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6[~~ percent~~]% of the annual limit on intake (ALI), or 12 DAC[~~-~~]-hours.

"As low as reasonably achievable" (ALARA) means making every reasonable effort to maintain exposures to radiation as far below the dose limits as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

"Area of use" means a portion of an address of use that has been set aside [~~for the purpose of receiving, using, or storing~~]to receive, use, or store radioactive material.

"Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include sources of radiation from radioactive materials regulated by the Division of Waste Management and Radiation Control under the Radiation Control Act or Rules.

"Becquerel" (Bq) means the SI unit of activity. One becquerel is equal to one disintegration or transformation per second.

"Bioassay" means the determination of kinds, quantities or concentrations, and in some cases, the locations of radioactive material in the human body, whether by direct measurement, [~~(~~]in vivo counting[~~)~~], or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, "radiobioassay" is an equivalent term.

"Board" means the Waste Management and Radiation Control Board created under Section 19-1-106.

"Byproduct material" means:

(a) a radioactive material, with the exception of special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(b) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition;

(c) (i) a discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) material that

(A) has been made radioactive by use of a particle accelerator; and

(B) is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(d) a discrete source of naturally occurring radioactive material, other than source material, that

(i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, has determined would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

"Calibration" means the determination of:

(a) the response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

(b) the strength of a source of radiation relative to a standard.

"CFR" means Code of Federal Regulations.

"Chelating agent" means a chemical ligand that can form coordination compounds in which the ligand occupies more than one coordination position. The agents include beta diketones, certain proteins, amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

"Chiropractor" means an individual licensed by this state to engage in the practice of chiropractic. See Sections 58-73-101 through 58-73-701, Chiropractic Physician Practice Act.

"Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

"Commencement of construction" means taking any action defined as "construction" or any other activity at the site of a facility subject to these rules that have a reasonable nexus to radiological health and safety.

"Commission" means the U.S. Nuclear Regulatory Commission.

"Committed dose equivalent" (HT,50), means the dose equivalent to organs or tissues of reference (T), that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

"Committed effective dose equivalent" (HE,50), is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues.

"Consortium" means an association of medical use licensees and a PET radionuclide production facility in the same

geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium [~~must~~]shall be located at an educational institution, a Federal facility, or a medical facility.

"Construction" means the installation of wells associated with radiological operations; for example, production, injection, or monitoring well networks associated with in[-] situ recovery or other facilities; the installation of foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to these rules that are related to radiological safety or security. The term "construction" does not include:

(a) changes for temporary use of the land for public recreational purposes;

(b) site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;

(c) preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;

(d) erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials subject to this part;

(e) excavation;

(f) erection of support buildings; for example, construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings; for use in connection with the construction of the facility;

(g) building of service facilities; for example, paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines;

(h) procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or

(i) taking any other action that has no reasonable nexus to radiological health and safety.

"Controlled area" means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee or registrant for any reason.

"Critical group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

"Curie" means a unit of measurement of activity. One curie (Ci) is that quantity of radioactive material which decays at the rate of 3.7 x 10 to the tenth power disintegrations or transformations per second (dps or tps).

"Cyclotron" means a particle accelerator in which the charged particles travel in an outward spiral or circular path. A cyclotron accelerates charged particles at energies usually in excess of 10 megaelectron volts and is commonly used for production of short half-life radionuclides for medical use.

"Decommission" means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits:

(a) release of property for unrestricted use and termination of the license; or

(b) release of the property under restricted conditions and termination of the license.

"Deep dose equivalent" (H_d), which applies to external whole body exposure, means the dose equivalent at a tissue depth of one centimeter (1000 mg/cm^2).

"Dentist" means an individual licensed by this state to engage in the practice of dentistry. See [~~s~~]Sections 58-69-101 through 58-69-806, Dentist and Dental Hygienist Practice Act.

"Department" means the Utah Department of Environmental Quality.

"Depleted uranium" means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

"Diffuse source" means a radionuclide that has been unintentionally produced or concentrated during the processing of materials for use for commercial, medical, or research activities.

"Director" means the Director of the Division of Waste Management and Radiation Control.

"Discrete source" means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

"Distinguishable from background" means that the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

"Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, or total effective dose equivalent. For purposes of these rules, "radiation dose" is an equivalent term.

"Dose equivalent" (H_T), means the product of the absorbed dose in tissue, quality factor, and other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

"Dose limits" means the permissible upper bounds of radiation doses established in accordance with these rules. For purpose of these rules, "limits" is an equivalent term.

"Effective dose equivalent" (H_E), means the sum of the products of the dose equivalent to each organ or tissue (H_T), and the weighting factor (w_T,) applicable to each of the body organs or tissues that are irradiated.

"Embryo/fetus" means the developing human organism from conception until the time of birth.

"Entrance or access point" means an opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

"Explosive material" means a chemical compound, mixture, or device which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

"EXPOSURE" when capitalized, means the quotient of dQ by dm where "dQ" is the absolute value of the total charge of the ions of one sign produced in air when all the electrons, both negatrons and positrons, liberated by photons in a volume element of air having a mass of "dm" are completely stopped in air. The special unit of EXPOSURE is the roentgen (R). See Section R313-12-20 Units of

exposure and dose for the SI equivalent. For purposes of these rules, this term is used as a noun.

"Exposure" when not capitalized[~~ as the above term~~], means being exposed to ionizing radiation or to radioactive material. For purposes of these rules, this term is used as a verb.

"EXPOSURE rate" means the EXPOSURE per unit of time, such as roentgen per minute and milliroentgen per hour.

"External dose" means that portion of the dose equivalent received from a source of radiation outside the body.

"Extremity" means hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

"Facility" means the location within one building, vehicle, or under one roof and under the same administrative control

(a) at which the use, processing or storage of radioactive material is or was authorized; or

(b) at which one or more radiation-producing machines or radioactivity-inducing machines are installed or located.

"Former United States Atomic Energy Commission (AEC) or United States Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

"Generally applicable environmental radiation standards" means standards issued by the U.S. Environmental Protection Agency under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

"Gray" (Gy) means the SI unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram.

"Hazardous waste" means those wastes designated as hazardous by the U.S. Environmental Protection Agency rules in 40 CFR Part 261.

"Healing arts" means the disciplines of medicine, dentistry, osteopathy, chiropractic, and podiatry.

"High radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of one mSv (0.1 rem), in one hour at 30 centimeters from the source of radiation or from a surface that the radiation penetrates. For purposes of these rules, rooms or areas in which diagnostic x-ray systems are used for healing arts purposes are not considered high radiation areas.

"Human use" means the intentional internal or external administration of radiation or radioactive material to human beings.

"Individual" means a human being.

"Individual monitoring" means the assessment of:

(a) dose equivalent, by the use of individual monitoring devices or, by the use of survey data; or

(b) committed effective dose equivalent by bioassay or by determination of the time weighted air concentrations to which an individual has been exposed, that is, DAC-hours.

"Individual monitoring devices" means devices designed to be worn by a single individual for the assessment of dose equivalent. For purposes of these rules, individual monitoring equipment and personnel monitoring equipment are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescence dosimeters (TLD's), pocket ionization chambers, and personal air sampling devices.

"Inspection" means an official examination or observation including[~~, but not limited to,~~] tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions applicable to radiation sources.

"Interlock" means a device arranged or connected requiring the occurrence of an event or condition before a second condition can occur or continue to occur.

"Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

"Lens dose equivalent" (LDE) applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm^2).

"License" means a license issued by the Director in accordance with the rules adopted by the Board.

"Licensee" means a person who is licensed by the Department in accordance with these rules and the Act.

"Licensed or registered material" means radioactive material, received, possessed, used or transferred or disposed of under a general or specific license issued by the Director.

"Licensing state" means a state which, [~~prior to~~]before November 30, 2007, was provisionally or finally designated as such by the Conference of Radiation Control Program Directors, Inc., which reviewed state regulations to establish equivalency with the Suggested State Regulations and ascertained whether a State has an effective program for control of natural occurring or accelerator produced radioactive material.

"Limits". See "Dose limits".

"Lost or missing source of radiation" means licensed or registered sources of radiation whose location is unknown. This definition includes[~~, but is not limited to,~~] radioactive material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

"Major processor" means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material, or exceeding four times Type B quantities as sealed sources, but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in 10 CFR 71.4.

"Member of the public" means an individual except when that individual is receiving an occupational dose.

"Minor" means an individual less than 18 years of age.

"Monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material, and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, radiation monitoring and radiation protection monitoring are equivalent terms.

"Natural radioactivity" means radioactivity of naturally occurring nuclides.

"Nuclear Regulatory Commission" (NRC) means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

"Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties for the licensee or registrant involve exposure to sources of radiation, whether or not the sources of radiation are in the possession of the licensee, registrant, or other person. Occupational dose does not include doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with Rule R313-32, from voluntary participation in medical research programs, or as a member of the public.

"Package" means the packaging together with its radioactive contents as presented for transport.

"Particle accelerator" means a machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one megaelectron volt. For purposes of these rules, "accelerator" is an equivalent term.

"Permit" means a permit issued by the Director in accordance with the rules adopted by the Board.

"Permitee" means a person who is permitted by the Director in accordance with these rules and the Act.

"Person" means an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, or another state or political subdivision or agency thereof, and a legal successor, representative, agent or agency of the foregoing.

"Personnel monitoring equipment," see individual monitoring devices.

"Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy. See Sections 58-17b-101 through 58-17b-806, Pharmacy Practice Act.

"Physician" means both physicians and surgeons licensed under Section 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section 58-68-301, Utah Osteopathic Medical Practice Act.

"Physician assistant" means an individual licensed by this state to engage in practice as a physician assistant. See Sections 58-70a-101 through 58-70a-504, Physician Assistant Act.

"Podiatrist" means an individual licensed by this state to engage in the practice of podiatry. See Sections 58-5a-101 through 58-5a-501, Podiatric Physician Licensing Act.

"Practitioner" means an individual licensed by this state in the practice of a healing art. For these rules, only the following are considered to be a practitioner: physician, dentist, podiatrist, chiropractor, physician assistant, and advanced practice registered nurse.

"Protective apron" means an apron made of radiation-attenuating materials used to reduce exposure to radiation.

"Public dose" means the dose received by a member of the public from exposure to radiation or to radioactive materials released by a licensee, or to any other source of radiation under the control of a licensee or registrant. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with Rule R313-32, or from voluntary participation in medical research programs.

"Pyrophoric material" means any liquid that ignites spontaneously in dry or moist air at or below 130 degrees Fahrenheit (54.4 degrees Celsius) or any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

"Quality factor" (Q) means the modifying factor, listed in Tables 1 and 2 of Section R313-12-20 that is used to derive dose equivalent from absorbed dose.

"Rad" means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram

"Radiation" means alpha particles, beta particles, gamma rays, x-rays, neutrons, high speed electrons, high speed protons, and other particles capable of producing ions. For purposes of these rules, ionizing radiation is an equivalent term. Radiation, as used in these rules, does not include non-ionizing radiation, like radiowaves or microwaves, visible, infrared, or ultraviolet light.

"Radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem), in one hour at 30 centimeters from the source of radiation or from a surface that the radiation penetrates.

"Radiation machine" means a device capable of producing radiation except those devices with radioactive material as the only source of radiation.

"Radiation safety officer" means an individual who has the knowledge and responsibility to apply appropriate radiation protection rules and has been assigned [~~such~~]this responsibility by the licensee or registrant. For a licensee authorized to use radioactive materials in accordance with the requirements of Rule R313-32,

(1) the individual named as the "Radiation Safety Officer" [~~must~~]shall meet the training requirements for a Radiation Safety Officer as stated in Rule R313-32; or

(2) the individual [~~must~~]shall be identified as a "Radiation Safety Officer" on

(a) a specific license issued by the Director, the U.S. Nuclear Regulatory Commission, or an Agreement State that authorizes the medical use of radioactive materials; or

(b) a medical use permit issued by a U.S. Nuclear Regulatory Commission master material licensee.

"Radiation source". See "Source of radiation."

"Radioactive material" means a solid, liquid, or gas which emits radiation spontaneously.

"Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

"Radiobioassay". See "Bioassay".

"Registrant" means any person who is registered with respect to radioactive materials or radiation machines with the Director or is legally obligated to register with the Director pursuant to these rules and the Act.

"Registration" means registration with the Director in accordance with the rules adopted by the Board.

"Regulations of the U.S. Department of Transportation" means 49 CFR 100 through 189 and 49 CFR 390 through 397, as referenced in 49 CFR 177.

"Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor. One rem equals 0.01 sievert (Sv).

"Research and development" means:

(a) theoretical analysis, exploration, or experimentation; or

(b) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

"Residual radioactivity" means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from [~~all~~]any licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site, even if those burials were made in accordance with [~~the provisions of~~]Rule R313-15.

"Restricted area" means an area, access to which is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. A "Restricted area" does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

"Roentgen" (R) means the special unit of EXPOSURE. One roentgen equals 2.58 x 10 to the -4 power coulombs per kilogram of air. See EXPOSURE.

"Sealed source" means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling.

"Sealed source and device registry" means the national registry that contains all the registration certificates, generated by both NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the product.

"Shallow dose equivalent" (Hs) which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (seven mg per square centimeter).

"SI" means an abbreviation of the International System of Units.

"Sievert" (Sv) means the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor. One Sv equals 100 rem.

"Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

"Source container" means a device in which sealed sources are transported or stored.

"Source material" means:

(a) uranium or thorium, or any combination thereof, in any physical or chemical form, or

(b) ores that contain by weight one-twentieth of one percent (0.05[~~ percent~~]%), or more of, uranium, thorium, or any combination of uranium and thorium. Source material does not include special nuclear material.

"Source material milling" means any activity that results in the production of byproduct material as defined by (b) of "byproduct material".

"Source of radiation" means any radioactive material, or a device or equipment emitting or capable of producing ionizing radiation.

"Special form radioactive material" means radioactive material which satisfies the following conditions:

(a) it is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) the piece or capsule has at least one dimension not less than five millimeters (0.197 inch); and

(c) it satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission in 10 CFR 71.75. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements of 10 CFR 71.4 in effect on June 30, 1983, and constructed [~~prior to~~]before July 1, 1985, may continue to be used. A special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996, [~~(~~]see 10 CFR 71 revised January 1, [~~1983~~]1996[~~)~~], and constructed before April 1, 1998, and special form material that was successfully tested before September 10, 2015 in accordance with the requirements of 10 CFR 71.75(d) in effect before September 10, 2015 may continue to be used. Any other special form encapsulation [~~must~~]shall meet the specifications of this definition.

"Special nuclear material" means:

(a) plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and other material that the U.S. Nuclear Regulatory Commission, pursuant to [~~the provisions of s~~]Section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) any material artificially enriched by any of the foregoing but does not include source material.

"Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams or a combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified [~~above~~]previously in this definition for the same kind of special nuclear material. The sum of [~~such~~]the ratios for all [~~of~~]the kinds of special nuclear material in combination shall not exceed one. For example, the following quantities in combination would not exceed the limitation and are within the formula:

((175(Grams contained U-235)/350) + (50(Grams U-233/200) + (50(Grams Pu)/200)) is equal to one.

"Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, [~~such~~]this evaluation includes[~~, but is not limited to,~~] tests, physical examinations and measurements of levels of radiation or concentrations of radioactive material present.

"Test" means the process of verifying compliance with an applicable rule.

"These rules" means "Utah Radiation Control Rules R313-12, R313-14 through R313-19, R313-21, R313-22, R313-24 through R313-26, R313-28, R313-30, R313-32, R313-34 through R313-38 and R313-70".

"Total effective dose equivalent" (TEDE) means the sum of the effective dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

"Total organ dose equivalent" (TODE) means the sum of the deep dose equivalent and the committed dose equivalent to the organ receiving the highest dose as described in Subsection R313-15-1107(1)(f).

"U.S. Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development

Administration and to the Administrator thereof pursuant to [~~s~~]Sections 104(b), (c), and (d) of Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237, effective January 19, 1975 known as the Energy Reorganization Act of 1974, and retransferred to the Secretary of Energy pursuant to [~~s~~]Section 301(a) of Public Law 95-91, August 14, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977 known as the Department of Energy Organization Act.

"Unrefined and unprocessed ore" means ore in its natural form prior to processing, like grinding, roasting or beneficiating, or refining. Processing does not include sieving or encapsulation of ore or preparation of samples for laboratory analysis.

"Unrestricted area" means an area, to which access is neither limited nor controlled by the licensee or registrant. For purposes of these rules, "uncontrolled area" is an equivalent term.

"Waste" means those low-level radioactive wastes containing radioactive material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in paragraphs (b), (c), and (d) of the definition of byproduct material found in Section R313-12-3.

"Week" means seven consecutive days starting on Sunday.

"Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knees.

"Worker" means an individual engaged in work under a license or registration issued by the Director and controlled by a licensee or registrant, but does not include the licensee or registrant.

"Working level" (WL), means any combination of short-lived radon daughters in one liter of air that will result in the ultimate emission of 1.3 x 10^5 MeV of potential alpha particle energy. The short-lived radon daughters are, for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon 220: polonium-216, lead-212, bismuth-212, and polonium-212.

"Working level month" (WLM), means an exposure to one working level for 170 hours. 2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.

"Year" means the period of time beginning in January used to determine compliance with [~~the provisions of~~]these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant [~~provided that~~]if the decision to make the change is made [~~not later than~~]before December 31 of the previous year. If a licensee or registrant changes in a year, the licensee or registrant shall assure that no day is omitted or duplicated in consecutive years.

KEY: definitions, units, inspections, exemptions
Date of Last Change: 2022[~~October 13, 2017~~]
Notice of Continuation: April 8, 2021
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-104

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R313-19-100**	**Filing ID 54411**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
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:

R313-19-100. Transportation

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

On June 12, 2015, the NRC amended the federal radioactive materials regulations regarding the packaging and transportation of radioactive material. These amendments made conforming changes to the NRC's regulations based on the International Atomic Energy Agency's (IAEA) 2009 standards for the international transportation of radioactive material and resulted in maintaining consistency with the U.S. Dept. of Transportation's regulations, which were promulgated on July 11, 2014 (79 FR 40590). In addition, the NRC amended the federal regulations to re-establish restrictions on radioactive materials that qualify for the fissile material exemption, clarify requirements, update administrative procedures, and make editorial changes.

In December of 2019 the NRC amended its regulations to reflect internal organization changes and to make conforming amendments. These changes include removing all references to the Office of New Reactors because that office has merged with the Office of Nuclear Reactor Regulation, changing the names of divisions that are affected by the reorganization of the Office of Nuclear Material Safety and Safeguards (NMSS), and making conforming amendments throughout the regulations to reflect the office merger and the office reorganization.

Because Section R313-19-100 incorporates by reference 10 CFR Part 71, updating the date of the incorporation by reference from 2014 to 2020 results in incorporating the changes published by the NRC on June 12, 2015, August 14, 2015, and December 30, 2019. Additional changes

are proposed to account for the appropriate state equivalent jurisdictional authority and requirements.

In Subsection R313-19-100(5)(a), the proposed changes also update the date of incorporation by reference for references to selected parts of the U.S. DOT regulations in 49 CFR to incorporate the appropriate revisions made by DOT's final rule published on July 11, 2014 (79 FR 40590).

The proposed changes in Section R313-19-100 are necessary in order to maintain regulatory compatibility with NRC rules as an Agreement State with the NRC.

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 incorporate by reference new federal regulations and remove federal regulations from incorporations by reference that are no longer required. Additional conforming technical changes are made as needed. In addition, the Division of Waste Management and Radiation Control, Radiation has corrected typographical and formatting errors in this rule.

Fiscal Information

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

A) State budget:

There is no cost or savings impact to the state budget because the proposed changes to the rules do not create any new license conditions or rule requirements. The changes are required to be adopted to ensure regulatory compatibility.

B) Local governments:

There is no cost or savings impact to local governments because the proposed changes to the rules do not create any new license conditions or rule requirements. The changes are required to be adopted to ensure regulatory compatibility.

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

There is no cost or savings impact to small businesses because the proposed changes to the rules do not create any new license conditions or rule requirements. The changes are required to be adopted to ensure regulatory compatibility.

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

There is no cost or savings impact to non-small businesses because the proposed changes to the rules do not create any new license conditions or rule requirements. The changes are required to be adopted to ensure regulatory compatibility.

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

There is no cost or savings impact to persons other than small businesses, non-small businesses, state, or local governments because the proposed changes to the rules do not create any new license conditions or rule requirements. The changes are required to be adopted to ensure regulatory compatibility.

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 person affected by these changes because the proposed changes to the rules do not create any new license conditions or rule requirements. The changes are required to be adopted to ensure regulatory compatibility.

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 on businesses because the proposed changes to the rules do not create any new license conditions or rule requirements. The changes are required to be adopted to ensure regulatory compatibility.
Kimberly D. Shelley, 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 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 19-3-104	Section 19-6-104	

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)	10 CFR Part 71, Packaging and Transportation of Radioactive Material
Publisher	U.S. Publishing Office
Date Issued	January 1, 2020
Issue, or version	2020 annual edition

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

	Second Incorporation
Official Title of Materials Incorporated (from title page)	49 CFR Parts 107, 171 through 180, and 390 through 397
Publisher	U.S. Publishing Office
Date Issued	October 1, 2014
Issue, or version	2014 annual edition

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022

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:	Douglas J. Hansen, Division Director	**Date:**	3/10/2022

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.
R313-19. Requirements of General Applicability to Licensing of Radioactive Material.
R313-19-100. Transportation.

For purposes of Section R313-19-100, 10 CFR 71.0(c), 71.0(d)(1), 71.1(a), 71.3, 71.4, 71.13, 71.14(a), 71.15, 71.17, 71.19(a), 71.19(b), [~~71.19(c), 71.20~~]71.21 through 71.23, 71.47, 71.83, 71.85 introductory paragraph, 71.85(d), 71.87 through 71.89, 71.91(a), 71.91(c), 71.91(d), 71.97, 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.103(a), 71.103(b), 71.105, 71.106, 71.127, 71.129, 71.131, 71.133, 71.135,[~~ through~~] 71.137, and Appendix A to Part 71 ([~~2019~~]2020) are incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following:

(a) In 10 CFR 71.4 the following definitions:

(i) "close reflection by water";

(ii) "licensed material";

(iii) "optimum interspersed hydrogenous moderation";

(iv) "spent nuclear fuel or spent fuel;"[~~; and~~]

(v) "special form radioactive material", since this definition exists in Section R313-12-3; and

[~~(v)~~](vi) "state."

(b) In 10 CFR 71.91(c) and 71.91(d), the phrase "certificate holder and applicant for a COC";

(c) In 10 CFR 71.101(a), the sentence "Each certificate holder and applicant for a package approval is responsible for satisfying the quality assurance requirements that apply to the design, fabrication, testing, and modification of package subject to this subpart;" and

(d) In 10 CFR 71.101(b), each instance of "certification holder, and applicant for a COC."

[~~(2) The substitution of the date reference "October 1, 2011" for "October 1, 2008".~~

~~(3)~~](2) The substitution of the following rule references:

(a) "Rule R313-36, [~~(~~]incorporating 10 CFR 34.31(b) by reference[~~)~~]," for "Sec. 34.31(b) of this chapter" as found in 10 CFR 71.101(g);

(b) "Section R313-15-502" for reference to "10 CFR 20.1502";

(c) "Rule R313-14" for reference to "10 CFR Part 2 Subpart B";

(d) "Rule R313-32, 10 CFR Part 35," for reference to "10 CFR part 35";

(e) "Subsection R313-15-906(5)" for reference to "10 CFR 20.1906(e)";

(f) "Subsection R313-19-100(5)" for "Sec.71.5";

(g)(i) "10 CFR 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.103(a), 71.103(b), 71.105, 71.106, and 71.127 through 71.137" for "subpart H of this part" or for "subpart H"[~~ except in 10 CFR 71.17(b), 71.20(b), 71.21(b), 71.22(b), 71.23(b)~~];

(ii) "10 CFR 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.103(a), 71.103(b), 71.105, 71.106, and 71.127 through 71.137" for "this subpart" in 71.101(a) and 71.101(c)(1).

(h) "10 CFR 71.0(c), 71.0(d)(1), 71.1(a), 71.3, 71.4, Subsection R313-19-100(5), Sections R313-19-1 and R313-19-5,[~~71.17(c)(2), 71.20(c)(2), 71.21(d)(2),~~] 71.83, 71.85 introductory paragraph, 71.85(d) through 71.89, 71.91(a), 71.91(c), 71.91(d), 71.97, 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.103(a), 71.103(b), 71.105, 71.106, and 71.127 through 71.137" for "subparts A, G, and H of this part";

(i) "10 CFR 71.47" for "subparts E and F of this part";[~~ and~~]

(j) "10 CFR 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.103(a), 71.103(b), 71.105, 71.106, and 71.127 through 71.137" for "Sec. Sec. 71.101 through 71.137." in 71.101(b) and 71.105(a);

(k) "10 CFR 71.85(a) through (c)" for "paragraphs (a) through (c) of this section" in 71.85(d);

(l) "10 CFR 73.24" for "73.24 of this chapter" in 71.88(b);

(m) "71.14(a)" for "71.14" in 71.91(a);

(n) "R313-12-110" for "Sec. 71.1(a)" and for the NRC contact information in 71.101(c)(1) and 71.106(b); and

(o) "10 CFR 71.111" for "Sec. 71.111" in 71.135.

[~~(4)~~](3) The substitution of the following terms:

(a) "Director" for:

(i) "Commission" in 10 CFR 71.0(c), 71.17(a), 71.17(b)[~~71.20(a)~~], 71.21(a), 71.21(b), 71.22(a), 71.22(b), 71.23(a), 71.23(b), 71.91(c), and 71.101(c)(1);[

~~(ii) "NRC" in 10 CFR 71.101(f);~~]

(b) "Director, the U.S. Nuclear Regulatory Commission, or an Agreement State" for "Commission" in 10 CFR 71.3;

(c) [~~"The Governor of Utah" for:~~

~~(i) "the governor of a State" in 71.97(a);~~

~~(ii) "each appropriate governor" in 10 CFR 71.97(c)(1);~~

~~(iii) "the governor" in 10 CFR 71.97(c)(3);~~

~~(iv) "the governor of the state" in 10 CFR 71.97(e);~~

~~(v) "the governor of each state" in 10 CFR 71.97(f)(1);~~

~~(vi) "a governor" in 10 CFR 71.97(e);~~

~~(d) "State of Utah" for "State" in 71.97(a), 71.97(b)(2), and 71.97(d)(4);~~

~~(e) "the Governor of Utah's" for:~~

~~(i) "the governor's" in 10 CFR 71.97(a), 71.97(c)(3), 71.97(c)(3)(iii), 71.97(e), and 71.97(f)(1);~~

~~(ii) "governor's" in 10 CFR 71.97(c)(1), and 71.97(e);~~

~~(f)~~]"Specific or general" for "NRC" in 10 CFR 71.0(c);

([~~g~~]d) "The Director at the address specified in SecR313-12-110" for reference to "ATTN: Document Control Desk, Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards" in 10 CFR 71.101(c)(1);

([~~h~~]e) "Each" for "Using an appropriate method listed in Sec. 71.1(a), each" in 10 CFR 71.101(c)(1);

([~~i~~]f) "The material [~~must~~]shall be contained in a Type A package meeting the requirements of 49 CFR 173.417(a)." for "The fissile material need not be contained in a package which meets the standards of subparts E and F of this part; however, the material must be contained in a Type A package. The Type A package must also meet the DOT requirements of 49 CFR 173.417(a)." as found in 10 CFR 71.22(a) and 71.23(a);

([~~j~~]g) "Licensee" for "licensee, certificate holder, and applicant for a COC"; and

([~~k~~]h) "Licensee is" for reference to "licensee, certificate holder, and applicant for a COC are."

(4) The insertion of "NRC-issued" in 10 CFR 71.17(c)(1) immediately before "Certificate of Compliance."

(5) Transportation of licensed material

(a) Each licensee who transports licensed material outside the site of usage, as specified in the license issued by the Director, the U.S. Nuclear Regulatory Commission or an Agreement State, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. Department of Transportation regulations in 49 CFR parts 107, 171 through 180, and 390 through 397 ([~~2009~~]2014), appropriate to the mode of transport.

(i) The licensee shall particularly note DOT regulations in the following areas:

(A) Packaging--49 CFR part 173: subparts A, [~~(~~]49 CFR 173.1 through 49 CFR 173.13[~~)~~], B, [~~(~~]49 CFR 173.21 through 49 CFR 173.40[~~)~~], and I, [~~(~~]49 CFR 173.401 through 49 CFR 173.477[~~)~~].

(B) Marking and labeling--49 CFR part 172: subpart D, [~~(~~]49 CFR 172.300 through 49 CFR 172.338[~~)~~]; and 49 CFR 172.400 through 49 CFR 172.407 and 49 CFR 172.436 through 49 CFR 172.441 of subpart E.

(C) Placarding--49 CFR part 172: subpart F, [~~(~~]49 CFR 172.500 through 49 CFR 172.560[~~)~~], especially 49 CFR 172.500 through 49 CFR 172.519 and 49 CFR 172.556; and appendices B and C.

(D) Accident reporting--49 CFR part 171: 49 CFR 171.15 and 171.16.

(E) Shipping papers and emergency information--49 CFR part 172: subparts C, [~~(~~]49 CFR 172.200 through 49 CFR 172.205[~~)~~] and G, [~~(~~]49 CFR 172.600 through 49 CFR 172.606[~~)~~].

(F) Hazardous material employee training--49 CFR part 172: subpart H, [~~(~~]49 CFR 172.700 through 49 CFR 172.704[~~)~~].

(G) Security plans--49 CFR part 172: subpart I, [~~(~~]49 CFR 172.800 through 49 CFR 172.804[~~)~~].

(H) Hazardous material shipper or carrier registration--49 CFR part 107: subpart G, [~~(~~]49 CFR 107.600 through 49 CFR 107.606[~~)~~].

(ii) The licensee shall also note DOT regulations pertaining to the following modes of transportation:

(A) Rail--49 CFR part 174: subparts A through D, [~~(~~]49 CFR 174.1 through 49 CFR 174.86[~~)~~], and K, [~~(~~]49 CFR 174.700 through 49 CFR 174.750[~~)~~].

(B) Air--49 CFR part 175.

(C) Vessel--49 CFR part 176: subparts A through F, [~~(~~]49 CFR 176.1 through 49 CFR 176.99[~~)~~], and M, [~~(~~]49 CFR 176.700 through 49 CFR 107.720[~~)~~].

(D) Public Highway--49 CFR part 177 and parts 390 through 397.

(b) If DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the DOT specified in Subsection R313-19-100(5)(a) [~~to the same extent~~]as if the shipment or transportation were subject to DOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, [~~must~~]shall be filed with, or made to, the Director, [~~P.O.~~]PO Box 144850, Salt Lake City, Utah 84114-4850.

KEY: licenses, reciprocity, transportation, exemptions
Date of Last Change: 2022[~~September 13, 2021~~]
Notice of Continuation: April 8, 2021
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-104

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R392-101**	**Filing ID 54412**

Agency Information

1. Department:	Health	
Agency:	Disease Control and Prevention, Environmental Services	
Room no.:	Second Floor	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142102	
City, state and zip:	Salt Lake City, UT 84114-2102	
Contact person(s):		
Name:	**Phone:**	**Email:**
Karl Hartman	801-538-6191	khartman@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R392-101. Food Safety Manager Certification

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

Executive Order No. 2021-12 requires state agencies to amend rules that are inconsistent with the Office of Administrative Rules' Rulewriting Manual for Utah. As required, the amendments to Rule R392-101 simplify this rule, remove outdated language and redundancies, and provide technical and conforming changes in accordance with the Rulewriting Manual for Utah.

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 to Rule R392-101 provide technical and conforming changes throughout this rule and remove unnecessary and repetitive language.

In Section R392-101-2, added definition for "Time or Temperature Control Food" and amended definition for "Local Health Officer".

In Sections R392-101-3 through R392-101-9, the Department of Health (Department) has made nonsubstantive revisions including the rewording and restructuring of these sections to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah.

The Department made the following substantive amendments:
Subsection R392-101-8(4) was amended to clarify that a microenterprise home kitchen is not exempt from the requirements of this rule. This closes a loophole that was created when "microenterprise home kitchen" was defined in Section 26-15c-102.

Subsection R392-101-8(12) was amended to include a risk assessment evaluation as required by Section 26-15a-105(1)(k). The currently enacted rule does not have the risk assessment, as required.

Fiscal Information

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

A) State budget:

No anticipated cost or savings because the changes do not affect existing operations.

B) Local governments:

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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 to business because the amendments do not change compliance requirements. 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 26-15a-103		

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:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022

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:**	03/11/2022

R392. Health, Disease Control and Prevention, Environmental Services.
R392-101. Food Safety Manager Certification.
R392-101-1. Authority and Purpose of Rule.

This rule is authorized by Section 26-15a-103 [~~for the purposes of~~]to establish[~~ing~~] statewide uniform standards for certified food safety managers and implement[~~ing~~] Chapter 26-15a, the Food Safety Manager Certification Act.

R392-101-2. Definitions.

As used in this rule:

(1) "Agritourism food establishment" has the same meaning as provided in Section 26-15b-102.

(2) "Certified food safety manager" has the same meaning as provided in Section 26-15a-102.

(3) "Charitable organization" means a group of any size who desire to feed disadvantaged groups under the requirements of Rule R392-104, Feeding Disadvantaged Groups.

(4) Commercially prepackaged means any food packaged in a regulated food processing plant that does not require temperature control and is stored and used in accordance with the manufacturer's label.

(5) Continental breakfast means a breakfast meal restricted to:

(a) beverages such as coffee, tea, and fruit juices;

(b) pasteurized Grade A milk;

(c) fresh fruits;

(d) frozen and commercially processed and prepackaged fruits;

(e) commercially prepackaged baked goods, such as pastries, rolls, breads and muffins that are non-potentially hazardous foods;

(f) cereals;

(g) commercially prepackaged jams, jellies, honey, and syrup;

(h) pasteurized Grade A creams and butters, non-dairy creamers, or similar products;

(i) commercially prepackaged hard cheeses, cream cheese and yogurt in unopened packages; and

(j) foods served with single-use articles.

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

(7) "Disadvantaged group" means a homeless or temporarily displaced group.

(8) "Food service establishment" or "food establishment" has the same meaning as provided in Section 26-15a-102.

(9) "Heat and serve" means foods that are precooked by the manufacturer and do not require cooking to critical temperatures as required by Rule R392-100, Food Service Sanitation, but only require heating to meet the customer's satisfaction.

(10) "Local Health Department" has the same meaning as provided in Subsection 26A-1-102(5).

(11) "Local Health Officer" means the [~~director of the jurisdictional local health department as defined in Title 26A, Chapter 1~~]health officer of the local health department having jurisdiction, or a designated representative.

(12) "Microenterprise home kitchen" has the same meaning as provided in Section 26-15c-102.

(1[~~2~~]3) "Potentially hazardous food" means the same as Time[~~/~~] or Temperature Control [~~for Safety~~]Food.

(1[~~3~~]4) "Single-use article" means a utensil designed and constructed to be used once and discarded.

(15) "Time or Temperature Control Food" has the same meaning as provided in Subsection 26-15c-102(7).

R392-101-3. Certification and Recertification Exam Content.

A [~~C~~]certification and recertification exam[~~s~~] shall require the examinee to demonstrate knowledge in food protection management in the following areas:

(1) Identify foodborne illness;

(a) Define terms associated with foodborne illness, including:

(i) foodborne illness;

(ii) foodborne outbreak;

(iii) foodborne infection;

(iv) foodborne intoxication; and

(v) foodborne pathogens.

(b) Recognize the major organisms and toxins that can contaminate food, and their associated risks to human health for:

(i) bacteria;

(ii) viruses;

(iii) parasites; and

(iv) fungi.

(c) Define and recognize potentially hazardous foods.

(d) Define and recognize chemical and physical contamination along with the associated injuries and illnesses.

(e) Define and recognize the major contributing factors for foodborne illness.

(f) Recognize how microorganisms cause foodborne disease.

(2) Identify time[~~/~~] and temperature relationship with foodborne illness.

(a) Recognize the relationship [~~between~~]time[~~/~~] and temperature [~~and~~]has with microorganism[~~s~~] survival, growth, and toxin production during[~~ the following stages~~]:

(i) receiving;

(ii) storing;

(iii) thawing;

(iv) cooking;

(v) hot holding;

(vi) serving;

(vii) cooling;

(viii) cold holding;

(ix) reheating; and

(x) transporting.

(b) Describe the use of thermometers in monitoring food temperatures to include:

(i) types of thermometers;

(ii) monitoring techniques and frequency; and

(iii) thermometer calibration and frequency.

(3) Describe the relationship between personal hygiene and food safety.

(a) Recognize the association between hand contact and foodborne illness.

(i) correct hand washing technique and frequency

(ii) proper use of gloves, including replacement frequency

(iii) [~~minimal~~]no bare hand contact with ready-to-eat food

(b) Identify correct hygienic practices for the following:

(i) smoking;

(ii) eating and drinking; and

(iii) proper clothing and hair restraints.

(c) Recognize the association between infected food handlers and foodborne illness, and know:

(i) symptoms of food-transmissible disease; and

(ii) reportable foodborne illness diagnoses and exposure history.

(d) Recognize how policies, procedures, and managerial controls contribute to improved hygiene practices.

(4) Describe methods for preventing food contamination.

(a) Define terms associated with contamination, including:

(i) cross contamination;

(ii) adulteration;

(iii) package and container integrity; and

(iv) approved source.

(b) Identify potential hazards and methods to minimize or eliminate hazards in the food establishment, including:

(i) personal hygiene, and hand washing;

(ii) cross contamination from food to food;

(iii) cross contamination between equipment and utensils;

(iv) contamination from chemicals;

(v) contamination from unapproved additives;

(vi) physical contamination;

(vii) contamination during service and display;

(viii) contamination from customers; and

(ix) storage.

(5) Explain the difference between cleaning and sanitizing, and describe the correct procedures for cleaning and sanitizing equipment and utensils:

(a) Identify the commonly used chemicals approved for sanitizing food-contact surfaces;

(b) Identify appropriate cleaning and sanitizing procedures when using the following methods:

(i) manual dishwashing;

(ii) mechanical dishwashing; and

(iii) clean-in-place; and

(c) Identify frequency of cleaning and sanitizing.

(6) Recognize problems and potential solutions associated with facility, equipment and layout.

(a) Identify facility requirements, including design and construction suitable for food establishments to include:

(i) refrigeration;

(ii) heating and hot[-]holding;

(iii) floors, walls and ceilings;

(iv) pest control;

(v) lighting;

(vi) plumbing;

(vii) ventilation;

(viii) water supply;

(ix) wastewater disposal; and

(x) waste disposal[~~.~~]; and

(b) Identify equipment and utensil design and location.

(7) Recognize problems and potential solutions associated with temperature control, preventing cross contamination, housekeeping, and maintenance by:

(a) self-inspection program;

(b) pest control program;

(c) cleaning schedules and procedures; and

(d) equipment and facility maintenance program.

R392-101-4. Food Safety Manager Certification Courses.

(1) [~~For the purposes of Subsection 26-15a-104(2)(b), a~~]A course approved by the Department shall be designed for a specific approved exam[~~ination~~] as described in Subsection R392-101-5([4]1)[~~ as determined by that examination's developer~~].

(2) The course developer shall certify the instructor.

(3) The Department shall approve the course for [~~3~~]three years.

R392-101-5. Exam Approval.

(1) A person or business seeking approval of an exam shall provide to the Department evidence of food safety manager training program accreditation from the American National Standards Institute (ANSI), or shall be listed on the ANSI-CFP Accreditation Program directory.

([~~5~~]2) A person may not represent an exam as Department approved, or other similar language, if the exam is not accredited by ANSI or listed on the ANSI-CFP Accreditation Program directory.

R392-101-6. Exam Administration.

(1) An exam administrator shall:

(a) provide proctors and security at the locations where the exam is administered;

(b) maintain a tracking system for each exam[~~s~~] to protect them against theft;

(c) provide locations and dates of exams administered by the testing organization upon request of the Department;

(d) provide necessary staff to administer, proctor, and grade exams;

(e) maintain records of each candidate's name, home address, date of birth, pass or fail status, and date of exam[~~ination~~] for at least three years; and

(f) provide accommodation for examinees who do not speak English.

(2) An exam administrator shall assure there is at least one proctor for every 40 individuals taking the exam.

(3) The proctor shall confirm the identity of an individual who wishes to take the exam by photographic identification, driver's license or student identification card. A legal document bearing the individual's signature may be presented to the proctor to satisfy this requirement if the individual does not have a photographic identification card.

(4) An exam administrator shall provide the following exam security measures to protect the exam from compromise[~~, as follows~~]:

(a) [~~The~~]exam materials are stored and administered under secure conditions, where access to the exam is limited to the proctor and exam administrator[~~.~~];

(b) [~~The~~]exam materials are inventoried [~~prior to~~]before and immediately following each administration of the exam[~~.~~];

(c) [~~The~~]exam materials are available to the candidate only during exam administration[~~.~~];

(5) [~~An~~]the exam administrator [~~shall~~]does not certify an individual determined to have cheated on the exam[~~.~~]; and

(6) [~~An~~]the exam administrator [~~shall~~]does not administer an exam that has been compromised.

R392-101-7. Certification and Recertification Requirements.

(1) Except as in Subsection (2), a[~~A person must~~] candidate shall answer at least 70% of the questions correctly on a Department[-] approved exam[~~ination~~] to pass the exam[~~ination~~] for certification or recertification.[~~; except that the~~]

(2) An exam[~~ination~~] developer may set the passing score for an exam[~~ination~~] if:

(a) [~~that it~~]the exam was [~~demonstrates to have been~~]developed in accordance with the Standards For Educational And Psychological Testing published by the American Psychological Association[~~.~~]; and

([~~a~~]b) [~~The~~]the exam[~~ination~~] developer [~~must submit documentation to the Department supporting its claim~~]submits documentation that is validated by the Department.

[~~(b) The Department shall review the documentation and determine the validity of the claim.~~]

([~~2~~]3) [~~A~~]To be certified as a food safety manager, a person who successfully passes [~~a Department-approved examination must~~]an exam as described in Section R392-101-5 shall provide documentation of [~~that~~]a passing grade to the local health officer within [~~sixty~~]60 days of receipt of the documentation[~~ to be certified as a food safety manager~~].

(b) If a certified food safety manager commences work in a different local health jurisdiction, [~~he~~]they shall notify the local health officer in that jurisdiction.

([~~a~~]4) A local health department:

([~~i~~]a) may not charge a fee to accept or process the documentation described in [~~R392-101-7(2)~~]Subsection (3);

([~~ii~~]b) shall accept photocopies or electronic copies of the documentation described in [~~R392-101-7(2)~~]Subsection (3); and

([~~iii~~]c) shall allow an individual to submit the documentation described in [~~R392-101-7(2)~~]Subsection (3) by mail, email, or in person.

([~~3~~]5) A person who completes the requirement in [~~R392-101-7(2)~~]Subsection (3) shall be [~~considered to be~~]certified as a food safety manager [~~throughout Utah~~]statewide.

([4]6) Food safety manager certifications are effective for three years from the date the applicant receives documentation of a passing score from the [~~testing organization~~]exam administrator.

([~~5~~]7) [~~A~~]Except as specified in Section R392-101-8, each food[~~ service~~] establishment [~~must~~]shall maintain a copy of the current [~~of its certified~~]food safety manager's [~~documentation of a passing score on a Department-approved examination~~]certificate on file at the establishment. The [~~food service establishment's~~]person in charge [~~must~~]shall provide this documentation to the local health officer[~~ or his designated representative~~] upon request.

([~~6~~]8) To recertify, a certified food safety manager [~~must~~]shall submit documentation described in [~~accordance with R392-101-7(2)~~]Subsection (3) to the appropriate local health department indicating a passing score[~~ on a Department-approved examination~~] within the previous six months.

([~~7~~]9) A person certified as a food safety manager is exempt from [~~state or local requirements for food handlers as defined in Section 26-15-1(1) Utah Code~~]the requirements of Rule R392-103, Food Handler Training and Certificate.

R392-101-8. Exempt Establishments.

[~~(1)~~]The following food establishment types are not subject to the requirements of [~~Rule R392-101~~]this rule:

[~~(a)~~](1) a special event[~~s~~] sponsored by a municipal or nonprofit civic organization[~~s~~], including a food booth[~~s~~] at a school sporting event[~~s~~], [~~and~~]a little league athletic event[~~s~~], or a[~~ and~~] church function[~~s~~];

[~~(b)~~](2) a temporary food service event [~~food services~~]approved by a local health department;

[~~(c)~~](3) a vendor[~~s and~~] or other food establishment[~~s~~] that serves only commercially prepackaged foods and beverages;

[~~(d)~~](4) a private home[~~s~~] not used as a commercial food service establishment, except for a microenterprise home kitchen;

[(e)](5) a health care [~~facilities~~]facility licensed under Chapter 21, Health Care Facility Licensing and Inspection Act;

[~~(f)~~](6) a bed and breakfast establishment[~~s~~] at which the only meal served is a continental breakfast;

[~~(g)~~](7) a residential child care provider[~~s~~];

[~~(h)~~](8) a child care provider[~~s~~] and program[~~s~~] licensed under Chapter 39, Utah Child Care Licensing Act;

[~~(i)~~](9) a residential care [~~facilities~~]facility as defined in [~~Rule R392-110~~]this rule;

[~~(j)~~](10) a back country outfitter food establishment[~~s~~];

[~~(k)~~](11) a free event sponsored by a charitable organization; and

[~~(l)~~](12) a lowest risk [~~or~~]permitted food establishment category, as determined by the local health officer, according to the following[~~ a~~] risk assessment evaluation:[~~ established by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~]

(a) the food establishment does not serve a time or temperature control food or use it as an ingredient in a food that is served; or

(b) the food establishment may serve a time or temperature control food or use it as an ingredient in a food that is served, but there is no cook step in any food preparations.

R392-101-9. Penalties.

Any person who violates [~~any provision of~~]this rule may be assessed a civil [~~money~~]penalty as provided in Subsection 26-23-6(2).

KEY: public health, food service, food manager, food safety
Date of Last Change: 2022[~~September 15, 2020~~]
Notice of Continuation: December 12, 2018
Authorizing, and Implemented or Interpreted Law: 26-15a-103

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R392-105**	**Filing ID 54409**

Agency Information

1. Department:	Health	
Agency:	Disease Control and Prevention, Environmental Services	
Room no.:	Second Floor	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142102	
City, state and zip:	Salt Lake City, UT 84114-2102	
Contact person(s):		
Name:	**Phone:**	**Email:**
Karl Hartman	801-538-6191	khartman@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R392-105. Agritourism Food Establishment Sanitation

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

Executive Order No. 2021-12 requires state agencies to amend rules that are inconsistent with the Office of Administrative Rules' Rulewriting Manual for Utah. As required, the amendments to Rule R392-105 simplify this rule, remove outdated language and redundancies, and provide technical and conforming changes in accordance with the Rulewriting Manual for Utah.

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 to Rule R392-105 provide technical and conforming changes throughout this rule and remove unnecessary and repetitive language.

Section R392-105-3 amends the definition for "agritourism food establishment" to match the definition provided in statute.

In Sections R392-105-4 through R392-105-15, the Department of Health (Department) has made nonsubstantive revisions including the rewording and restructuring of these sections to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah.

The Department made the following substantive amendment:
In Section R392-105-16, the severability clause was moved from Section R392-105-4 to match the clause in most other rules promulgated under Title R392.

Fiscal Information

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

A) State budget:

No anticipated cost or savings because the changes do not affect existing operations.

B) Local governments:

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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 to business because the changes to not change any compliance requirements. 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 Utah 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 26-1-5	Section 26-15-2	Section 26-1-30

Subsection 26-15b-105(2)		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022
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:**	03/10/2022

R392. Health, Disease Control and Prevention, Environmental Services.
R392-105. Agritourism Food Establishment Sanitation.
R392-105-1. Authority and Purpose.

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

(2) This rule establishes minimum standards for the sanitation, operation, and maintenance of an agritourism food establishment, as defined by this rule, and, [~~in order~~]to safeguard public health and ensure that food is safe, unadulterated, and honestly presented, provides for the prevention and control of health hazards associated with an agritourism food establishment.

R392-105-2. Applicability.

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

R392-105-3. Definitions.

As used in this rule:

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

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

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

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

(3) "Agritourism food establishment" has the same meaning as defined in Section 26-15b-102[~~means a non-commercial kitchen facility on a farm where food is handled, stored, or prepared to be offered for sale on the same farm in connection with an agricultural tourism activity.~~]

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

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

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

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

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

(9) "Food" means:

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

(b) chewing gum.

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

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

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

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

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

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

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

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

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

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

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

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

R392-105-4. General Requirements.

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

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

(a) comply with [~~the provisions of~~]this rule; and

(b) be responsible for the conduct of employees to ensure compliance with this rule.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) written standard operating procedures that include:

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

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

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

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

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

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

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

(i) type of event;

(ii) event start date;

(iii) duration of event; and

(iv) contact information for the event operator.

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

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

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

(8) An agritourism food establishment permit:

(a) is nontransferable;

(b) is renewable on an annual basis;

(c) is restricted to the location listed on the permit; and

(d) shall provide the operator the opportunity to update the information required in Subsection R392-105-5(5)(a) as well as the food types and products handled without requiring the operator to renew the permit.

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

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

(a) the permit

(b) this rule; or

(c) Chapter 26-15b, Agritourism Food Establishment Act.

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

(a) the specific reasons and rule citations for permit denial; and

(b) any actions the applicant must take to qualify, or requalify, for a permit.

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

(a) submission of plans and specifications before construction or remodel of a kitchen facility except for the plans and procedures required in Subsection R392-105-5(4);

(b) a pre-operational inspection before issuing or renewing the permit; or

(c) food safety manager certification.

R392-105-6. Construction and Maintenance Requirements.

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

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

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

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

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

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

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

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

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

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

(9) The operator shall supply hot water to [~~all sinks~~]each sink.

(10) A toilet room shall be:

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

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

R392-105-7. Equipment Requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A food temperature measuring device shall be:

(i) easily readable;

(ii) readily accessible; and

(iii) properly calibrated.

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

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

(i) designed and constructed to have tight-fitting lids, doors, or covers; and

(ii) maintained in good repair.

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

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

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

(ii) after they are filled.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) at least every 24 hours;

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

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

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

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

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

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

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

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

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

(b) covered or inverted.

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

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

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

(i) maintained dry; and

(ii) used for no other purpose.

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

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

(ii) laundered daily when used.

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

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

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

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

(14) Soiled linens shall be:

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

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

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

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

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

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

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

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

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

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

(4) When manual warewashing and sanitizing of utensils or food-contact equipment is done in an agritourism food establishment, the operator shall provide a test kit or other device that accurately measures the concentration in parts per million of chemical sanitizer solution.

R392-105-10. Food Safety Requirements.

(1) An agritourism food establishment shall:

(a) take steps to avoid any potential contamination to:

(i) food;

(ii) equipment;

(iii) utensils; or

(iv) unwrapped single-service and single-use articles; and

(b) prevent an individual from entering the food preparation, food storage, and warewashing areas while food is being prepared:

(i) if the individual is known to be suffering from:

(A) symptoms associated with acute gastrointestinal illness; or

(B) a communicable disease that is transmissible through food; or

(ii) if the individual is unnecessary to the food establishment operation while food is being prepared.

(2)(a) Food shall be safe, unadulterated, and honestly presented.

(b) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.

(c) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.

(3) Amenable meat that may be used in the preparation of food shall be obtained from sources that comply with 9 C[-]F[-]R[-] 303.1.

(4) Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

(5)(a) Raw eggs shall be received and maintained in a clean and sound condition, and shall be held in refrigerated equipment that maintains an ambient temperature of 45 degrees or less. Eggs shall be stored in a manner that does not allow for contamination.

(b) An operator may not collect or store eggs in a previously used egg carton or package that is not designed or intended for reuse.

(c) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not cooked.

(d) Raw, unpasteurized eggs may be used in recipes that will not be cooked if the agritourism food establishment has a consumer advisory, as required in Subsection R392-105-11(4).

(6)(a) Molluscan shellfish, shucked shellfish and shellstock shall comply with 3-202.17, 3-202.18, 3-203.11, and 3-203.12 of the FDA Food Code.

(b) When received by an agritourism food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock, or those with badly broken shells, shall be discarded.

(7) Ice for use as a food or a cooling medium shall be made from potable water.

(8) Ice may not be used as food after use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment.

(9) Food shall only contact surfaces of equipment and utensils that are cleaned and sanitized as specified in Sections R392-105-8 and R392-105-9 or single-service and single-use articles.

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

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

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

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

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

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

(ii) cooked ready-to-eat food;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R392-105-11. Food Temperature Requirements.

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

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

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

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

(ii) discarded seven days after entering the refrigerator.

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

(a) at 135 degrees F or above, or

(b) at 41 degrees F or less.

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

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

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

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

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

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

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

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

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

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

R392-105-12. Poisonous or Toxic Materials.

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

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

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

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

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

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

(5) Poisonous or toxic materials shall be:

(a) used according to:

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

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

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

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

(b) applied so that:

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

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

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

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

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

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

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

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

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

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

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

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

(b) after using the toilet room;

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

(d) after handling soiled equipment or utensils;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) exposed food;

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

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

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

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

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

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

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

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

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

(2) The person in charge shall ensure that:

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

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

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

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

(e) employees are properly cooking TCS food;

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

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

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

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

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

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

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

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

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

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

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

(1) A local health officer shall:

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

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

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

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

(iii) for subsequent inspections if:

(A) the local health department provides the operator with reasonable advanced notice about an inspection; or

(B) the local health department has a valid reason to suspect that the agritourism food establishment is the source of an

adulterated food or of an outbreak of illness caused by a contaminated food; and

(c) document the reason for any inspection on an inspection report form approved by the [~~D~~]department after the permitting inspection, keep a copy of that documentation on file with the agritourism food establishment's permit, and provide a copy of that documentation to the operator.

(2) Upon presenting proper identification and providing notice of the intent to conduct an inspection as specified in Subsection R392-105-15(1)(b), the operator shall allow the local health officer to determine if the agritourism food establishment is in compliance with this rule by allowing access to the establishment, allowing inspection, and providing information and records specified in this rule.

(3) If an operator denies access to the local health officer, the local health officer shall:

(a) inform the operator that:

(i) the operator [~~is required to~~]shall allow access to the local health officer as specified under Subsection R392-105-15(1);

(ii) access is a condition of the acceptance and retention of a permit to operate as specified under Section R392-105-5; and

(iii) if access is denied, an order issued by an appropriate authority allowing access may be obtained; and

(b) make a final request for access; and

(c) if the operator continues to refuse access, provide details of the denial of access on an inspection report form.

(5) The local health officer shall document at least the following on an inspection report form that has been approved by the [~~D~~]department:

(a) specific factual observations of noncompliant conditions or other deviations from this rule that require correction by the operator including:

(i) failure of the operator to demonstrate the knowledge of foodborne illness prevention; and

(ii) failure of employees and the operator to report a disease or medical condition; and

(b) time frame for correction of violations.

(6) At the conclusion of the inspection the local health officer shall provide a copy of the completed inspection report and the notice to correct violations to the operator or to the person in charge, and request a signed [~~acknowledgement~~]acknowledgment of receipt.

(7)(a) The local health officer shall inform a person who declines to sign an [~~acknowledgement~~]acknowledgment of receipt of inspectional findings that:

(i) an acknowledgment of receipt is not an agreement with findings;

(ii) refusal to sign an [~~acknowledgement~~]acknowledgment of receipt will not affect the operator's obligation to correct the violations noted in the inspection report within the time frames listed; and

(iii) a refusal to sign an [~~acknowledgement~~] acknowledgment of receipt is noted in the inspection report and conveyed to the historical record for the agritourism food establishment.

(b) The local health officer shall then make a final request that the person in charge sign an [~~acknowledgement~~] acknowledgment of receipt of inspectional findings.

(8) The local health officer shall treat the inspection report as a public document and shall make it available for disclosure.

(9) Repeat violations may prompt further compliance and enforcement actions.

(10)(a) An operator shall immediately discontinue operations and notify the local health department if an imminent health hazard exists.

(b) If operations are discontinued as required by the local health officer or in response to an imminent health hazard, the operator shall obtain approval from the local health officer before resuming operations.

(11) A local health officer may conduct subsequent inspections, as needed and in accordance with Subsection R392-105-15(1)(b)(iii), to ensure the timely resolution of inspection findings after providing the operator with reasonable advanced notice about the inspection.

R392-105-16. Severability.

If a provision of this rule, or its application to any person or circumstance is declared invalid, the application of such provisions to other persons or circumstances, and the remainder of this rule shall be given effect without the invalidated provision or application.

KEY: agritourism, farm, food, public health
Date of Last Change: 2022[~~December 21, 2020~~]
Authorizing, and Implemented or Interpreted Law: 26-15b-105(2); 26-1-5; 26-1-30(9); 26-1-30(23); 26-15-2(1)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Utah Admin. Code Ref (R no.):	**R406-100**	**Filing ID 54399**

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, WIC Services	
Building:	Cannon	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141013	
City, state and zip:	Salt Lake City, UT 84114-1013	
Contact person(s):		
Name:	**Phone:**	**Email:**
Chris Furner	801-554-4509	cfurner@utah.gov
Rick Wardle	801-580-7932	rwardle@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R406-100. Special Supplemental Nutrition Program for Women, Infants and Children

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

This rule needs to be brought up to date, simplified, and to add some information from Rule R406-200 that is being repealed. (EDITOR'S NOTE: The proposed repeal of Rule R406-200 is under ID No. 54400 in this issue, April 1, 2022, of the Bulletin.)

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)**:**

Rule R406-100 describes the WIC Program and outlines general requirements for participation. This rule explains the purpose of the program, the authority under which the program operates, and the incorporations by reference. It explains the eligibility criteria for applicants to become program participants. It explains how local agencies are selected to operate the program and the process for grocery retailers to become authorized to redeem WIC benefits.

The prior rule included unnecessary details no longer needed due to those policies being included in incorporated materials. Other rules under the program are subject to repeal and some of the information from Rule R406-200 was added to this rule.

Fiscal Information

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

A) State budget:

The Department of Health (Department) does not anticipate any costs or savings to the state budget because this rule only simplifies and consolidates information. The Department does not believe this rule makes any changes that would have an effect on the budget of the program. The WIC program is fully federally funded.

B) Local governments:

The Department does not anticipate any effect on the funding received by local health departments nor any costs or savings to local health departments or local governments. Local health departments receive federal funding from the WIC program to operate the program.

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

The Department does not believe this rule makes any changes that would affect small businesses operating grocery stores that are authorized or apply to become authorized as vendors to redeem WIC benefits. The Department does not anticipate any costs or savings to these stores or to any other small businesses.

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

The Department does not believe this rule makes any changes that would affect non-small businesses operating grocery stores that are authorized or apply to become authorized as vendors to redeem WIC benefits. The Department does not anticipate any costs or savings to these stores or to any other 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 Department does not anticipate any costs or savings to any person because this rule makes no changes affecting program eligibility or changes to program service providers.

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

The Department does not anticipate any costs for compliance to this rule.

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

The Department does not expect this rule to have a fiscal impact on businesses. 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	$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 Utah 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 26-1-15

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)	Utah WIC Program State Plan
Publisher	Utah Department of Health
Date Issued	10/01/2021
Issue, or version	Federal Fiscal Year 2022

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

	Second Incorporation
Official Title of Materials Incorporated (from title page)	Code of Federal Regulations, Title 7, PART 246 - SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN
Publisher	Government Printing Office
Date Issued	01/01/2021
Issue, or version	01/01/2021 Edition

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 05/02/2022

10. This rule change MAY become effective on: 05/09/2022

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:**	02/28/2022

R406. Health, Family Health and Preparedness, WIC Services.
R406-100. Special Supplemental Nutrition Program for Women, Infants and Children.
[~~R406-100-1. Incorporations by Reference.~~
~~(1) The State WIC Office adopts the standards of the Special Supplemental Nutrition Program for Women, Infants and Children provided in 7 CFR 246, 01/01/2012 edition, which is incorporated by reference.~~
~~(2) The State WIC Office incorporates by reference the Fiscal Year 2013 Utah Women, Infants, and Children (WIC) State Plan of Program Operations and Administration including the Utah WIC Policy and Procedures Manual effective October 1, 2012.~~

~~**R406-100-2. Processing Time Frames.**~~
~~(1) The standards of 7 CFR 246.7(f)(2) are adopted and incorporated by reference with the following exceptions:~~
~~(a) Extensions of the processing time frames may be granted in the following circumstances:~~
~~(i) Clinics operating only 2 days a month or less.~~
~~(ii) In emergency situations when, for example, an employer in a particular geographic area engages in mass lay-offs of personnel.~~
~~(iii) In cases where there is difficulty in appointment scheduling, a time variation of 30 days may be added to or subtracted from the certification intervals for all except participants who are categorically ineligible.~~

~~**R406-100-3. Uncertified Waiting List.**~~
~~(1) The standards of 7 CFR 246.7(f)(1) are adopted and incorporated by reference with the following exceptions:~~

~~(a) Uncertified Waiting List means a log of names of individuals who have applied for WIC benefits either by phone or walk in, but who have not been determined WIC eligible.~~

~~(b) When a clinic begins a priority system, the clinic must begin maintaining waiting lists by priority of individuals who visit or telephone the clinic to request program benefits. If screening appointments are not being taken, the clinic shall use the Uncertified Waiting List log. Applicants are to be placed on the highest potential priority of the uncertified log in chronological order by application date.~~

~~(c) For clinic convenience, there are three uncertified priority logs into which all potential applicants may be placed prior to certification. They are Priority I, III, and VI. Priorities II, IV, and V cannot be determined until after the certification process has been completed.~~

~~R406-100-4. Certified Waiting List.~~

~~The standards of 7 CFR 246.7(e)(1) are adopted and incorporated by reference with the following exceptions:~~

~~(1) Certified Waiting List means chronological files of those persons who are determined by the State WIC Office to be WIC eligible, are assigned a priority, and are waiting for funds to become available so they can receive benefits.~~

~~(a) After applicants have been determined to be eligible through screening, and are certified, they are placed on the Certified Waiting List according to their highest potential priority. These files are to be placed by priority in chronological order by certification date.~~

~~(b) As case load decreases in each clinic, the clinic will send vouchering appointment letters to applicants who are certified and waiting. All individuals in the highest priorities must be served before individuals of a lower priority are served.~~

~~(c) All individuals within a priority must be served according to chronological date of their placement on the Waiting List.~~

~~R406-100-5. Residence.~~

~~The standards of 7 CFR 246.7(b)(2) are adopted and incorporated by reference with the following exceptions:~~

~~Each applicant must state that the address given to the clinic is the applicant's current address. The clinic's staff then determines that the address given is within the area served by the agency and within the jurisdiction of the state.~~

~~If the applicant is a member of a special population such as homeless individuals or residents of border towns with interstate agreements, these individuals may be served by designated clinics regardless of residency status.~~

~~If an applicant applies for services at a clinic and the address given is not within the county or group of counties served from this clinic, the applicant is eligible to be served from this clinic only after the clinic requests and has received approval from the State WIC Office to serve this individual or family.~~

~~R406-100-6. Inadequate Income.~~

~~The standards of 7 CFR 246.7(d) are adopted and incorporated by reference with the following exceptions:~~

~~(1) Each applicant must submit income verification to the clinic regarding the family's income. This is usually determined by bringing in proof of the previous month's gross income, or proof of the yearly gross income.~~

~~(2) The clinic staff shall determine whether the gross income given is at or below 185% of the Income Poverty Level established by the federal government.~~

~~R406-100-7. Retention of WIC Files.~~

~~The standards of 7 CFR 246.25(a)(2), (3) are adopted and incorporated by reference with the following exceptions:~~

~~WIC files shall be maintained for federal or state auditors review for the following retention periods:~~

~~(1) Files of women participants, infants and children shall be retained for a minimum four years following the end of the fiscal year that their files were closed.~~

~~All other records may be destroyed after four years.~~

~~R406-100-8. Vendor Monitoring.~~

~~The standards of 7 CFR 246.12(i) are adopted and incorporated by reference with the following exceptions:~~

~~(1) The State WIC Office may conduct vendor monitoring on all high risk vendors.~~

~~(2) The State WIC Office shall determine high risk vendors based on the following criteria:~~

~~(a) vendor's redeemed prices are higher than price list;~~

~~(b) unusually large percentage of high priced food instruments by vendor;~~

~~(c) participant complaints or complaints from the clinic or other vendors;~~

~~(d) food instrument redemption errors;~~

~~(e) accumulation of five or more sanctioning points as listed in each vendor's signed contract under the heading Vendor Sanctions;~~

~~(f) vendor out of compliance during monitoring visit/redemption analysis;~~

~~(g) complaints involving possible overcharging, fraud or any violation that would cause disqualification for food stamps.~~

~~(3) The United States Department of Agriculture, Food and Nutrition Service, Instruction 806-4, which clarifies 7 CFR 246.12(f), and states that federal agencies have immunity from state claims or review. The Department of Health will not conduct on-site monitoring reviews of commissaries or require claims to be paid.~~

~~(4) Copies of Instruction 806-4 are available at the State WIC Office.~~]

R406-100-1. Purpose.

(1) The purpose of this rule is to establish requirements for participation in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). This rule describes program objectives and the authority under which the program operates. This rule also determines the materials that are incorporated by reference.

R406-100-2. Program Objectives.

(1) WIC is a supplemental foods and nutrition education program funded by the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) and is administered by the Utah Department of Health, Division of Family Health and Preparedness, through clinics operated by local health departments. The purpose of the WIC program is to provide nutritious supplemental foods and nutrition education to eligible persons. The program serves as an adjunct to good healthcare, during critical times of growth and development, to prevent the occurrence of health problems and improve the health status of program participants.

(2) WIC serves pregnant, postpartum and breastfeeding women; and infants and children up to five years of age. WIC participants belong to families that are found to have inadequate income and are determined by competent health professionals to be at nutritional risk.

(3) A primary concern of the program is to deliver preventive healthcare through screening for anemia, completion of anthropometric measurements, immunization screening, dietary counseling, nutrition education and providing breastfeeding support. In addition, participants needing other health or social services are identified at the time of certification and referred to the appropriate agency.

R406-100-3. Authority.

(1) Congress established the WIC Program under the Child Nutrition Act of 1966 (42 USC Sec. 1786 et seq.), as amended.

(a) Acceptance and approval of the Utah WIC State Plan along with an executed Federal-State agreement between the USDA FNS and the Utah Department of Health authorizes and provides funding for the WIC program to the state.

(2) The Utah Department of Health is authorized under Section 26-1-15, which allows the Executive Director to accept federal funding to operate the WIC program in Utah.

R406-100-4. Incorporations by Reference.

(1) The Utah WIC Program adopts the standards of the Special Supplemental Nutrition Program for Women, Infants and Children provided in 7 CFR 246, 01/01/2021 edition, which is incorporated by reference.

(2) The Utah WIC Program incorporates by reference the Fiscal Year 2022 Utah WIC State Plan of Program Operations and Administration.

(a) The Utah WIC State Plan of Program Operation and Administration contains program policies and procedures including those mandated by USDA federal regulations and details specific to Utah's program. Eligibility and participation requirements for program applicants and participants are included as well as instructions and guidelines for clinic operations and retail vendor participation in the program.

(b) The Utah WIC State Plan is available on the Utah WIC website at: https://wic.utah.gov/about/wic-policies/proposed-state-plan/. Proposed revisions to the Utah WIC State Plan are posted annually to the Utah WIC website for public comment. The State Plan is submitted annually to the USDA FNS, for approval.

R406-100-5. Requirements.

(1) The following criteria shall be met to be eligible to participate in the program and receive supplemental foods:

(a) Category and Age: Those eligible include pregnant women during their pregnancy and up to six weeks postpartum; breastfeeding women up to 12 months past delivery; postpartum women up to six months past delivery; infants and children up to five years of age.

(b) Residence: Applicants must be residents of areas or members of populations served by the local agency and within the jurisdiction of the state.

(c) Income: Applicants must be a member of a family or household which has a gross income at or below 185% of the federal poverty guideline. Or, is determined to be adjunctively eligible through participation in the Medicaid Program, Supplemental Nutrition Assistance Program, or Temporary Assistance for Needy Families.

(d) Nutritional Risk: Applicants must be certified to have a nutritional need through a medical or nutritional assessment by a competent professional authority on staff at the WIC clinic.

(e) Participants shall be certified annually to determine their eligibility for the program. Pregnant women shall be certified for the length of their pregnancy. The length of certification periods for participants is determined by USDA regulations as listed in 7 CFR 246.7(g).

(f) Upon certification onto the program, participant families shall be issued an electronic benefit card to use for obtaining prescribed supplemental foods at authorized grocery retailers.

(2) Local Agencies: The Utah WIC Program shall authorize only local public health departments within the state as WIC local agencies.

(a) Should a local health department no longer be able, willing or authorized by the Utah Department of Health to operate the WIC program within their jurisdiction, bordering local health departments shall be given first priority to serve WIC participants in that area.

(b) Should any area within the state not be served by an authorized local health department, the Utah WIC Program, in collaboration with the executive director of the Utah Department of Health, shall consider other public or private health agencies for authorization as a WIC local agency.

(3) Vendors:

(a) Grocery retailers who wish to become authorized as a WIC vendor shall complete a vendor application and submit required documentation.

(b) Program staff shall review the application and consider the limiting and selection criteria as described in the Utah WIC State Plan to determine if the applicant vendor is needed and qualified to become an authorized vendor.

(c) Upon approval of the application and successful completion of a site visit and initial authorization training by WIC staff, vendors shall enter into an agreement with the State WIC Office to be authorized to accept WIC transactions.

(d) Authorized vendors must agree to and remain in compliance with the WIC vendor agreement.

(e) WIC purchases and subsequent payments to the vendor shall be processed using electronic benefits transfer (EBT). The retailer shall submit a daily claim file to the State WIC Office's contracted EBT host processor bank. Any claim files not submitted within 60 days of the purchase date are ineligible to receive payment.

KEY: nutrition, women, children, infants
Date of Last Change: 2022[~~December 27, 2012~~]
Notice of Continuation: January 24, 2022
Authorizing, and Implemented or Interpreted Law: 26-1-15

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	**R406-200**	**Filing ID 54400**

Agency Information

1. Department:	Health
Agency:	Family Health and Preparedness, WIC Services

Building:	Cannon	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141013	
City, state and zip:	Salt Lake City, UT 84114-1013	
Contact person(s):		
Name:	**Phone:**	**Email:**
Chris Furner	801-554-4509	cfurner@utah.gov
Rick Wardle	801-580-7932	rwardle@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R406-200. Program Overview

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

This rule is being repealed to eliminate unnecessary information and because some of the information is being consolidated into Rule R406-100. (EDITOR'S NOTE: The proposed repeal and reenactment of Rule R406-100 is under ID No. 54399 in this issue, April 1, 2022, of the Bulletin.)

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 repealed in its entirety.

Fiscal Information

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

A) State budget:

The Department of Health (Department) does not anticipate any costs or savings to the state budget because repealing of this rule only eliminates unnecessary information, and any relevant information is being transferred into another rule.

B) Local governments:

The Department does not anticipate any costs or savings to the local governments because repealing of this rule only eliminates unnecessary information, and any relevant information is being transferred into another rule.

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

The Department does not anticipate any costs or savings to small businesses because repealing of this rule only eliminates unnecessary information, and any relevant information is being transferred into another rule.

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

The Department does not anticipate any costs or savings to non-small businesses because repealing of this rule only eliminates unnecessary information, and any relevant information is being transferred into another rule.

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

The Department does not anticipate any costs or savings to persons other than small businesses, non-small businesses state, or local government entities because repealing of this rule only eliminates unnecessary information, and any relevant information is being transferred into another rule.

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 costs associated with this proposed rule change because repealing of this rule only eliminates unnecessary information, and any relevant information is being transferred into another rule.

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

The repeal of this rule should have no fiscal impact on businesses. 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	$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 Utah 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 26-1-15

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022

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:**	02/13/2022

R406. Health, Family Health and Preparedness, WIC Services.
[~~R406-200. Program Overview.~~
~~R406-200-1. Introduction and Background.~~

~~(1) Under the Child Nutrition Act of 1966 (42 U.S.C. Sec. 1786 et seq.), as amended, Congress has found that substantial numbers of pregnant, postpartum and breast-feeding women, infants and young children from families with inadequate income are a special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. The purpose of the program is to provide supplemental foods and nutrition education through clinics to eligible persons. The program serves as an adjunct to good health care, during critical times of growth and development, in order to prevent the occurrence of health problems and improve the health status of these persons.~~

~~(2) The Special Supplemental Nutrition Program for Women, Infants and Children (WIC) is a supplemental foods and nutrition education program funded by U.S.D.A. and administered by the Utah Department of Health, Division of Family Health and Preparedness, through local health departments.~~

~~(3) WIC provides specified nutritious food supplements and nutrition education to pregnant, postpartum and breast-feeding women, infants and children (up to five years of age) from families with inadequate income and who are determined by competent professionals (physicians, nutritionists, nurses and other trained health officials) to be at "nutritional risk".~~

~~(4) The following criteria shall be met to be eligible to receive supplemental foods:~~

~~(a) Category and Age:~~

~~(i) pregnant women for the duration of the pregnancy and up to six weeks postpartum;~~

~~(ii) breast-feeding women up to 12 months past delivery;~~

~~(iii) postpartum women up to six months past delivery;~~

~~(iv) infants and children up to five years of age.~~

~~(b) Residence: Residents of areas or members of populations served by the clinic and within the jurisdiction of the state.~~

~~(c) Income: Determined to be a member of a family or family group which has a gross income at or below 185% of the poverty guideline established by the federal government.~~

~~(d) Nutritional Risk: Certified by a competent professional authority on the staff of the clinic to be at nutritional need through a medical or nutritional assessment.~~

~~(5) Participants must be certified approximately every six months to one year to determine their eligibility for the program, unless the participant is a pregnant women. Pregnant women are certified for the duration of their pregnancy. The length of certification periods for all categories of participants is determined by U.S.D.A. regulations as listed in 7CFR 246.7(g).~~

~~(6) Upon certification for the program, eligible women, infants and children are issued checks to use for obtaining prescribed supplemental foods.~~

~~(7) WIC participants may exchange their checks for prescribed foods at retail stores which have entered into signed vendor agreements with the State WIC Office. The check front is signed by the WIC participant at the retailer's check-out counter. The check is then processed like any check through normal bank clearing procedures. WIC checks must be used within the timeframe of the first and last dates to use as specified on the check. Retailers must redeem any checks they receive within 60 days of the first date to use.~~

~~(8) The WIC Program represents more than just a check for food. A primary concern of the program is to deliver preventive health care. Through dietary counseling and nutrition education, participants may come to understand the relationship between good nutrition and their health. In addition, participants needing other health or social services are identified at the time of certification and referred to the appropriate agency.~~

~~(9) The "State Plan of Program Operation and Administration" is submitted annually to the U.S. Department of Agriculture, Food and Nutrition Service, for approval. Many inclusions are mandated by the WIC program regulations while others are details specific to Utah's program. The state plan outlines general details concerning the operation and administration of the WIC Program in the state of Utah. The "Utah State WIC Policy and Procedures Manual" deals specifically with areas of Program operation and administration.~~

~~(10) Copies of the state plan may be obtained from the State WIC Office.~~

~~(11) Proposed revisions to the Utah WIC Policy and Procedures Manual are posted annually to the Utah WIC web site at www.health.utah.gov/wic for public comment.~~

~~KEY: nutrition, women, infants, children~~
~~Date of Last Change: October 28, 2011~~
~~Notice of Continuation: January 24, 2022~~
~~Authorizing, and Implemented or Interpreted Law: 26-1-15~~]

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	**R406-201**	**Filing ID 54401**

Agency Information

1. Department:	Health
Agency:	Family Health and Preparedness, WIC Services
Building:	Cannon
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 141013
City, state and zip:	Salt Lake City, UT 84114-1013

Contact person(s):		
Name:	**Phone:**	**Email:**
Chris Furner	801-554-4509	cfurner@utah.gov
Rick Wardle	801-580-7932	rwardle@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R406-201. Outreach Program

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

This rule is being repealed because all critical information is included in incorporated materials.

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 repealed in its entirety.

Fiscal Information

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

A) State budget:

The Department of Health (Department) does not anticipate any costs or savings to the state budget because repealing of this rule only eliminates unnecessary information.

B) Local governments:

The Department does not anticipate any costs or savings to the local governments because repealing of this rule only eliminates unnecessary information.

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

The Department does not anticipate any costs or savings to small businesses because repealing of this rule only eliminates unnecessary information.

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

The Department does not anticipate any costs or savings to non-small businesses because repealing of this rule only eliminates unnecessary information.

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 Department does not anticipate any costs or savings to persons other than small businesses, non-small businesses state, or local government entities because repealing of this rule only eliminates unnecessary information.

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 costs associated with this proposed rule change because repealing of this rule only eliminates unnecessary information.

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 repeal of this rule should have no fiscal impact on businesses. 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	$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 Utah 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 26-1-15

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022

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:**	02/13/2022

R406. Health, Family Health and Preparedness, WIC Services.
[~~R406-201. Outreach Program.~~
~~R406-201-1. Availability of WIC Program Benefits.~~

~~(1) Public Law 95-627 requires that the Utah State WIC Office in cooperation with participating local agencies publicize the availability of WIC program benefits to offices and organizations that deal with significant numbers of potentially eligible persons.~~

~~(2) Legislation has also mandated that the State WIC Office and clinics coordinate with the Food Stamp Program and the Expanded Food and Nutrition Program and other special counseling services that may affect the health and well-being of pregnant women and children.~~

~~**KEY: nutrition, women, children, infants**~~
~~**Date of Last Change: 1993**~~
~~**Notice of Continuation: January 24, 2022**~~
~~**Authorizing, and Implemented or Interpreted Law: 26-1-15**~~**]**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	**R406-202**	**Filing ID 54402**

Agency Information

1. Department:	Health
Agency:	Family Health and Preparedness, WIC Services
Building:	Cannon
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 141013
City, state and zip:	Salt Lake City, UT 84114-1013

Contact person(s):		
Name:	**Phone:**	**Email:**
Chris Furner	801-554-4509	cfurner@utah.gov
Rick Wardle	801-580-7932	rwardle@utah.gov

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

General Information

2. Rule or section catchline:

R406-202. Eligibility

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

This rule is being repealed because all critical information is included in incorporated materials.

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 repealed in its entirety.

Fiscal Information

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

A) State budget:

The Department of Health (Department) does not anticipate any costs or savings to the state budget because repealing of this rule only eliminates unnecessary information.

B) Local governments:

The Department does not anticipate any costs or savings to the local governments because repealing of this rule only eliminates unnecessary information.

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

The Department does not anticipate any costs or savings to small businesses because repealing of this rule only eliminates unnecessary information.

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

The Department does not anticipate any costs or savings to non-small businesses because repealing of this rule only eliminates unnecessary information.

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 Department does not anticipate any costs or savings to persons other than small businesses, non-small businesses state, or local government entities because repealing of this rule only eliminates unnecessary information.

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 costs associated with this proposed rule change because repealing of this rule only eliminates unnecessary information.

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 repeal of this rule should have no fiscal impact on businesses. 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	$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 Utah 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 26-1-15		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022
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:**	02/13/2022

R406. Health, Family Health and Preparedness, WIC Services.
[~~R406-202. Eligibility.~~
~~R406-202-1. Certification and Eligibility.~~
~~(1) The State WIC Office shall provide all clinics with:~~
~~(a) a uniform system for determining the eligibility of persons for the WIC program;~~
~~(b) uniform eligibility requirements and certification procedures;~~
~~(c) a management information system which shall be used to electronically enter applications, determine eligibility and document all nutritional risk, income and residency requirements for the certification process.~~
~~(2) The certification process is described as follows:~~
~~(a) When there are adequate program funds, each clinic will accept applications, determine eligibility and notify the applicants of their eligibility.~~
~~(b) When there are not funds available to provide program benefits, all applicants shall be placed on a waiting list and shall be notified, in writing, within 20 days of their application date. The application date is the date the applicant visits the clinic during clinic office hours to request program benefits.~~

~~KEY: nutrition, women, children, infants~~
~~Date of Last Change: October 28, 2011~~
~~Notice of Continuation: January 24, 2022~~
~~Authorizing, and Implemented or Interpreted Law: 26-1-15~~]

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	**R406-301**	**Filing ID 54403**

Agency Information

1. Department:	Health
Agency:	Family Health and Preparedness, WIC Services
Building:	Cannon
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116

Mailing address:	PO Box 141013	
City, state and zip:	Salt Lake City, UT 84114-1013	
Contact person(s):		
Name:	**Phone:**	**Email:**
Chris Furner	801-554-4509	cfurner@utah.gov
Rick Wardle	801-580-7932	rwardle@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R406-301. Clinic Guidelines

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

This rule is being repealed because all critical information is included in incorporated materials.

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 repealed in its entirety.

Fiscal Information

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

A) State budget:

The Department of Health (Department) does not anticipate any costs or savings to the state budget because repealing of this rule only eliminates unnecessary information.

B) Local governments:

The Department does not anticipate any costs or savings to the local governments because repealing of this rule only eliminates unnecessary information.

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

The Department does not anticipate any costs or savings to small businesses because repealing of this rule only eliminates unnecessary information.

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

The Department does not anticipate any costs or savings to non-small businesses because repealing of this rule only eliminates unnecessary information.

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 Department does not anticipate any costs or savings to persons other than small businesses, non-small businesses state, or local government entities because repealing of this rule only eliminates unnecessary information.

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 costs associated with this proposed rule change because repealing of this rule only eliminates unnecessary information.

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 repeal of this rule should have no fiscal impact on businesses. 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	$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 Utah 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 26-1-15

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022

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:**	02/13/2022

R406. Health, Family Health and Preparedness, WIC Services.
[~~R406-301. Clinic Guidelines.~~
~~R406-301-1. Development and Implementation of Guidelines.~~
~~Each clinic approved for participation in the WIC program may develop clinic guidelines for more efficient and equitable program operations. However, in every instance, these guidelines must be approved by the State WIC Office prior to implementation by the clinic. All clinic guidelines must comply with federal and state WIC laws.]~~

~~KEY: nutrition, women, children, infants~~
~~Date of Last Change: 1993~~
~~Notice of Continuation: January 24, 2022~~
~~Authorizing, and Implemented or Interpreted Law: 26-1-15~~]

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R414-308**	**Filing ID 54413**

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:

R414-308. Application, Eligibility Determinations, Improper Medical Assistance, and Suspension of Benefits

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

The purpose of this change is to implement electronic signatures into the medical assistance application process in accordance with Section 46-4-201, and to clarify how Medicaid calculates payments that exceed the resource limit.

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 amendment implements retrievable, electronic signatures as a legal means of completing applications for medical assistance. It also clarifies the payment methodology for recipients whose payments exceed the resource limit and makes other technical changes.

Fiscal Information

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

A) State budget:

There is no impact to the state budget as the Legislature has already appropriated funds to cover eligibility with respect to applications for medical assistance and methodologies to handle overpayments.

B) Local governments:

There is no impact on local governments because they neither fund nor determine eligibility under the Medicaid program.

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

There is no impact on small businesses as the Legislature has already appropriated funds to cover eligibility with respect to applications for medical assistance and methodologies to handle overpayments.

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

There is no impact on non-small businesses as the Legislature has already appropriated funds to cover eligibility with respect to applications for medical assistance and methodologies to handle overpayments.

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 impact on Medicaid providers and Medicaid members as the Legislature has already appropriated funds to cover eligibility with respect to applications for medical assistance and methodologies to handle overpayments.

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 the Legislature has already appropriated funds to cover eligibility with respect to applications for medical assistance and methodologies to handle overpayments.

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 will see neither costs nor revenue as funds have already been appropriated to cover eligibility aspects of the medical assistance programs. 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	$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, 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	42 CFR 435.907

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:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022
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:	03/10/2022

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-308. Application, Eligibility Determinations, Improper Medical Assistance, and Suspension of Benefits.
R414-308-3. Application and Signature.

(1) The Department shall comply with the requirements in 42 CFR 435.907, concerning the application for medical assistance.

(a) The applicant or authorized representative must complete and sign the application under penalty of perjury. If an applicant cannot write, the applicant must [~~make his~~]mark on the application form and have at least one witness to the signature.

(i) An electronic signature is legal in accordance with Section 46-4-201.

(ii) An electronic signature must be retrievable as evidence of the individual's case record.

(b) A representative may apply on behalf of an individual. A representative may be a legal guardian, a person holding a power of attorney, a representative payee or other responsible person acting on behalf of the individual. In this case, the eligibility agency may send notices, requests and forms to both the individual and the individual's representative, or to just the individual's representative. The eligibility agency may assign someone to act as the authorized representative when the individual requires help to apply and cannot appoint a representative.

(c) If the Division of Child and Family Services (DCFS) has custody of a child and the child is placed in foster care, DCFS must complete[~~s~~] the application. DCFS determines eligibility for the child pursuant to a written agreement with the Department. DCFS also determines eligibility for children placed under a subsidized adoption agreement. The Department does not require an application for Title IV-E eligible children.

(2) The application date for medical assistance is the date [~~that~~]the eligibility agency receives the application during normal business hours on a week day that does not include Saturday, Sunday, or a state holiday except as described in Subsection (2)[~~below~~]:

(a) When the individual applies through the federally facilitated marketplace (FFM) and the application is transferred from the FFM for a Medicaid eligibility determination, the date of application is the date the individual applies through the FFM;[~~.~~]

(b) If the application is delivered to the eligibility agency after the close of business, the date of application is the next business day;

(c) If the applicant delivers the application to an outreach location during normal business hours, the date of application is that business day when outreach staff is available to receive the application. If the applicant delivers the application to an outreach location on a non-business day or after normal business hours, the date of application is the last business day that a staff person from the eligibility agency [~~was~~]is available at the outreach location to receive or pick up the application;

(d) When the eligibility agency receives application data transmitted from the Social Security Administration (SSA) pursuant to the requirements of 42 U.S.C. Sec. 1320b-14(c), the eligibility agency shall use the date that the individual submits the application for the low-income subsidy to the SSA as the application date for Medicare cost[~~–~~]-sharing programs. The application processing period for the transmitted data begins on the date [~~that~~]the eligibility agency receives the transmitted data. The transmitted data meets the signature requirements for applications for Medicare cost[~~-~~]-sharing programs;

(e) If an application is filed through the "myCase" system, the date of application is the date the application is submitted to the eligibility agency online.

(3) The eligibility agency shall accept a signed application that an applicant sends by facsimile as a valid application.

(4) If an applicant submits an unsigned or incomplete application form to the eligibility agency, the eligibility agency shall notify the applicant [~~that he must~~]to sign and complete the application no later than the last day of the application processing period. The eligibility agency shall send a signature page to the applicant and give the applicant at least [~~ten~~]10 days to sign and return the signature page. When the application is incomplete, the eligibility agency shall notify the applicant of the need to complete the application and offer ways to complete the application.

(a) The date of application for an incomplete or unsigned application form is the date [~~that~~]the eligibility agency receives the application if the agency receives a signed signature page and completed application within the application processing period.

(b) If the eligibility agency does not receive a signed signature page and completed application form within the application processing period, the application is void and the eligibility agency shall send a denial notice to the applicant.

(c) If the eligibility agency receives a signed signature page and completed application within 30 calendar days after the notice of denial date, the date of receipt is the new application date and the [~~provisions of~~]Subsection [~~R414-308-3~~](2) applies[~~y~~].

(d) If the eligibility agency receives a signed signature page and completed application more than 30 calendar days after it sends the denial notice, the applicant must reapply by completing and submitting a new application form. The new application date is determined in accordance with this rule.

(5) The eligibility agency treats the following situations as a new application without requiring a new application form. The application date is the day [~~that~~]the eligibility agency receives the request or verification from the recipient. The effective date of eligibility for these situations depends on the rules for the specific program[~~:~~].

(a) A household with an open medical assistance case must ask[~~s~~] to add a new household member by contacting the eligibility agency[~~;~~].

(b) The eligibility agency shall end[~~s~~] medical assistance when the recipient fails to return requested verification, and the recipient must provide[~~s all~~] requested verification to the eligibility agency before the end of the calendar month that follows the closure

date. The eligibility agency waives the requirement for the open enrollment period during that calendar month for programs subject to open enrollment[~~;~~].

(c) The eligibility agency shall end [~~A~~]a medical assistance program [~~other than PCN ends~~]due to an incomplete review, and the recipient must respond[~~s~~] to the review request within the three calendar months that follow the closure date.[~~ The provisions of Section R414-310-14 apply to recertification for PCN enrollment;~~]

(d) Except for [~~PCN,~~]Targeted Adult Medicaid and Utah's Premium Partnership for Health Insurance (UPP) that are subject to open enrollment periods, the eligibility agency [~~denies~~]shall deny an application when the applicant fails to provide [~~all~~]requested verification, but provides [~~all~~]requested verification within 30 calendar days of the denial notice date. The new application date is the date [~~that~~]the eligibility agency receives [~~all~~]requested verification and the retroactive period is based on that date. The eligibility agency does not act if it receives verification more than 30 calendar days after it denies the application. The recipient must complete a new application to reapply for medical assistance[~~;~~].

(e) For [~~PCN,~~]Targeted Adult Medicaid and UPP applicants, the eligibility agency [~~denies~~]shall deny an application when the applicant fails to provide [~~all~~]requested verification, but provides [~~all~~]requested verification within 30 calendar days of the denial notice date and the eligibility agency has not stopped the open enrollment period. If the eligibility agency has stopped enrollment, the applicant must wait for an open enrollment period to reapply.

(6) For an individual who applies for and is found ineligible for Medicaid from October 1, 2013, [~~and~~]through December 31, 2013, the eligibility agency shall redetermine eligibility under the policies that become effective January 1, 2014, using the modified adjusted gross income (MAGI)-based methodology without requiring a new application.

(a) Medicaid eligibility may begin no earlier than January 1, 2014, for an individual who becomes eligible using the MAGI-based methodology.[~~;~~]

(b) For applications received on or after January 1, 2014, the eligibility agency shall apply the MAGI-based methodology first to determine Medicaid eligibility.

(c) The eligibility agency shall determine eligibility for other Medicaid programs that do not use MAGI-based methodology if the individual meets the categorical requirements of these programs, which may include a medically needy eligibility group for individuals found ineligible using the MAGI-based methodology.

(7) If a medical assistance case closes for one or more calendar months, the recipient must complete a new application form to reapply, except as defined in Subsection R414-308-6(7).

(8) An individual determined eligible for a presumptive eligibility period must file an application for medical assistance with the eligibility agency in accordance with the requirements of Sections 1920, 1920A, and 1920B of the Social Security Act.

(9) The eligibility agency shall process low-income subsidy application data transmitted from SSA in accordance with 42 U.S.C. Sec. 1320b-14(c) as an application for Medicare cost[~~-~~]-sharing programs. The eligibility agency shall take appropriate steps to gather the required information and verification from the applicant to determine the applicant's eligibility.

(a) Data transmitted from SSA is not an application for Medicaid.

(b) An individual who wants to apply for Medicaid when contacted for information to process the application for Medicare cost[~~-~~]-sharing programs must complete and sign a Department-approved application form for medical assistance. The date of application for Medicaid is the date [~~that~~]the eligibility agency receives the application for Medicaid.

R414-308-9. Improper Medical Coverage.

(1) Improper medical coverage occurs when:

(a) an individual receives medical assistance for which the individual is not eligible. This assistance includes benefits that an individual receives pending a fair hearing or during an undue hardship waiver when the individual fails to take actions required by the eligibility agency;

(b) an individual receives a benefit or service that is not part of the benefit package for which the individual is eligible;

(c) an individual pays too much or too little for medical assistance benefits; or

(d) the Department pays in excess or not enough for medical assistance benefits on behalf of an eligible individual.

(2) As applied in this section, services and benefits include [~~all~~]amounts [~~that~~]the Department pays on behalf of the recipient during the period in question and includes:

(a) premiums [~~that~~]the recipient pays to any Medicaid health plan or managed care plan including any payments for administration costs, Medicare, and private insurance plans;

(b) payments for prepaid mental health services; and

(c) payments made directly to service providers or to the recipient.

(3) If the eligibility agency determines [~~that~~]a recipient is ineligible for the services and benefits that [~~he~~]the recipient receives, the recipient must repay to the Department any costs that result from the services and benefits.

(4) The eligibility agency shall reduce the amount [~~that~~]the recipient must repay by the amount [~~that~~]the recipient pays to the eligibility agency for a Medicaid spenddown, a cost-of-care contribution, or a Medicaid Work Incentive (MWI) premium for the month.

(5) If the recipient is eligible, but the overpayment is because the spenddown, the MWI premium, or the cost-of-care contribution is incorrect, the recipient must repay the difference between the correct amount [~~that~~]the recipient should pay and the amount [~~that~~]the recipient has paid.

(6) If the eligibility agency determines [~~that~~]the recipient is ineligible due to having resources that exceed the resource limit, the recipient must pay the lesser of the cost of services or benefits that the recipient receives, or the difference between the recipient's highest amount of excess countable resources held during the overpayment period and the resource limit[~~ for each month resources exceed the limit~~].

(7) A recipient may request a refund from the Department if the recipient believes that:

(a) the monthly spenddown, or cost-of-care contribution [~~that~~]the recipient pays to receive medical assistance is less than what the Department pays for medical services and benefits for the recipient; or

(b) the amount [~~that~~]the recipient pays in the form of a spenddown, an MWI premium, or a cost-of-care contribution for long-term care services[~~,~~] exceeds the payment requirement.

(8) Upon receiving the request, the Department shall determine whether it owes the recipient a refund.

(a) In the case of an incorrect calculation of a spenddown, MWI premium, or cost-of-care contribution, the refundable amount is the difference between the incorrect amount [~~that~~]the recipient pays to the Department for medical assistance and the correct amount

[~~that~~]the recipient should pay, less the amount [~~that~~]the recipient owes [~~to~~]the Department for any other past due, unpaid claims.

(b) If the spenddown or a cost-of-care contribution for long-term care exceeds medical expenditures, the refundable amount is the difference between the correct spenddown or cost-of-care contribution that the recipient pays for medical assistance and the amount [~~that~~]the Department pays on behalf of the recipient for services and benefits, less the amount [~~that~~]the recipient owes [~~to~~]the Department for any other past due, unpaid claims. The Department shall issue the refund only after the 12-month time period that medical providers have to submit claims for payment.

(c) The Department may not issue a cash refund for any portion of a spenddown or cost-of- care contribution that is met with medical bills. Nevertheless, the Department may pay additional covered medical bills used to meet the spenddown or cost-of-care contribution equal to the amount of refund [~~that~~]the Department owes the recipient, or apply the bill amount toward a future spenddown or cost-of-care contribution.

(9) A recipient who pays a premium for the MWI program may not receive a refund even when the Department pays for services that are less than the premium [~~that~~]the recipient pays for MWI.

(10) If the cost-of-care contribution that a recipient pays a medical facility is more than the Medicaid daily rate for the number of days [~~that~~]the recipient is in the medical facility, the recipient may request a refund from the medical facility. The Department shall refund the amount [~~that~~]it owes the recipient only when the medical facility sends the excess cost-of-care contribution to the Department.

(11) If the sponsor of an alien does not provide correct information, the alien and the alien's sponsor are jointly liable for any overpayment of benefits. The Department shall recover the overpayment from both the alien and the sponsor.

KEY: public assistance programs, applications, eligibility, Medicaid
Date of Last Change: 2022[~~September 16, 2020~~]
Notice of Continuation: January 8, 2018
Authorizing, and Implemented or Interpreted Law: 26-18

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R451-1**	**Filing ID 54415**

Agency Information

1. Department:	Cultural and Community Engagement	
Agency:	Arts and Museums	
Building:	Glendinning Historic Home	
Street address:	617 E South Temple	
City, state and zip:	Salt Lake City, UT 84102	
Contact person(s):		
Name:	**Phone:**	**Email:**
Kristin Mead	218-393-2995	kristinmead@utah.gov
Em Cebrowski	801-236-7556	ecebrowski@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R451-1. Utah Arts Council General Program Rules

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

The reason for this change is to correct outdated names and verbiage.

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 name of the agency has been changed from "Heritage and Arts" to "Cultural and Community Engagement". This change will allow for the old agency name to be updated. The name "Arts Council (Board of Directors of the Utah)" is no longer used. This change will allow for the correct name to be "Arts and Museums". Small updates to the language will further clarify the rule. The Authorizing Law Section will be changed from 9-6-205 to 9-6-201.

Fiscal Information

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

A) State budget:

There are no anticipated costs or savings to the state budget. This amendment will update official names and language describing existing practices and procedures outlined in Section 9-6-201.

B) Local governments:

There are no anticipated costs or savings to local governments. This amendment will update official names and language describing existing practices and procedures outlined in Section 9-6-201.

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

There are no anticipated costs or savings to the small businesses. This amendment will update official names and language describing existing practices and procedures outlined in Section 9-6-201.

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

There are no anticipated costs or savings to the non-small businesses. This amendment will update official names and language describing existing practices and procedures outlined in Section 9-6-201.

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 are no anticipated costs or savings to persons other than small businesses, non-small businesses, or state or local government entities. This amendment will update official names and language describing existing practices and procedures outlined in Section 9-6-201.

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 affected persons. This amendment will update official names and language describing existing practices and procedures outlined in Section 9-6-201.

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 comments as this rule will not have any fiscal impact on businesses. Jill Love, 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 Cultural and Community Engagement, Jill Love, 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 9-6-201

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	05/02/2022

10. This rule change MAY become effective on:	06/30/2022

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:	Jill Love, Executive Director	**Date:**	03/04/2022

R451. [~~Heritage and Arts~~]Cultural and Community Engagement, [~~Arts Council (Board of Directors of the Utah)~~]Arts and Museums.

R451-1. [~~Utah Arts Council~~]Arts and Museums General Program Rules.

R451-1-1. [~~Utah Arts Council~~]Arts and Museums General Program Rules.

[~~The Utah Arts Council~~]Arts and Museums [~~shall~~]will set forth in printed [~~and/or~~]or electronic materials: standards and procedures, eligibility requirements, fees, restrictions, [~~panel and~~

~~committee members,~~]deadlines for submitting applications, requirements pertaining to specific opportunities, dates of events, liability, and other information which is available to the public. [~~The Utah Arts Council~~]Arts and Museums has the authority to award prizes, commissions, grants, scholarships, sponsorships and fellowships.

KEY: art in public places, art preservation, art financing, performing arts
Date of Last Change: 2022[~~September 12, 2003~~]
Notice of Continuation: December 20, 2021
Authorizing, and Implemented or Interpreted Law: [~~9-6-205~~]9-6-201

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R451-2**	**Filing ID 54416**

Agency Information

1. Department:	Cultural and Community Engagement	
Agency:	Arts and Museums	
Building:	Glendinning Historic Home	
Street address:	617 E South Temple	
City, state and zip:	Salt Lake City, UT 84102	
Contact person(s):		
Name:	**Phone:**	**Email:**
Kristin Mead	218-393-2995	kristinmead@utah.gov
Em Cebrowski	801-236-7556	
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R451-2. Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collections

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

This change in rule is necessary to correct the outdated name of the Department and the Art Collection, add clarifying verbiage, and to bring this rule in line with current statutes.

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 filing will update the name of the Department to Cultural and Community Engagement. It will update the name of the "Arts Council (Board of Directors)" to the current name of "Arts and Museums." It will update the name of the "Utah State Art Collection" to the "State of Utah Alice Merrill Horne Art Collection." It will update the "Visual Arts Committee" to the "Art Collection Committee." It will add clarifying verbiage to the rule. It will add in and clarify the deaccessioning process as is specified in Section 9-6-304, as well as update the citation for the rule from Section 9-6-205 to Sections 9-6-303 and 9-6-304.

Fiscal Information

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

A) State budget:

This amendment describes current administrative practices that are in accordance with Sections 9-6-303 and 9-6-304. There will not be any fiscal impact to the state budget because there are no new practices or procedures introduced by this amendment.

B) Local governments:

This amendment describes current administrative practices that are in accordance with Sections 9-6-303 and 9-6-304. There will not be any fiscal impact to local governments because there are no new practices or procedures introduced by this amendment.

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

This amendment describes current administrative practices and procedures that are in accordance with Sections 9-6-303 and 9-6-304. There will not be any fiscal impact to small businesses because there are no new practices or procedures introduced by this amendment.

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

This amendment describes current administrative practices and procedures that are in accordance with Sections 9-6-303 and 9-6-304. There will not be any fiscal impact to non-small businesses because there are no new practices or procedures introduced by this amendment.

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

This amendment describes current administrative practices and procedures that are in accordance with Sections 9-6-303 and 9-6-304. There will not be any fiscal impact to persons other than small businesses, non-small businesses, or state and local government entities

because there are no new practices or procedures introduced by this amendment.

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

This amendment describes current administrative practices and procedures that are in accordance with Sections 9-6-303 and 9-6-304. There will not be any compliance costs because there are no new practices or procedures introduced by this amendment.

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

There are no comments by the department head as there are no fiscal impacts on businesses. Jill Love, 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 Cultural and Community Engagement, Jill Love, 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 9-6-303	Section 9-6-304	

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:	05/02/2022

10. This rule change MAY become effective on:	06/30/2022

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:	Jill Love, Executive Director	**Date:**	03/14/2022

R451. [~~Heritage and Arts, Arts Council (Board of Directors of the Utah)~~]Cultural and Community Engagement, Arts and Museums.

R451-2. Policy for Commissions, Purchases, Deaccessioning, [~~and~~]Donations to, and Loans from, the [~~Utah State Art Collections~~]State of Utah Alice Merrill Horne Art Collection.

R451-2-1. Policy for Commissions, Purchases, Deaccessioning, and Donations to, and Loans from, the [~~Utah State Art Collections~~]State of Utah Alice Merrill Horne Art Collection.

[~~In order t~~]To maintain the quality and integrity of the [~~Utah State Art Collections~~]State of Utah Alice Merrill Horne Art Collection, the following policies have been adopted:

a. All works of art accepted into or deaccessioned from the [~~Utah State Art Collections~~]State of Utah Alice Merrill Horne Art Collection must be approved through the appropriate channels: [~~(Visual Arts Committee, Public Art Selection Committees, Folk Arts Selection Committee, etc.).~~]Utah Arts Advisory Board, Utah Museum Field Services Advisory Board, Art Collection Committee, Public Art Selection Committees, or a designated Ad Hoc Committee. This policy applies to commissions, purchases and donations, and deaccession of artwork. When art is added to [~~any of~~]the [~~Utah State Art Collections~~]State of Utah Alice Merrill Horne

Art Collection, [~~the Utah Arts Council~~]Arts and Museums will assume responsibility for cataloging, conserving, insuring, storing, and displaying that work. The criteria for selecting [~~works~~]artworks for the [~~Utah State Art Collections~~]State of Utah Alice Merrill Horne Art Collection will be based on the quality of the work, and its role in filling historical, cultural, and stylistic gaps of the collection. Public Art commissions will be based on the aesthetic value, appropriateness to the site or facility, and budget.

b. If other state agencies are approached by an individual or organization wishing to donate a work of art, that agency may contact [~~the Utah Arts Council~~]Arts and Museums to receive approval through the appropriate channels[~~ (see "a" above)~~]. If the agency does not contact [~~the Utah Arts Council~~]Arts and Museums, or if the donation is not accepted by [~~the Utah Arts Council,~~]Arts and Museums, the donated work will not be considered part of the State of Utah Alice Merrill Horne Art Collection and the recipient [~~that~~]agency becomes solely responsible for its ownership, including cataloging, conserving, insuring, [~~storing~~]storage, and displaying the donated work of art.[~~ The artwork will not be considered part of the Utah State Art Collections.~~]

c. Loans of artwork from the [~~Utah State Art Collections~~]State of Utah Alice Merrill Horne Art Collection must be approved through appropriate channels and the intended site determined appropriate for art display in order for them to be insured by the state's Risk Management Division through [~~the Utah Arts Council~~]Arts and Museums. Replacement value insurance for non-state agencies, by agreement or default, is borne by the institution receiving the loaned works. Works of art loaned directly to [~~the Utah Arts Council~~]Arts and Museums for exhibition or other purposes are fully insured by the state's Risk Management Division through [~~the Utah Arts Council~~]Arts and Museums. Public Art commissions are insured by the state's Risk Management Division through [~~the Utah Arts Council~~]Arts and Museums and the host agency.

d. A work of art in the State of Utah Alice Merrill Horne Art Collection that is to be deaccessioned is not state surplus property and is not subject to the surplus property program.

e. State agencies that wish to purchase art may work with Arts and Museums to utilize its Limited Purchasing Delegation and acquisition process.

KEY: art loans, art donations, art in public places, art work art deaccession
Date of Last Change: 2022[~~September 12, 2003~~]
Notice of Continuation: December 20, 2021
Authorizing, and Implemented or Interpreted Law: [~~9-6-205~~]9-6-303 through 304

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Utah Admin. Code Ref (R no.):	**R590-133**	**Filing ID 54405**

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:

R590-133. Variable Contracts

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, propose Section R590-133-10 to use the Department's current language, and removes the current Section R590-133-10 because penalties are already provided for in statute. 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-20-106	

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:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022

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:**	03/09/2022

R590. Insurance, Administration.
R590-133. Variable Contracts.
[~~R590-133-1. Authority.~~

~~This rule is adopted pursuant to Subsection 31A-2-201(3) which authorizes rules to implement Title 31A and Subsection 31A-20-106(1)(b)(ii) that gives the commissioner authority to regulate by rulemaking the issuance and sale of variable contracts.~~

~~R590-133-2. Definition.~~

~~In addition to the definitions of Section 31A-1-301, the following definitions shall apply for the purposes of this rule:~~

~~A. "Variable contract," means a policy or contract that provides life insurance or annuity benefits that may vary according to the investment experience of any separate account or accounts maintained by the insurer as to the policy or contract, as provided for in Sections 31A-5-217 and 31A-18-102.~~

~~B. "Variable contract producer," means a licensed producer with a variable contracts line of authority.~~

~~R590-133-3. Qualification of Insurers to Issue Variable Contracts.~~

~~No insurer may deliver or issue for delivery a variable contract within this state unless the insurer is licensed to do a variable life, annuity, or both, business in this state in accordance with Section 31A-20-106.~~

~~R590-133-4. Governance of Separate Accounts.~~

~~All separate accounts shall be governed specifically by Sections 31A-5-217; 31A-5-217.5; 31A-18-102; 31A-20-106; 31A-21-301 and 31A-22-411 and this rule. They shall be governed generally by the provisions of the code applicable to life insurance companies not explicitly exempted by the code.~~

~~R590-133-5. Required Reports.~~

~~A. An insurer issuing an individual variable contract providing benefits in variable amounts shall mail to the contract holder at least once in each contract year after the first at the last address known to the insurer, a statement or statements reporting the investments held in the separate account.~~

~~B. The insurer shall submit annually to the commissioner a statement of the business of its separate account or accounts in a form as may be prescribed by the National Association of Insurance Commissioners.~~

~~C. An insurer issuing an individual variable contract shall mail to the contract holder, at least once in each contract year after the first, at the last address known to the insurer, a statement reporting as of a date not more than four months previous to the date of mailing:~~

~~(1) in the case of an annuity contract under which payments have not yet commenced:~~

~~(a) the number of accumulation units credited to the contract and the dollar value of a unit; or~~

~~(b) the value of the contract holder's account; and~~

~~(2) in the case of a life insurance policy, the dollar amount of the death benefit.~~

~~R590-133-6. Foreign Insurers.~~

~~If the law or rule in the place of domicile of a foreign insurer provides a degree of protection to the contract holders and the public that is substantially equal to that provided by this rule, the commissioner, to the extent deemed appropriate in the commissioner's discretion, may consider compliance with the law or rule as compliance with this rule.~~

~~R590-133-7. Licensing of Variable Contract Producers.~~

~~A. No producer is eligible to sell, offer for sale, or make a recommendation to purchase or terminate a variable contract unless licensed as a variable contract producer prior to making a solicitation, sale, or recommendation.~~

~~B. The licensing as a variable contract producer may not become effective until satisfactorily completing the following requirements:~~

~~(1) be licensed in the line of life insurance;~~

~~(2) evidence that the applicant has previously passed Financial Industry Regulatory Authority examinations series six or seven and 63. Approval of registration to take the examinations is not acceptable;~~

~~(3) evidence of being Utah approved from the Financial Industry Regulatory Authority, Central Registration Depository;~~

~~(4) if the applicant is a non-resident, requirements of the state of domicile may be acceptable; and~~

~~(5) every application for a license as a variable contract producer shall be accompanied by the appropriate fee designated in the fee schedule adopted by the legislature.~~

~~R590-133-8. Additional Provisions Applicable to Variable Contract Producers.~~

~~A. A person licensed in this state as a variable contract producer shall immediately report to the commissioner:~~

~~(1) any suspension or revocation of the variable contract producer's license or life insurance producer's license in any other state or territory of the United States;~~

~~(2) the imposition of any disciplinary sanction imposed upon the producer by any national securities exchange, or national securities association, or any federal, or state or territorial agency with jurisdiction over securities or contracts on a variable basis;~~

~~(3) any judgment or injunction entered against the producer on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or rule.~~

~~B. The commissioner may reject any application or suspend or revoke or refuse to renew any variable contract producer's license upon any ground that would bar the application or the producer from being licensed to sell life insurance contracts in this state. The statutes governing any proceeding relating to the suspension or revocation of a life insurance producer's license shall also govern any proceeding for suspension or revocation of a variable contract producer's license.~~

~~C. Renewal of a variable contract producer's license shall follow the same procedure established for renewal of a life insurance producer's license.~~

~~R590-133-9. Disclosure.~~

~~A. The following information shall be furnished to an applicant for a variable contract prior to execution of the application:~~

~~(1) a summary description of the insurer and its principal activities;~~

~~(2) a summary explanation in non-technical terms of the principal variable features of the contract and of the manner in which any variable benefits reflect the investment experience of a separate account;~~

~~(3) a brief description of the investment policy for the separate account with respect to the contract;~~

~~(4) a list of investments in the separate account as of a date not earlier than the end of the last year for which an annual statement has been filed with the commissioner of the state of domicile; and~~

~~(5) summary financial statements of the insurer and the separate account based upon the last annual statement filed with the commissioner, except that for a period of four months after the filing of any annual statement, the summary required may be based upon~~

~~the annual statement immediately preceding the last annual statement filed with the commissioner.~~

~~B. The insurer may include additional information as the insurer deems appropriate.~~

~~R590-133-10. Penalties.~~

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

~~R590-133-11. 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 the rule and the application of the provisions may not be affected.~~]

R590-133-1. Authority.

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-20-106.

R590-133-2. Purpose and Scope.

(1) The purpose of this rule is to regulate the issuance and sale of a variable contract.

(2) This rule applies to an insurer or producer offering variable life and annuity insurance business in this state.

R590-133-3. Definitions.

Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

(1) "Variable contract" means a life insurance policy or an annuity contract that provides a benefit that may vary according to the investment experience of any separate account the insurer establishes and maintains under Sections 31A-5-217 and 31A-18-102.

(2) "Variable contract producer" means a licensed producer with a variable contracts line of authority.

R590-133-4. Governance of Separate Accounts.

Each separate account is governed by Sections 31A-5-217, 31A-5-217.5, 31A-18-102, 31A-20-106, 31A-21-301, 31A-22-411, and this rule.

R590-133-5. Required Reports.

(1) An insurer issuing an individual variable contract shall deliver to the contract holder at least once in each contract year after the first contract year a report of the investments held in the separate account.

(2) An insurer issuing an individual variable contract shall deliver to the contract holder at least once in each contract year after the first contract year a report of the following information as of a date no earlier than four months before the statement's delivery date:

(i) for an annuity contract when payments have not started:

(A) the number of accumulation units credited to the contract and the dollar value of a unit; or

(B) the contract holder's account value; and

(ii) for a life insurance policy, the death benefit dollar amount.

(3) An insurer shall submit annually to the commissioner a statement regarding the business of the insurer's separate account by the date and in a form prescribed by the NAIC.

R590-133-6. Foreign Insurers.

If the laws or rules of a foreign insurer's domicile protects contract holders and the public to a degree substantially equal to the protections in this rule, the commissioner may exercise discretion and allow the foreign insurer's compliance with the domicile's laws and rules as compliance with this rule.

R590-133-7. Licensing of Variable Contract Producers.

(1) A producer is not eligible to sell, offer for sale, or make a recommendation to purchase or terminate a variable contract until the producer is licensed as a variable contract producer.

(2) A producer's variable contract license is not effective until the producer:

(a) obtains a life insurance line of authority;

(b) provides evidence that the producer passed the Financial Industry Regulatory Authority examinations series six or seven and 63; and

(c) provides evidence of being Utah approved from the Financial Industry Regulatory Authority, Central Registration Depository.

(3) Notwithstanding Subsection (2), a nonresident producer may be licensed as a variable contract producer in this state upon providing evidence of being licensed as a variable contract producer in the resident state.

R590-133-8. Additional Provisions Applicable to Variable Contract Producers.

(1) A person licensed in this state as a variable contract producer shall immediately report to the commissioner:

(a) any suspension or revocation of the variable contract producer's license or life insurance producer's license in any other state or territory of the United States;

(b) any disciplinary sanction imposed upon the producer by any:

(i) national securities exchange;

(ii) national securities organization; or

(iii) federal, state, or territorial agency with jurisdiction over securities or variable contracts; and

(c) any judgment, conviction, or injunction entered against the producer involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation;

(iv) violating an insurance or securities law; or

(v) violating an insurance or securities rule.

(2) The commissioner may reject an application for a variable contract producer's license upon any ground that would bar the applicant from being licensed to sell life insurance contracts in this state.

(3) The commissioner may suspend, revoke, or refuse to renew any variable contract producer's license upon any ground that would bar the producer from being licensed to sell a life insurance policy or an annuity contract in this state.

(4) A variable contract producer shall renew a license by following the same license renewal procedure for a life insurance producer.

R590-133-9. Disclosure.

(1) The following information shall be furnished to a variable contract applicant before the applicant executes the application:

(a) a summary description of the insurer and the insurer's principal activities;

(b) a summary explanation of the following, in non-technical terms:

(i) the contract's principal variable features; and

(ii) how the variable benefits reflect the separate account's investment experience;
(c) a brief description of the investment policy for the separate account regarding the contract;
(d) a list of the separate account's investments beginning no earlier than the end of the last year that the insurer filed an annual statement with the commissioner of the insurer's domicile state; and
(e) a financial statement summary of the insurer and the separate account:
(i) based upon the last annual statement the insurer filed with the commissioner; or
(ii) for a period of four months after the insurer filed the last annual statement.
(2) The insurer may include additional information.

R590-133-10. Severability.
If any provision of this rule, Rule R590-133, 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: variable insurance
Date of Last Change: 2022[~~October 15, 2012~~]
Notice of Continuation: December 8, 2021
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-20-106

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R590-186**	**Filing ID 54406**

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:
R590-186. Bail Bond Business
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 the rule more clear, update the new Section R590-186-9 to use the Department's current language, and removes the current Section R590-186-10 because penalties are already provided for in statute. 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-35-104	Section 31A-35-301	

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:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022

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:**	03/09/2022

R590. Insurance, Administration.
R590-186. Bail Bond Business.
R590-186-1. [~~Purpose.~~

~~This rule establishes criteria and procedures for licensing a bail bond agency and sets standards of conduct.~~

~~R590-186-2.~~]Authority.

This rule is promulgated by the commissioner pursuant to[~~:~~

~~(1) Section 31A-35-104 which requires the commissioner to adopt by rule specific licensure and certification guidelines and standards of conduct for the bail bond business;~~

~~(2) Subsection 31A-35-301(1) which authorizes the commissioner to adopt rules necessary to administer Title 31A, Chapter 35;~~

~~(3) Subsection 31A-35-401(2) which allows the commissioner to require by rule additional information from bail bond agency license applicants; and~~

~~(4) Subsection 31A-35-406(1)(b) which allows the commissioner to establish by rule the annual renewal date for the renewal of a license as a bail bond agency~~] Sections 31A-35-104 and 31A-35-301.

R590-186-[~~3~~]2. Purpose and Scope[~~ and Applicability~~].

[~~This rule applies to any person engaged in the bail bond business~~](1) The purpose of this rule is to establish

(a) licensing criteria;

(b) certification guidelines; and

(c) standards of conduct for the bail bond business.

(2) This rule applies to a person licensed as:

(a) a bail bond agency;

(b) a bail bond producer; or

(c) a surety insurer.

R590-186-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-35-102. Additional terms are defined as follows:

(1) "Bail bond business" means engaging in conduct authorized under Title 31A, Chapter 35, Bail Bond Act.

(2) "Persons or members of their immediate families," used in Subsection 31A-35-701(5), means a spouse, child, stepchild, child-in-law, parent, sibling, parent-in-law, sibling-in-law, stepparent, stepsibling, or half-sibling.

(3) "Unprofessional conduct" means a violation of an insurance law, rule, or order of the commissioner.

R590-186-4. Initial and Renewal Agency License.

(1) [~~Applications~~]An application for an initial [~~and~~]or a renewal bail bond agency license shall be filed with the commissioner.

(2) [~~The applicant shall provide the following with the application~~]An application shall include:

(a) [~~the~~]an initial or renewal license fee [~~in R590-102-16~~]as set forth in Rule R590-102; and

(b) proof that [~~the~~]an applicant satisfies the minimum financial requirements for a bail bond agency license [~~set forth in~~]under Section 31A-35-404.

R590-186-5. Bail Bond Producer License and Renewal.

(1) [~~Bail bond agencies and~~]A bail bond agency or surety insurer[~~s must~~] shall issue a bail bond[~~s~~] through a licensed bail bond producer[~~s~~] who [~~have been~~]is designated by the bail bond agency or [~~have been~~]is contracted with and appointed by the surety insurer.

(2)[~~ All persons~~](a) A person doing business as a bail bond producer[~~s must~~] shall be licensed in accordance with:

(i) Title 31A, Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

(ii) Section 31A-35-406[~~,~~]; and

(iii) any applicable rule[~~s~~] regarding individual producer licensing.[~~ Bail~~]

(b) A bail bond producer license[~~s are~~] is an individual limited line license[~~s~~].[~~ These licenses are~~]

(c) A bail bond producer license is issued for a two-year period and requires no licensing examination or continuing education[~~. Individual bail bond producer licenses must be renewed at the end of the two-year licensing period~~].

R590-186-6. Unprofessional Conduct.

[~~Persons in the bail bond business~~]A person licensed as a bail bond agency, a bail bond producer, or a surety insurer may not engage in unprofessional conduct[~~. Unprofessional conduct means the violation of any applicable insurance law, rule or valid order of the commissioner, or the commission of~~], which includes any of the following acts:

(1) having a professional or occupational license revoked in this or any other state;

(2) being involved in a[~~ny~~] transaction [~~which~~]that shows unfitness to act in a fiduciary capacity;

(3) willfully misstating or negligently reporting a[~~ny~~] material fact in the initial or renewal application or procuring a misstatement in [~~the~~]a document[~~s~~] supporting [~~the~~]an initial or renewal application;

(4) being the subject of an[~~y~~] outstanding civil judgment [~~which would reduce the~~]that reduces a bail bond agency's net worth below the minimum required for licensure;

(5) being convicted of a[~~ny~~] felony[~~ or~~];

(6) being convicted of a[~~ny~~] misdemeanor that involves the misappropriation of money or property, dishonesty, or perjury;

([~~6~~]7) failing to report [~~any~~]collateral taken as security on a[~~ny~~] bail bond to the principal, indemnitor, or depositor of such collateral;

([~~7~~]8) failing to preserve, or to retain separately, or both, any collateral taken as security on a[~~ny~~] bail bond;

([~~8~~]9) failing to return collateral taken as security on a[~~ny~~] bail bond to the depositor of such collateral, or the depositor's designee, within ten business days of [~~having been~~]being notified of the exoneration of the bail bond or upon payment of all fees owed to the bail bond agent, whichever is later;

([~~9~~]10) failing to advise the commissioner of a[~~ny~~] change that has reduced the bail bond agency's net worth below the minimum required for licensure;

([~~10~~]11) using a relationship with a[~~ny~~] person employed by a jail facility or incarcerated in a jail facility to obtain [~~bonding~~]bail bond referrals;

([~~11~~]12) offering consideration or [~~gratuities~~]a gratuity to jail personnel[~~ or~~], a peace officer[~~s or~~], or an inmate[~~s~~] under a[~~ny~~] circumstance[~~s which would permit the inference that said~~] that infers the consideration was offered to induce [~~bonding~~]a bail bond referral[~~s~~] or recommendation[~~s~~];

([~~12~~]13) failing to deliver to [~~the~~]an incarcerated person, or [~~the~~]a person arranging bail on behalf of [~~the~~]an incarcerated person, [~~prior to~~]before the time the incarcerated person is released from jail, a one[~~-~~]-page disclosure form [~~which at a minimum~~]that includes:

(a) the amount of the bail;

(b) the amount of the bail bond agency's fee, including bail bond premium, preparation fees, and credit transaction fees;

(c) the additional collateral, if any, that will be held by the bail bond agency;

(d) the incarcerated person's obligations to the bail bond agency and the court;

(e) the conditions upon which the bail bond may be revoked;

(f) [~~any~~]additional charges or interest that may accrue;

(g) [~~any~~]co-signors or indemnitors that will be required; and

(h) the conditions under which the bail bond may be exonerated and the collateral returned[~~.~~];

([~~13~~]14) using an unlicensed bail bond agent or unlicensed bail bond enforcement agent;

([~~14~~]15) using a bail bond agent not contracted and appointed by a bail bond agency or surety insurer;

([~~15~~]16) charging excessive or unauthorized premiums, excessive fees, or other unauthorized charges;

([~~16~~]17) requiring unreasonable collateral security;

([~~17~~]18) failing to provide an itemized statement of [~~all~~]expenses deducted from collateral[~~, if any~~];

([~~18~~]19) [~~requiring as a condition of executing a bail bond that the bond purchaser agree to engage the services of a specified attorney~~]requiring that a specific attorney be used as a condition to execute a bail bond;

([~~19~~]20) preparing or issuing a fraudulent or forged bail bond[~~s~~] or power of attorney;

([~~20~~]21) signing, executing, or issuing a bail bond[~~s~~] by an unlicensed person;

([~~21~~]22) executing a bail bond[~~s~~] without countersignature by a licensed bail bond producer at time of issue;

([~~22~~]23) failing to account for and [~~to~~]pay [~~any~~]premiums held by [~~the licensee~~]a bail bond producer or a bail bond agency in a fiduciary capacity to the bail bond agency, surety insurer, or other person who [~~is entitled to~~]may receive them;

([~~23~~]24) knowingly violating, advising, encouraging, or assisting [~~the violation of any~~]in violating a statute, court order, or injunction in the course of [~~a~~]the bail bond business[~~ regulated under Title 31A, Chapter 35;~~

~~(24) conviction of felony involving illegally using, carrying, or possessing a dangerous weapon~~];

(25) conviction of an[~~y~~] act of personal violence or force against any person or conviction of threatening to commit an[~~y~~] act of personal violence or force against any person, including [~~but not limited to~~]a violent [~~felonies~~]felony as defined under Section 76-3-203.5;

(26) soliciting a sexual favor[~~s~~] as a condition of obtaining, maintaining, or exonerating a bail bond, regardless of the identity of the person who performs the favor[~~s~~];

(27) acting as an unlicensed bail bond enforcement agent;

(28) failing to [~~comply with~~]satisfy an outstanding judgment[~~s~~]; and

(29) using deceptive or intimidating practices.

R590-186-7. Investigating Unprofessional Conduct.

(1) The commissioner shall investigate a complaint[~~s~~] of unprofessional conduct submitted in writing to the commissioner.

(2) Once [~~the~~]an investigation is complete, the commissioner shall report findings and a recommended disposition to the board.[~~ That report shall be~~]

(3) A report from the commissioner is confidential and may not be disclosed beyond the [~~Insurance D~~]department and the board.

(4) After obtaining the board's [~~comments and~~]recommendations concerning [~~the report~~]an investigation, the commissioner will determine the appropriate disposition.

R590-186-8. Bonding Limits.

(1) A bail bond agency that maintains a qualified power of attorney from a surety insurer may not maintain outstanding bail bond obligations [~~in excess of~~]over the amount allowed by the surety insurer.

(2) A bail bond agency that pledges assets of a letter of credit or pledges personal or real property may not maintain outstanding bail bond obligations [~~in excess of~~]over the amounts provided in the table below:

[~~TABLE~~

~~Financial Requirements Ratio of Outstanding Bond Obligations to Letter of Credit or Net Worth and Liquidity Amounts~~

~~$250,000 line of credit or net worth/$50,000 liquidity) licensed 0 to 36 months: 5 to 1 licensed over 36 months: 5 to 1~~

~~300,000 or more line of credit limit or net worth/ at least $100,000 liquidity licensed 0 to 36 months: 5 to 1 licensed over 36 months: 10 to 1~~]

TABLE	
Financial Requirements	Ratio of Outstanding Obligations to Letter of Credit or Net Worth and Liquidity Amounts
$250,000 line of credit or net worth/$50,000 liquidity	Licensed 0 to 36 months: 5 to 1
	Licensed over 36 months: 5 to 1
$300,000 or more line of credit limit or net worth/at least $100,000 liquidity	Licensed 0 to 36 months: 5 to 1
	Licensed over 36 months: 10 to 1

(3) The commissioner may reduce the bail bonding limit of a bail bond agency that is backed by a letter of credit or a [~~property bail bond agency who has qualified for~~]bail bond agency that pledges personal or real property, if the bail bond agency meets the 10 to 1 ratio [~~if that~~]and the bail bond agency's line of credit[~~ limit or~~], net worth, or liquidity limit falls below the limits stated in Subsection (2)[~~ above~~].

R590-186-9. [~~Definition.~~

~~For the purpose of Subsection 31A-35-701(5), "members of their immediate families" means spouse, children, stepchildren, children-in-law, mother, father, brother, sister, mother-in-law, father-in-law, sister-in-law, brother-in-law, step-mother, step-father, step-brother, step-sister, half-brother, or half-sister.~~

~~R590-186-10. Penalties.~~

~~Violations of this rule are punishable pursuant to Section 31A-2-308.~~

~~R590-186-11.~~]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 R590-186, 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[~~June 21, 2019~~]
Notice of Continuation: July 10, 2018
Authorizing, and Implemented or Interpreted Law: 31A-35-104; 31A-35-301; 31A-35-401; 31A-35-406

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R590-200**	**Filing ID 54407**

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:

R590-200. Diabetes Treatment and Management

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 the rule text more in line with current rulewriting standards. Other changes make the language of the rule more clear, and update Section R590-200-6 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-22-626	

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:	05/02/2022

10. This rule change MAY become effective on:	05/09/22

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:**	03/09/2022

R590. Insurance, Administration.
R590-200. Diabetes Treatment and Management.
R590-200-1. Authority.

This rule is promulgated [~~pursuant to Subsections 31A-2-201(1) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title. The authority to set minimum standards by rule for coverage of diabetes is provided in~~]by the commissioner pursuant to Sections 31A-2-201 and 31A-22-626.

R590-200-2. Purpose and Scope.

[~~The purpose of this rule is to establish minimum standards of coverage for diabetes. Diabetes includes individuals with:~~

~~(1) complete insulin deficiency or type 1 diabetes;~~

~~(2) insulin resistance with partial insulin deficiency or type 2 diabetes; and~~

~~(3) elevated blood glucose levels induced by pregnancy or gestational diabetes.~~

~~This coverage will be provided at the levels consistent with the coverage provided for the treatment of other illnesses or diseases.~~

~~**R590-200-3. Applicability and Scope.**~~

~~(1) This rule applies to all health care insurance policies sold in Utah.~~

~~(2) This rule does not prohibit an insurer from requesting additional information required to determine eligibility of a claim under the terms of the policy, certificate or both, as issued to the claimant~~](1) The purpose of this rule is to establish minimum standards of coverage for diabetes.

(2) This rule applies to each accident and health insurance policy that provides a health insurance benefit.

(3) This rule does not prohibit an insurer from requesting additional information to determine eligibility of a claim under the terms of a policy, certificate, or both.

R590-200-[4]3. Definitions.

[~~For purposes of this rule the commissioner adopts the definitions as particularly 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:

[~~(1) "Health care insurance" means insurance providing health care benefits or payment of health care expenses incurred, including prescription insurance. Health care insurance does not include accident and health insurance providing benefits for:~~

~~(a) dental and vision;~~

~~(b) replacement of income;~~

~~(c) short term accident;~~

~~(d) fixed indemnity;~~

~~(e) credit accident and health;~~

~~(f) supplements to liability;~~

~~(g) workers compensation;~~

~~(h) automobile medical payments;~~

~~(i) no fault automobile;~~

~~(j) Medicare supplement insurance plans;~~
~~(k) equivalent self-insurance;~~
~~(l) any type of accident and health insurance that is a part of or attached to another type of policy; or~~
~~(m) long term care insurance.~~]

[~~(2)~~](1)(a) "Diabetes" means diabetes mellitus, [~~which is~~]a common chronic, serious systemic disorder of energy metabolism [~~that includes~~]including a heterogeneous group of metabolic disorders [~~that can be~~]characterized by an elevated blood glucose level.

(b) The terms "diabetes" and "diabetes mellitus" are [~~considered~~]synonymous and defined to include[~~ persons using insulin, persons not using insulin, individuals with elevated blood glucose levels induced by pregnancy, or persons with other medical conditions or medical therapies which wholly or partially consist of elevated blood glucose levels~~]:

(i) a person using insulin;

(ii) a person not using insulin;

(iii) an individual with an elevated blood glucose level induced by pregnancy; and

(iv) a person with another medical condition or medical therapy that wholly or partially consists of an elevated blood glucose level.

(c) Diabetes includes an individual with:

(i) complete insulin deficiency, or type 1 diabetes;

(ii) insulin resistance with partial insulin deficiency, or type 2 diabetes; and

(iii) an elevated blood glucose level induced by pregnancy, or gestational diabetes.

[~~(3)~~](2)(a) "Diabetes self-management training" means a program designed to help an individual[~~s to~~] learn to manage their diabetes in an outpatient setting.[~~ They learn self-management skills that include~~]

(b) Self-management training topics include:

(i) making lifestyle changes to effectively manage [~~their~~]diabetes[~~ and to avoid or delay~~];

(ii) avoiding or delaying the complications, hospitalizations, and emergency room visits associated with [~~this illness. This training includes~~]diabetes; and

(iii) medical nutrition therapy.

[~~(4)~~](3) "Medical equipment" means non-disposable[~~/~~] or durable equipment used to treat diabetes[~~ and will be treated per the standard deductibles, copayments, out of pocket maximums and coinsurance of the policy~~].

[~~(5)~~](4) "Medical nutrition therapy" means the assessment and therapy of a patient's nutritional status [~~followed by therapy~~]including diet modification, planning, and counseling services [~~which are~~]furnished by a registered licensed dietitian.

[~~(6)~~](5) "Medical supplies" means [~~the~~]a generally accepted single-use item[~~s~~] used to manage, monitor, and treat diabetes, and to administer [~~diabetes~~]diabetic specific medication[~~s. Medical supplies will be treated per the standard deductibles, copayments, out of pocket maximums and coinsurance of the policy~~].

R590-200-5. Minimum Standards and General Provisions.

(1) Coverage for [~~the~~]diabetes treatment [~~of diabetes~~]is subject to the deductibles, copayments, out-of-pocket maximums, and coinsurance of the [~~plan~~]policy.

(2)(a) [~~All health care insurance policies will~~]An accident and health insurance policy that provides a health insurance benefit shall cover diabetes self-management training and patient management, including medical nutrition therapy, when [~~deemed~~]medically necessary and prescribed by [~~an attending physician covered by the plan~~]a physician.

(b) The diabetes self-management training services must be provided by a diabetes self-management training program[~~ that is accepted by the plan and is~~]:

(i) recognized by the Centers for Medicare and Medicaid Services;[~~ or~~]

(ii) certified by the Utah Department of Health; or

(iii) approved or accredited by a national organization certifying standards of quality in the provision of diabetes self-management education.

(c) [~~Diabetes~~]A diabetes self-management training program[~~s~~] shall be provided upon[~~ a health care insurance policyholder's/dependent's~~]:

(i) a diagnosis with diabetes[~~, upon~~];

(ii) a significant change in a [~~health care insurance policyholder's/dependent's~~]diabetes[-]-related condition[~~, upon~~];

(iii) a change in [~~a health care insurance policyholder's/dependent's~~]diagnostic levels[~~, or upon~~]; or

(iv) a change in treatment regimen[~~ when deemed medically necessary and prescribed by an attending physician covered by the plan. The plan must provide no less than the minimum standards required by the selected self-management training services provider program~~].

(3) [~~All health care policies will~~]An accident and health insurance policy that provides a health insurance benefit shall cover the following when [~~deemed~~]medically necessary:

(a) blood glucose monitors[~~, including commercially available blood glucose monitors~~] designed for diabetic patients[~~ use and for persons who have been diagnosed with diabetes~~];

(b) blood glucose monitors [~~to~~]for the legally blind [~~which includes commercially available blood glucose monitors~~]designed for [~~patient~~]use with adaptive devices[~~ and for persons who are legally blind and have been diagnosed with diabetes~~];

(c) test strips for glucose monitors, [~~which include~~]including test strips [~~whose performance achieved clearance~~]cleared by the FDA[~~ for marketing~~];

(d) [~~visual reading and urine testing strips, which includes~~]visual reading strips for glucose and ketones;[~~,~~]

(e) urine testing strips for glucose and ketones[~~, or urine test strips for both glucose and ketones. Using urine test strips for glucose only is not acceptable as the sole method of monitoring blood sugar levels~~];

[~~(e)~~](f) lancet devices and lancets for monitoring glycemic control;

[~~(f)~~](g) insulin, [~~which includes commercially available insulin preparations including insulin analog preparations available~~]including analog, in either vial or cartridge;

[~~(g)~~](h) injection aids, including those adaptable to meet the needs of the legally blind[~~, to assist with insulin injection~~];

[~~(h)~~](i) syringes, [~~which includes~~]including insulin syringes, pen-like insulin injection devices, [~~pen~~]needles for pen-like insulin injection devices, and other disposable parts required for insulin injection aids;

[~~(i)~~](j) insulin pumps, [~~which includes~~]including insulin infusion pumps[~~.~~];

[~~(j)~~](k) [~~"~~]medical supplies[~~"~~] for use:

(i) with insulin pumps and insulin infusion pumps, [~~to include~~]including infusion sets, cartridges, syringes, skin preparation, batteries, and other disposable supplies needed to maintain insulin pump therapy; and

[~~(k) "medical supplies" for use~~](ii) with or without insulin pumps and insulin infusion pumps[~~ to include~~], including durable and disposable devices [~~to assist with~~]for the injection of insulin and infusion sets;

(l) prescription oral agents of each class approved by the FDA for treatment of diabetes, and a variety of drugs, when available, within each class; and

(m) glucagon kits.

(4)(a) [~~As required by Subsections 31A-22-626(9) and 31A-22-626(10), no~~]No later than June 1 each year, the department shall publish on the department's website at www.insurance.utah.gov:

(i) the price of insulin available under the discount program described in Section 49-20-421;

(ii) the insulin prescription caps for the following calendar year; and

(iii) the average wholesale price of insulin per milliliter, AWP/mL, for each calendar year 2019 and later.

(b) The insulin prescription caps [~~shall be~~]are calculated using data provided by Public Employees Health Plan[~~,~~] (PEHP)[~~,~~] based on the annual change in the average AWP/mL.

(i) The calculation [~~takes into account~~]considers the following initial reference values:

(A) PEHP's average insulin AWP/mL in 2019 of $40.18, Base AWP/mL;

(B) the 2021 insulin prescription cap in Subsection 31A-22-626(4)(a) of $30, Base Low Cap; and

(C) the 2021 insulin prescription cap in Subsection 31A-22-626(6)(b) of $100, Base High Cap.

(ii) The insulin prescription cap [~~will be~~]is rounded to the nearest dollar.

(c) The insulin prescription cap formula for years after 2021 for Subsection 31A-22-626(4)(a) is: Year X low cap = (Average AWP/mL for Year X-2 / Base AWP/mL) * (Base Low Cap) rounded to the nearest dollar.

(d) The insulin prescription cap formula for years after 2021 for Subsection 31A-22-626(6)(b) is: Year X high cap = (Average AWP/mL for Year X-2 / Base AWP/mL) * (Base High Cap) rounded to the nearest dollar.

(e) The adjusted insulin prescription cap posted on June 1 takes effect for a policy issued or renewed on or after January 1 of the following calendar year.

R590-200-6. Severability.

[~~If any provision or clause of this rule or its application to any person or situation is held invalid, such validity shall not affect any other provisions 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 R590-200, 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[~~June 22, 2021~~]
Notice of Continuation: February 25, 2021
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-22-626

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	**R590-287**	**Filing ID 54419**

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:

R590-287. Manufacturer Data Reporting

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

This rule adopts changes and implements drug manufacturer reporting requirements as provided in Subsection 31A-48-103(5).

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 rule provides specific guidance on how drug manufacturers should report pharmacy drug information to the Utah Insurance Department (Department) as required by Subsection 31A-48-103(1).

Virtual Hearing Meeting ID:
April 13, 2022, 10:00 a.m.
meet.google.com/rhc-myae-uit
Phone: 503-917-5650
PIN: 786 418 143#

Fiscal Information

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

A) State budget:

Implementation of this rule is anticipated to add an estimated one-time cost of $12,500 to the state budget. The work will be performed by the Division of Technology Services, so the net cost to the state will be $0. The Department has already created the Utah Insurance Department Pharmacy Web Portal for drug manufacturer reporting; however, it needs to be updated to gather the information required by this rule. Analysis of the information gathered from drug manufacturers will be performed by employees as part of their regular workload and will not have an ongoing cost.

B) Local governments:

There is no anticipated cost or savings to local governments. This rule only has requirements for certain non-small businesses and will not affect any other persons.

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

There is no anticipated cost or savings to small businesses. This rule only has requirements for certain non-small businesses and will not affect any other persons.

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

Non-small businesses that manufacture pharmaceutical drugs may see added minimal costs under this rule. The Department estimates that this rule could affect approximately 700 drug manufacturers that have a drug product available for sale in Utah that could potentially fall under the reporting requirements of Subsection 31A-48-103(1). Drug manufacturers already produce this information as part of their normal business operations and are already providing similar information to other state drug transparency programs. There may be minimal costs associated with compiling and submitting the required information to the Department, but this cannot be quantified because they would be business costs specific to each insurer, and the Department has no way to estimate them.

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

There is no anticipated cost or savings to any other persons. This rule only has requirements for certain non-small businesses and will not affect any other persons.

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

This rule is expected to have minimal compliance costs for affected persons. Drug manufacturers already produce this information as part of their normal business operations and are already providing similar information to other state drug transparency programs. There may be minimal costs associated with compiling and submitting the required information to the Department, but this cannot be quantified because they would be business costs specific to each insurer, and the Department has no way to estimate them.

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 may result in a fiscal impact to some businesses. Drug manufacturers already produce the required information as part of their normal business operations, and already provide similar information to other states. A business may have an additional cost due to submitting the information to an additional state, but the process is similar to other states and the costs are expected to be minimal. 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	$12,500	$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	**$12,500**	**$0**	**$0**
Fiscal Benefits			
State Government	$12,500	$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	**$12,500**	**$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-48-103	

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:	05/02/2022	
B) A public hearing (optional) will be held:		
On:	**At:**	**At:**
04/13/2022	10:00 AM	See details in Box 4 above.

10. This rule change MAY become effective on:	05/09/2022
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:**	03/15/2022

R590. Insurance, Administration.
R590-287. Manufacturer Data Reporting.
R590-287-1. Authority.

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-48-103.

R590-287-2. Purpose and Scope.

(1) The purpose of this rule is to establish the:
(a) method for reporting information, and
(b) information required to promote comparability of the information reported to the department.
(2) This rule applies to a manufacturer.

R590-287-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-48-102. Additional terms are defined as follows:
(1) "Drug product" means the finished dosage form of a drug that contains a drug substance, in association with other active or inactive ingredients, and that has a unique NDC.
(2) "FDA" means the United States Food and Drug Administration.
(3) "National Drug Code" or "NDC" means a three-segment code maintained by the FDA that is converted to an 11-digit format and includes a:
(a) labeler code;
(b) product code; and
(c) package code.
(4) "WAC" means wholesale acquisition cost.

R590-287-4. Manufacturer Reporting and Submission.

(1) For each drug product that experiences a wholesale acquisition cost increase, a manufacturer shall submit the following information to the department:
(a) WAC history;
(b) approval history; and
(c) patent history.
(2) The reported information shall comply with the instructions provided by the Utah Insurance Department Pharmacy Web Portal User Guide available at https://insurance.utah.gov/consumer/other/pharmacy.
(3) The information required under this rule and Subsection 31A-48-103(1) shall be submitted electronically at https://pharma.utah.gov/.

R590-287-5. WAC History.

The reported WAC history shall include the following information:
(1) the name of the manufacturer;
(2) the drug product's NDC;
(3) a description of the drug product that includes the;
(a) name;
(b) strength;
(c) dosage form; and
(d) package size;
(4) the FDA classification of the drug product as brand or generic;
(5) the effective date of the WAC increase for the drug product;
(6) the amount of the WAC increase for the drug product;
(7) the WAC resulting from the reported cost increase for the drug product;
(8) the WAC one calendar year prior to the effective date of the reported cost increase of the drug product;
(9) the WAC two calendar years prior to the effective date of the reported cost increase of the drug product;
(10) a written description, suitable for public release, of the factors that led to the increase in the WAC of the drug product and the significance of each factor; and

(11) the manufacturer's aggregate company-wide research and development costs for the most recent year for which final audit data is available.

R590-287-6. Approval History.

The reported approval history shall include the following information for a manufacturer's drug that was approved by the FDA during the three calendar years prior to the effective date of the reported cost increase for the drug product reported in Section R590-287-5:

(1) the name of the drug; and

(2) the date when the drug was approved by the FDA.

R590-287-7. Patent History.

The reported patent history shall include the following information for a manufacturer's drug that lost patent exclusivity in the United States during the three calendar years prior to the effective date of the reported cost increase for the drug product reported in Section R590-287-5:

(1) the name of the drug; and

(2) the date when the patent expired.

R590-287-8. Severability.

If any provision of this rule, R590-287, or its application to any person or situation is held to be invalid, such invalidity does not affect any other provision or application of this rule which can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: data, data reporting, insurance, pharmacy manufacturer
Date of Last Change: 2022
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-48-103

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R614-1-4**	**Filing ID 54392**

Agency Information

1. Department:	Labor Commission	
Agency:	Occupational Safety and Health	
Room no.:	3rd Floor	
Building:	Heber M. Wells	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146600	
City, state and zip:	Salt Lake City, UT 84114-6600	
Contact person(s):		
Name:	**Phone:**	**Email:**
Cameron Ruppe	801-530-6898	cruppe@utah.gov
Holly Lawrence	801-530-6494	hlawrence@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R614-1-4. Incorporation of Federal Standards

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

The purposes of these amendments to Utah's Occupational Safety and Health (UOSH) rules are to:

Provide specific exemptions and clarifications with regard to the application of 29 Code of Federal Regulations (CFR) 1926 Subpart CC to cranes and derricks used for railroad roadway work. The revised standard provides a clearer understanding of which regulatory requirements are applicable, resulting in a more effective regulatory program and ultimately improved safety;

Clarify and simplify certain provisions of the existing general industry standard for occupational exposure to beryllium and beryllium compounds to improve compliance. The revisions are designed to maintain or enhance worker protections overall by ensuring that the rule is well understood, and compliance is more straightforward;

Clarify and simplify certain provisions of the existing construction standards for occupational exposure to beryllium and beryllium compounds to improve compliance. These changes are designed to accomplish three goals: to more appropriately tailor the requirements of the construction standards to the particular exposures in these industries in light of partial overlap between the beryllium standards' requirements and other occupational safety and health standards incorporated by UOSH; to aid compliance and enforcement across the beryllium standards by avoiding inconsistency, where appropriate, between the construction standards and recent revisions to the general industry standard; and to clarify certain requirements with respect to materials containing only trace amounts of beryllium; and

Satisfy the requirement of Subsection 34A-6-102(2) of the Utah Occupational Safety and Health Act that UOSH's occupational safety and health standards be "as effective as" the standards established by federal Occupational Safety and Health Administration (OSHA).

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

The proposed amendment incorporates:

29 CFR 1926 Subpart CC – Cranes and Derricks in Construction which:
Excludes flash-butt welding trucks and equipment with similar attachments from the requirements, consolidates railroad roadway maintenance machines (RMM) exceptions into a single section, and sets out the scope of exemptions for employers using RMMs which includes exemptions for operator certification, training and evaluation; rail clamps, rail stops and work-area controls; out-of-level work; dragging a load sideways; boom-hoist limiting device; manufacturer guidance for modifications covered by 29 CFR 1926.1434; and other manufacturer guidance.

29 CFR 1910.1024 – Beryllium in General Industry which:
Includes additions and modifications of definitions to the standard, as well as includes revisions, which clarify and simplify certain provisions, to paragraph (f), Methods of compliance; paragraph (h), Personal protective clothing and equipment; paragraph (i), Hygiene areas and practices; paragraph (j), Housekeeping; paragraph (k), Medical surveillance; paragraph (m), Communication of hazards; and paragraph (n), Recordkeeping.

29 CFR 1926.1124 – Beryllium in Construction which:
Includes additions and modifications of definitions to the standard, as well as includes revisions, which clarify and simplify certain provisions, to paragraph (f), Methods of compliance; paragraph (g), Respiratory protection; paragraph (h), Personal protective clothing and equipment; paragraph (i), Hygiene areas and practices; paragraph (j), Housekeeping; paragraph (k), Medical surveillance; paragraph (m), Communication of hazards; and paragraph (n), Recordkeeping.

Fiscal Information

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

A) State budget:

UOSH's enforcement of the proposed amendment will not result in additional costs or savings to the state budget; the amended rules clarify and simplify certain provisions of the standards and will not place an additional burden on UOSH enforcement.

B) Local governments:

Local governments have no administration or enforcement obligations under the proposed amendment.

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

29 CFR 1926 Subpart CC - Cranes and Derricks in Construction:
Changes to this rule will not result in additional costs. Any savings as a result of proposed changes are not economically significant.

29 CFR 1910.1024 – Beryllium in General Industry / 29 CFR 1926.1124 – Beryllium in Construction:
The proposed amendments will result in an overall cost savings to small businesses in general industry and the construction industry. The total number of employees in Utah who are exposed to beryllium in these industries is unknown and therefore, the total cost savings is inestimable. Nationwide, the amendments to the construction rule would incur a total annualized cost savings of $2,500,000 in 2019 dollars at a 3% discount rate over 10 years; and a total annualized cost savings of $2,600,000 in 2019 dollars at a discount rate of 7% over 10 years. Because proposed changes to the general industry standard clarifies and simplifies certain provisions to improve compliance, the cost savings are unquantifiable, largely due to the prevention of misinterpretation and misapplication of the standard.

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

29 CFR 1926 Subpart CC - Cranes and Derricks in Construction:
Changes to this rule will not result in additional costs. Any savings as a result of proposed changes are not economically significant.

29 CFR 1910.1024 – Beryllium in General Industry / 29 CFR 1926.1124 – Beryllium in Construction:
The proposed amendments will result in an overall cost savings to non-small businesses in general industry and the construction industry. The total number of employees in Utah who are exposed to beryllium in these industries is unknown and therefore, the total cost savings is inestimable. Nationwide, the amendments to the construction rule would incur a total annualized cost savings of $2,500,000 in 2019 dollars at a 3% discount rate over 10 years; and a total annualized cost savings of $2,600,000 in 2019 dollars at a discount rate of 7% over 10 years. Because proposed changes to the general industry standard clarifies and simplifies certain provisions to improve compliance, the cost savings are unquantifiable, largely due to the prevention of misinterpretation and misapplication of the standard.

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***)**:**

29 CFR 1926 Subpart CC - Cranes and Derricks in Construction:
Changes to this rule will not result in additional costs. Any savings as a result of proposed changes are not economically significant.

29 CFR 1910.1024 – Beryllium in General Industry / 29 CFR 1926.1124 – Beryllium in Construction:
The proposed amendments will result in an overall cost savings to persons in general industry and the construction industry. The total number of employees in

Utah who are exposed to beryllium in these industries is unknown and therefore, the total cost savings is inestimable. Nationwide, the amendments to the construction rule would incur a total annualized cost savings of $2,500,000 in 2019 dollars at a 3% discount rate over 10 years; and a total annualized cost savings of $2,600,000 in 2019 dollars at a discount rate of 7% over 10 years. Because proposed changes to the general industry standard clarifies and simplifies certain provisions to improve compliance, the cost savings are unquantifiable, largely due to the prevention of misinterpretation and misapplication of the standard.

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

29 CFR 1926 Subpart CC - Cranes and Derricks in Construction:
Changes to this rule will not result in additional compliance costs for affected persons.

29 CFR 1910.1024 – Beryllium in General Industry / 29 CFR 1926.1124 – Beryllium in Construction:
Changes to these rules will not result in additional compliance costs for 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 will not have a significant fiscal impact on businesses and may result in a small cost savings to affected employers. To remain at least as effective as Federal OSHA and be able to retain Utah's State-Plan status, and to keep the employees of the state safe, these changes to this rule, specifically the incorporation of the beryllium standards in construction and general industry, must be adopted. Jaceson R. Maughan, Commissioner

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

Regulatory Impact Table

Fiscal Cost	**FY2022**	**FY2023**	**FY2024**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
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, Jaceson R. Maughan, 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:

Title 34A, Chapter 6		

Incorporations by Reference Information

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

	First Incorporation
Official Title of Materials Incorporated (from title page)	29 CFR 1904
Issue, or version	2021

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

	Second Incorporation
Official Title of Materials Incorporated (from title page)	29 CFR 1910
Issue, or version	2021

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

	Third Incorporation
Official Title of Materials Incorporated (from title page)	29 CFR 1926
Issue, or version	2021

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:	05/02/2022

10. This rule change MAY become effective on:	05/10/2022
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:	Jaceson R. Maughan, Commissioner	**Date:**	03/04/2022

R614. Labor Commission, Occupational Safety and Health.
R614-1. General Provisions.
R614-1-4. Incorporation of Federal Standards.

A. The following federal occupational safety and health standards are [~~hereby~~]incorporated:

1. 29 CFR 1904, July 1, [~~2020~~]2021, is incorporated by reference, except 29 CFR 1904.36 and the workplace fatality, injury and illness reporting requirements found in 29 CFR 1904.1, 1904.2, 1904.7 and 1904.39. Workplace fatalities, injuries and illnesses shall be reported pursuant to the more specific Utah standards in S[~~s~~]ubsection 34A-6-301(3)(b)(ii) of the Utah OSH Act and Subsection[~~UAC~~] R614-1-5(B)(1).

2. 29 CFR 1908, July 1, 2015, is incorporated by reference.

3. 29 CFR 1910.6 and 1910.21 through the end of part 1910, of the July 1, [~~2020~~]2021, edition are incorporated by reference.

4. 29 CFR 1926.6 and 1926.20 through the end of part 1926, of the July 1, [~~2020~~]2021, edition are incorporated by reference.

KEY: safety
Date of Last Change: 2022[~~September 8, 2021~~]
Notice of Continuation: October 19, 2017
Authorizing, and Implemented or Interpreted Law: 34A-6

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R657-13-9**	**Filing ID 54396**

Agency Information

1. Department:	Natural Resources
Agency:	Wildlife Resources
Room no.:	Suite 2110
Building:	Department of Natural Resources
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 146301
City, state and zip:	Salt Lake City, UT 84114-6301

Contact person(s):		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov

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

General Information

2. Rule or section catchline:

R657-13-9. Underwater Spearfishing

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

This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) fish and crayfish management program.

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 revision removes Ken's Lake from the list of allowed waterbodies for spearfishing.

Fiscal Information

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

A) State budget:

This amendment removes Ken's Lake from the list of waterbodies that allows spearfishing. The DWR has determined that these amendments do not create a cost or savings impact to the state budget or the DWR's budget,

since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:

Since this amendment removes one location for spearfishing this should have little to no effect on local governments. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by this rule. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

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

This amendment removes one location for spearfishing; therefore, this rule does not impose any additional financial requirements on small businesses, nor generate a cost or saving impact to small businesses because this rule does not create a situation requiring services from them.

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

This amendment removes one location for spearfishing; therefore, this rule does not impose any additional financial requirements on non-small businesses, nor generate a cost or saving impact to non-small businesses because this rule does not create a situation requiring services from them.

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

This amendment removes one location for spearfishing; therefore, this rule does not impose any additional financial requirements on other persons, nor generate a cost or saving impact to other persons because this rule does not create a situation requiring services from them.

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

The DWR has determined that this amendment will not create additional costs for those individuals wishing to participate in spearfishing in Utah.

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 measurable fiscal impact to businesses. 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 23-14-18	Section 23-14-19	Section 23-19-1
Section 23-22-3		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the

agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022
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:	J. Shirley, Division Director	**Date:**	03/07/2022

R657. Natural Resources, Wildlife Resources.
R657-13. Taking Fish and Crayfish.
R657-13-9. Underwater Spearfishing.

(1) A person possessing a valid Utah fishing or combination license may engage in underwater spearfishing, only as provided in this s[~~S~~]ection.

(2) The following waters are open to underwater spearfishing from January 1 through December 31 for all species of game fish, unless specified otherwise by individual water:

(a) Big Sand Wash Reservoir (Duchesne County);

(b) Brown's Draw Reservoir (Duchesne County);

(c) Causey Reservoir (Weber County);

(d) Deer Creek Reservoir (Wasatch County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(e) East Canyon Reservoir (Morgan County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(f) Echo Reservoir (Summit County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(g) Electric Lake (Emery County);

(h) Fish Lake (Sevier County), except underwater spearfishing for any game fish is closed from September 16 to the first Saturday in June the following year;

(i) Flaming Gorge Reservoir (Daggett County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(j) Grantsville Reservoir (Tooele County);

(k) [~~Ken's Lake (San Juan County);~~

~~(l)~~]Lake Powell (Garfield, Kane and San Juan Counties), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

([~~m~~]l) Newcastle Reservoir (Iron County), except underwater spearfishing is closed for all species of game fish other than wipers and rainbow trout;

([~~n~~]m) Pineview Reservoir (Weber County), except underwater spearfishing is closed for:

(i) largemouth and small mouth bass from April 1 through the fourth Saturday in June; and

(ii) tiger musky year round.

([~~o~~]n) Porcupine Reservoir (Cache County);

([~~p~~]o) Recapture Reservoir (San Juan County);

([~~q~~]p) Red Fleet Reservoir (Uintah County);

([~~r~~]q) Rockport Reservoir (Summit County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

([~~s~~]r) Sand Lake (Uintah County);

([~~t~~]s) Smith-Moorehouse Reservoir (Summit County);

([~~u~~]t) Starvation Reservoir (Duchesne County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

([~~v~~]u) Steinaker Reservoir (Uintah County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

([~~w~~]v) Willard Bay Reservoir (Box Elder County); and

([~~x~~]w) Yuba Reservoir (Juab and Sanpete Counties).

(3) Nongame fish, excluding prohibited species listed in Section R657-13-13, may be taken by underwater spearfishing:

(a) in the waters listed in Subsection (2) and at Blue Lake (Tooele County) for tilapia and pacu only; and

(b) during the open angling season set for a given body of water.

(4) The waters listed in Subsections (2) and (3)(a) are the only waters open to underwater spearfishing for game or nongame fish, except carp may be taken by [~~means of~~]underwater spearfishing from any water open to angling during the open angling season set for a given body of water.

(5)(a) Underwater spearfishing is permitted from official sunrise to official sunset only, except burbot may be taken by underwater spearfishing at Flaming Gorge Reservoir (Daggett County) between official sunset and official sunrise.

(b) No other species of fish may be taken with underwater spearfishing techniques at Flaming Gorge Reservoir or any other water in the state between official sunset and official sunrise.

(6)(a) Use of artificial light is unlawful while engaged in underwater spearfishing, except artificial light may be used when underwater spearfishing for burbot at Flaming Gorge Reservoir (Daggett County).

(b) Artificial light may not be used when underwater spearfishing for fish species other than burbot at Flaming Gorge Reservoir.

(7) Free shafting is prohibited while engaged in underwater spearfishing.

(8) The daily limit and possession limit for underwater spearfishing is the same as the daily limit and possession limit applied to anglers using other techniques in the waters listed in Subsections (2) and (3)(a), and as identified in the annual Utah Fishing Guidebook issued by the Utah Wildlife Board.

KEY: fish, fishing, wildlife, wildlife law
Date of Last Change: 2022[~~January 24, 2019~~]
Notice of Continuation: September 28, 2017
Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-19-1; 23-22-3

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	**R657-26-5**	**Filing ID 54397**

Agency Information

1. Department:	Natural Resources
Agency:	Wildlife Resources
Room no.:	Suite 2110
Building:	Department of Natural Resources
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 146301
City, state and zip:	Salt Lake City, UT 84114-6301

Contact person(s):

Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov

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

General Information

2. Rule or section catchline:

R657-26-5. Hearings

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

This section is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) adjudicative proceedings for a license, permit, or certificate of registration.

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 revision clarifies language by including trap registration.

Fiscal Information

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

A) State budget:

This amendment only clarifies existing language; therefore, the DWR has determined that these amendments do not create a cost or savings impact to the state budget or the DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:

Since this amendment only clarifies existing language, this should have little to no effect on local governments. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by this rule. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

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

This amendment clarifies existing language; therefore, this rule does not impose any additional financial requirements on small businesses, nor generate a cost or saving impact to small businesses because this rule does not create a situation requiring services from them.

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

This amendment clarifies existing language; therefore, this rule does not impose any additional financial requirements on non-small businesses, nor generate a cost or saving impact to non-small businesses because this rule does not create a situation requiring services from them.

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

This amendment clarifies existing language; therefore, this rule does not impose any additional financial requirements on other persons, nor generate a cost or saving impact to other persons because this rule does not create a situation requiring services from them.

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

The DWR has determined that this amendment will not create additional costs for those individuals who participate in adjudicative proceedings in Utah.

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 measurable fiscal impact to businesses. 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 23-13-2	Section 23-14-1	Section 23-14-19
Section 23-19-9	Section 23-20-14	Section 63G-4-302
Section 63G-4-203		

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:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022

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:	J. Shirley, Division Director	**Date:**	03/07/2022

R657. Natural Resources, Wildlife Resources.
R657-26. Adjudicative Proceedings for a License, Permit, or Certificate of Registration.
R657-26-5. Hearings.

(1)(a) The presiding officer shall provide the respondent with an opportunity for a hearing.

(b) A hearing shall be held if the division receives a written request for a hearing from the respondent within 20 calendar days after the date the notice of agency action is issued.

(2) The respondent, or a person designated by the respondent to appear on the respondent's behalf, may testify at the hearing and present any relevant information or evidence.

(3) Hearings shall be open to the public.

(4) After reviewing all the information provided by the parties, the presiding officer may suspend the respondent's license, permit or certificate of registration privileges in accordance with Section 23-19-9.

(5)(a) The type of license, permit or certificate of registration privilege suspension imposed shall be within the following categories:

(i) all fishing licenses and permits;

(ii) all furbearer and [~~bobcat~~]trap registration licenses[~~and~~], including bobcat permits;

(iii) all hunting licenses and permits for big game;

(iv) all hunting licenses and permits for small game and wild turkey permits. Any person suspended for small game will be eligible to purchase an alternate hunting license to apply for and obtain big game, cougar, and bear permits but will not be issued a hunting license valid to take small game;

(v) all permits to take and pursue cougar and bear;

(vi) all falconry permits and falconry certificates of registration;

(vii) certificates of registration of a type specified; or

(viii) all hunting licenses, permits and certificates of registration;

(ix) all licenses, permits and certificates of registration issued by the division.

(b) The presiding officer may suspend the license, permit or certificate of registration privileges most closely associated with the activity for which the person was participating in when the violation occurred.

(c) The presiding officer may suspend the license, permit or certificate of registration privileges most closely associated with the activity that involved the unlawful taking of protected wildlife for which no season has been established.

(d) If the violation involves acts that occurred while participating in an activity regulated by Title 23, Wildlife Resources Code of Utah, which include more than one of the types of license or permit privileges as provided in Subsection (a), the presiding officer may suspend the license, permit or certificate of registration privileges for all categories that apply.

(e) The presiding officer may impose a suspension of all privileges to hunt protected wildlife or all privileges to take protected wildlife if the violations are found by the presiding officer to be conspicuously bad or offensive. This may include, but are not restricted to, the violations described in Subsections (e)(i) through [~~Subsection~~](e)(viii).

(i) Any violation which could result in suspension that involves taking, in a single criminal episode, four times the legal bag limit of any protected fish species.

(ii) Any violation which could result in suspension that involves taking, in a single criminal episode, three times the legal bag limit of any small game species or waterfowl.

(iii) Any violation which could result in suspension that involves a once-in-a-lifetime species.

(iv) Any violation which could result in suspension that occurs out of season or in a closed area for the species illegally taken and involves a trophy animal.

(v) Three or more felony or class A misdemeanor violations under Section 23-20-4 in a seven-year period, regardless of suspension periods previously imposed.

(vi) Any violation which could result in suspension that involves the unlawful taking, in a single criminal episode, of two or more big game animals.

(vii) Any violation which could result in suspension that involves the unlawful taking, in a single criminal episode, of two or more cougar or bear.

(viii) Any violation subject to Section 23-19-9 that further violates an existing order of revocation or suspension recognized by the Utah Division of Wildlife Resources.

(ix) Any violation which involves the unlawful taking of big game for pecuniary gain.

(6) The director shall appoint a qualified person as a presiding officer in accordance with Subsection 23-19-9(9).

(7) The presiding officer may suspend privileges to take protected wildlife up to but not to exceed the limits as defined in [~~Utah Code~~]Subsections 23-19-9-(4) and (5). The presiding officer will take into account any aggravating or mitigating circumstances when deciding the length of a suspension period.

(8) The presiding officer may suspend privileges based on two or more separate criminal episodes either concurrently or consecutively.

(9) The presiding officer may suspend privileges previously suspended by a court, presiding officer or the Wildlife Board either concurrently or consecutively.

(10) The courts may suspend, in criminal sentencing, a person's privilege to apply for, purchase, or exercise the benefits conferred by a license, permit, or certificate of registration in accordance with Subsection 23-19-9(10).

(11) The division shall suspend and reinstate all hunting, fishing, trapping, and falconry privileges consistent with Title 23, Chapter 25, Wildlife Violator Compact.

KEY: wildlife, suspensions, violations
Date of Last Change: 2022[~~August 7, 2007~~]
Notice of Continuation: July 2, 2021

Authorizing, and Implemented or Interpreted Law: 23-13-2; 23-14-1; 23-14-19; 23-19-9; 23-20-14; 63G-4-302; 63G-4-203

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	**R978-2**	**Filing ID 54418**

Agency Information

1. Department:	Veterans' and Military Affairs	
Agency:	Administration	
Room no.:	450	
Street address:	550 Foothill Drive	
City, state and zip:	Salt Lake City, UT 84113	
Mailing address:	PO Box 581217	
City, state and zip:	Salt Lake City, UT 84156	
Contact person(s):		
Name:	**Phone:**	**Email:**
Jennica Gruver	801-234-0836	jennicagruver@utah.gov
Gary Harter	801-440-6946	gharter@utah.gov
Jeff Hanson	801-897-8762	jbhanson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R978-2. Rule Governing Veterans' Affairs

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

This proposed rule puts back in place the rule supported by Title 71, which governs the operations of the Utah Department of Veterans' and Military Affairs (Department), the appointment and duties of the Department's executive director, the maintenance and operations of the Utah Veterans' Cemetery and Memorial Park, as well as the Department's four state veterans nursing homes.

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)**:**

Fulfills requirement to enact rules for Department responsibilities and clarifies operations and maintenance of the Utah Veterans' Cemetery and Memorial Park, as

well as the Department's four state veterans nursing homes. Statutory authority for this rule can be found in Title 71. (EDITOR'S NOTE: A corresponding 120-day (emergency) Rule R978-2 that is effective as of 03/08/2022 is under ID No. 54404 in this issue, April 1, 2022, of the Bulletin.)

Fiscal Information

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

A) State budget:

Funding for Department activities is largely provided by the U.S. Department of Veterans Affairs.

B) Local governments:

Local governments do not provide funding for the operation of our veterans' homes, veterans' cemetery nor making veterans aware of benefits. Separately from this rule, local governments do interaction with military installations in their areas to ensure their communities are great places for military service members to live and succeed.

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

The Department does contract for services with private companies.

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

The Department does contract for services with private companies.

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***)**:**

Most costs for veteran residents in our veterans skilled nursing facilities and interment in the veterans' cemetery are paid for by the U.S. Veterans Affairs (VA). Costs for care by residents in the veterans home not fully covered by the U.S. VA, are the responsibility of the resident. Fees charged for the interment of spouses of veterans interred in the veterans' cemetery are borne by the families.

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

No compliance costs associated with this rule.

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

No impact on businesses. Gary Harter, 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 Utah Department of Veterans' and Military Affairs, Gary Harter, 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 71-8-2

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also

request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	05/02/2022

10. This rule change MAY become effective on:	05/09/2022
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:	Gary Harter, Executive Director	**Date:**	03/11/2022

R978. Veterans' and Military Affairs, Administration.
R978-2. Rule Governing Veterans' Affairs.
R978-2-1. Authority.

(1) This rule is established pursuant to Section 71-8-2 which established the Department of Veterans' and Military Affairs. This rule is made pursuant to Title 63G, Chapter 3 of the Utah Administrative Rulemaking Act.

R978-2-2. Purpose.

(1) The purpose of this rule is to define the functions and mission of the Department of Veterans' and Military Affairs under Sections 71-8-1 through 71-11-10 and 38 CFR.

R978-2-3. Definitions.

(1) Terms used in this rule are defined in Sections 71-8-1, 71-10-1, and 71-11-2.

(2) Additional terms are defined as follows:

(a) "Homeless veteran" means a qualified veteran who is currently experiencing an episode of homelessness without a stable, regular indoor place of residence.

(b) "Nursing Home" means a State licensed facility accommodating persons who require skilled nursing care and related medical services.

(c) "State Officer" means the State official authorized to oversee the operations of a State veterans nursing home.

(d) "Widow" means the unmarried spouse of a deceased veteran of either sex.

R978-2-4. Nursing Homes.

(1) The department shall administer the various state veterans' nursing homes in accordance with Title 71, Chapter 11, Utah Veterans' Nursing Home Act.

(2) Each nursing home shall have a State Officer who shall act as the department's liaison to carry out the requirements of this act.

(3) Each home shall enforce admission requirements in accordance with Section 71-11-6 as established by the department.

(4) Each home shall comply with 38 CFR 51, "Per Diem for Nursing Home Care of Veterans" for per diem payments, per diem payments for veterans with service connected disabilities, payments for drugs and medicines for certain veterans, and nursing home standards.

(5) The department may contract with reputable nursing home management firms for the day-to-day operation of the nursing homes as provided in 38 CFR 51.210. Selection shall be by a competitive bid process under State Purchasing rules with criteria established by the department. The department shall establish the duration for the management contracts and other contractual terms and conditions in the best interests of the residents.

(6) Notwithstanding the authority of the management firm to employ and direct all nursing home employees, the State Officer shall be an employee of the department and shall be independent of the management firm. The State Officer shall oversee the operations of the state nursing home.

R978-2-5. Cemetery and Memorial Park.

(1) The department shall administer the state veterans' cemetery and memorial park in accordance with Section 71-7-3.

(2) Fees charged for burial expenses shall be posted at the cemetery office and on the department website. Fees charges for other funeral expenses, including headstone replacement, shall be posted at the cemetery office and on the department website.

(3) Private burial fees shall be equivalent to the annually determined federal burial reimbursement rate.

R978-2-6. Homeless Veterans.

(1) The department shall coordinate with local, state and federal programs providing short and long term housing for homeless veterans in the state as provided in Subsection 71-8-3 (1)(d).

R978-2-7. Education Programs.

(1) The department shall administer the State Approving Agency (SAA) for Veterans Education as directed in Subsection 71-8-3(1)(e).

(2) The SAA shall perform all duties necessary for the inspection, approval and supervision of educational programs offered by qualified educational institutions, training establishments, and tests for licensing and certification in accordance with the standards and 38 USC. 30, 32, 33, 35, and 36, and 10 USC 1606 and 1607.

(3) The SAAshall provide in-depth technical assistance and outreach liaison with related organizations, agencies, individuals and activities to help veterans and other eligible persons achieve their educational and vocational goals.

(5) The SAA shall perform other duties and functions as determined by the U.S. Department of Veteran Affairs via annual contract for SAA services and by the department.

R978-2-8. State Benefits.

(1) The department shall assist veterans, their widows and dependents in procurement of rights and benefits which may accrue to them by reason of military service to the United States in accordance with Section 71-9-1. Specifically, the department shall disseminate information on benefits to veterans and interested parties via:

(a) community outreach

(b) fairs, exhibits and community events

(c) the Utah Veterans Voice publication and other appropriate print and electronic media

(d) the department's public website: http://veterans.utah.gov

(e) cooperative activities with other veterans' organizations

(2) Specific state benefits that the department shall assist veterans and their dependents in securing include:
(a) Disabled Veteran Property Tax Abatement
(b) Purple Heart Tuition Waiver
(c) Purple Heart Fee Exemption
(d) Scott B Lundell Tuition Waiver for military members' surviving dependents
(e) Honorary high school diplomas
(f) Veteran's license plates
(g) Free use of armories
(h) Fishing license privileges
(i) Special fun tags
(j) America the Beautiful pass
(k) Trax or bus reduced fare cards
(l) Veterans Upward Bound
(m) Utah Veterans with Disabilities Honors Pass
(n) Veterans assistance registry
(o) Resident tuition for state colleges and universities
(p) Such other state benefits to veterans as may be established by statute

R978-2-9. Federal Benefits.
(1) The department cannot administer any federal veterans benefit programs, but it shall provide information and assistance to veterans, their widows and dependents in understanding and navigating the rules of federal veterans' benefits. These federal benefits include:
(a) Veterans compensation and pensions
(b) Dependency and indemnity compensation payments
(c) Disability compensation
(d) Home loan guarantee program
(e) United States Veterans' Affairs administered education benefits.
(2) The department may contract with other military service organizations to assist veterans, their spouses, widows and dependents in securing their rights, benefits, and employment preferences as provided in Section 71-9-1.

R978-2-10. Tracking Veteran Employees.
(1) The department shall coordinate with the Utah State Department of Human Resource Management to maintain current counts of the number of veterans employed by the State of Utah in each department, as provided in Subsection 71-8-3 (5). The department shall encourage state agencies and departments to properly record veteran status for employees.
(2) A count of veterans in state government shall be updated and kept on file at least twice per year.

R978-2-11. Record of Veterans.
(1) The department shall create and maintain a record of veterans in Utah as provided in Subsection 71-8-3 (6).
(2) The department shall maintain a searchable self-registration for Utah veterans on the department website.
(3) The department shall work with the Utah Department of Information Technology, the Department of Workforce Services, and the Utah Drivers License Division to develop a searchable, digital database of Utah veterans.
(4) The department shall secure paper and digital copies of veterans' form DD-214 to assist in creating a database of verified veterans from Utah and to assist Utah veterans in securing all available benefits.
(5) The department shall contract, as appropriate, for technical assistance in creating and maintaining veterans' databases.

R978-2-12. Military Affairs.
(1) The department shall develop and maintain cooperative relationships with military-related organizations and with leaders of military installations in Utah in accordance with 71-8-3 including:
(a) Camp Williams
(b) Dugway Proving Ground
(c) Hill Air Force Base including Ogden Air Logistics Complex
(d) Tooele Army Depot
(e) Utah Test and Training Range
(2) The department shall develop and maintain cooperative relationships with Utah's congressional delegation and military staffers and shall cooperate on military issues, challenges and opportunities that arise in Utah.

R978-2-13. Boards.
(1) The department provides support and participates in several boards to accomplish its mission. These boards include:
(a) Veterans Advisory Council
(b) George E. Wahlen Ogden Veterans Home Advisory Board
(c) William E. Christoffersen Salt Lake Veterans Home Advisory Board
(d) Mervyn S. Bennion Central Utah Veterans Home Advisory Board
(e) Southern Utah Veterans Home Advisory Board
(f) Other boards as may be created
(2) Board members are appointed in accordance with statute:
(a) The Governor appoints members of the Veterans Advisory Council with input from the department executive director.
(b) The executive director appoints members of the remaining boards with input from the state officers of the nursing homes and the cemetery manager.
(3) Boards meet at a minimum of quarterly with agenda and minutes maintained and posted as required by statute.
(a) Board members may participate in required meetings either in person or by electronic means to include: telephone, internet or mobile device.
(b) If a board member does participate via telephonic communication, the board member will be on speaker phone. The speaker phone will be amplified so that the other board members and other persons present in the board meeting will be able to hear participants.
(c) All those participating either in person or by electronic means will count for quorum requirements and voting on issues, as appropriate.

R978-2-14. Grant Program.
(1) The department shall administer a grants program for veterans' organizations as directed in Subsection 71-8-2(4) and consistent with the availability of funds as determined by the executive director in consultation with the Governor's Office of Management and Budget.
(2) Grants may be solicited by the department at any time following the determination that funds are available.
(3) Grants are limited to a one year period of performance.

(4) Grants may be awarded for one or more of the following purposes such as supporting veteran and military outreach, employment, education, mental wellness, healthcare, homelessness prevention, recognition events and other areas as determined by the department and consistent with the department mission.

(5) The department may award a grant to:

(a) an institution of higher education listed in Section 53B-1-102;

(b) a nonprofit organization involved in veterans or military-related activities; or

(c) a political subdivision of the state.

(6) Grant submissions will include name of submitting organization, verification of organization eligibility to receive grant as outlined in Subsection R978-1-14(5), purpose of the proposal, amount of requested funds, targeted veterans or military population, intended outcomes, time period for accomplishment of effort, matching funds to be applied to the effort, metrics and measurements, any partners and other elements that the department may request.

(7) Grants will be reviewed by a four member committee comprised of two members from the department, designated by the executive director, and two members from the Veterans Advisory Council, designated by the council chair.

(a) The committee will make recommendations to the executive director for final approval.

(b) Committee members may participate in required meetings either in person or by electronic means to include telephone, internet or mobile device.

(c) Grants will be evaluated on a best value determination.

(8) Grants will be limited to not exceed ten thousand dollars from department funds for any one submission and the limit could be set lower depending on available funds.

(a) Submitting organizations are required to designate matching funds for the grant at a ratio to be determined by the department.

(b) At the completion of the performance period the department may request any remaining funds be returned to the department.

(9) Recipients of grants are required to submit quarterly reports to the department detailing performance of the effort, veterans serviced, metrics and measurements, funds expended and future efforts.

(10) An applicant that receives a grant under this part shall return the grant proceeds or a portion of the grant proceeds to the office if the applicant:

(i) fails to perform in accordance with the contract or other binding agreement; or

(ii) fails to maintain a qualifying status as described in Subsection (5).

KEY: veterans' and military affairs
Date of Last Change: 2022
Authorizing, and Implemented or Interpreted Law: 71-8-2

End of the Notices of Proposed Rules Section

NOTICES OF
CHANGES IN PROPOSED RULES

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

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

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends May 02, 2022.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them ([~~example~~]). A row of dots in the text between paragraphs (**. . . . . .**) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through July 30, 2022, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	**R547-13**	**Filing ID: 54222**

Agency Information

1. Department:	Human Services	
Agency:	Juvenile Justice Services	
Building:	MASOB	
Street address:	195 N 1950 W 3rd Floor	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	**Phone:**	**Email:**
Reg Garff	801-602-6261	rgarff@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R547-13. Guidelines for Admission to Secure Youth Detention Facilities

3. Publication date of previous proposed rule or change in proposed rule:

01/15/2022 (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the January 15, 2022, issue of the Utah State Bulletin, on page 115. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

4. Reason for this change (Why is the agency submitting this filing?)**:**

This CPR fixes minor errors from the previous filing

5. Summary of this change (What does this filing do?)**:**

This CPR moves one segment of language from Subsection R547-13-13(3) to Section R547-13-14. It also fixes minor errors.

Fiscal Information

6. Aggregate anticipated cost or savings to:

A) State budget:

This CPR will have no impact on the state budget. It is technical in nature and does not impact fiscal processes.

B) Local government:

This CPR will have no impact on local governments. It is technical in nature and does not impact fiscal processes.

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

This CPR will have no impact on small businesses. It is technical in nature and does not impact fiscal processes.

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

This CPR will have no impact on non-small businesses. It is technical in nature and does not impact fiscal processes.

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

This CPR will have no impact on persons other than small businesses, non-small businesses, or state or local government entities. It is technical in nature and does not impact fiscal processes.

F) Compliance costs for affected persons:

No compliance costs are associated with this CPR.

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 proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

7. 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 Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

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:

Section 80-5-202

Public Notice Information

10. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	05/02/2022

11. This rule change MAY become effective on:	05/09/2022

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:	Tracy Gruber, Executive Director	**Date:**	03/01/2022

R547. Human Services, Juvenile Justice Services.
R547-13. Guidelines for Admission to Secure Youth Detention Facilities.
R547-13-1. Purpose and Authority.

(1) Section 62A-1-111 authorizes the Department of Human Services to adopt administrative rules. Subsection 80-5-202(1)(a) authorizes the Division of Juvenile Justice Services to establish standards for the admission of minors to detention.

(2) This rule establishes guidelines for admission to secure detention to meet the requirements of Section 80-5-202.

(3) This rule shall be applied to minor candidates for placement in any secure detention facilities operated by the division.

(4) Pursuant to Subsection 80-5-202(3)(b), the division shall prioritize the use of home detention for a minor who might otherwise be held in secure detention.

R547-13-2. Definitions.

(1) Terms used in this rule are defined in Sections 62A-7-101 and 78A-6-105.

(2) "Division" means the Division of Juvenile Justice Services.

(3) "Minor" means a person age ten or over and under the age of 21.

(4) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

R547-13-3. General Rules.

(1) A minor under the age of 12 may not be detained in a secure detention facility, unless the minor is arrested for any of the following state or federal equivalent criminal offenses:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-302, aggravated kidnapping;

(e) Section 76-5-405, aggravated sexual assault;

(f) Section 76-6-103, aggravated arson;

(g) Section 76-6-203, aggravated burglary;

(h) Section 76-6-302, aggravated robbery; or

(i) Section 76-10-508.1, felony discharge of a firearm.

(2) Except as established in Subsection R547-13-3(1), no minor under the age of 10 may be detained in a secure detention facility.

(3) A minor age 12 or over may be detained in a secure detention facility if:

(a) a minor is arrested for any of the following state or federal equivalent criminal offenses;

(i) any offense that would be a felony if committed by an adult;

(ii) any attempt, conspiracy, or solicitation to commit a felony offense;

(iii) any class A misdemeanor violation of 76-5 Part 1, offense against the person; assault and related offenses;

(iv) any class A or B misdemeanor violation of Section 76-10-5, use of a firearm or other dangerous weapon;

(v) a class A misdemeanor violation of Section 76-5-206, negligent homicide;

(vi) a class A misdemeanor violation of Subsection 58-37-8(1)(b)(iii), a controlled substance violation;

(vii) any criminal offense defined as domestic violence by Subsections 77-36-1(4), and 78B-7-102(5)(a) and (b);

(viii) a class A or B misdemeanor violation of Subsection 76-6-104(1)(a) or (b), reckless burning that endangers human life;

(ix) a class A misdemeanor violation of Section 76-6-105, causing a catastrophe;

(x) a class A misdemeanor violation of Subsection 76-6-106(2)(b)(i)(a), criminal mischief involving tampering with property that endangers human life;

(xi) a class A misdemeanor violation of Section 76-6-406, theft by extortion;

(xii) a class A misdemeanor violation of Section 76-9-702.1, sexual battery;

(xiii) a class A misdemeanor violation of Subsection 76-5-401.3(2)(c) or (d), unlawful adolescent sexual activity;

(xiv) a class A misdemeanor violation of Section 76-9-702.5, lewdness involving a child;

(xv) a class A misdemeanor violation of Subsection 76-9-702.7(1), voyeurism with recording device;

(xvi) a class A misdemeanor violation of Subsection 41-6A-401.3(2), leaving the scene of an accident involving injury; and

(xvii) a class A misdemeanor violation of Subsection 41-6A-503(1)(b)(i) or (ii), driving under the influence involving injury, driving under the influence with a passenger under 16 years of age;

(b) the minor is an escapee or absconder from a Juvenile Justice Services secure facility or community placement; or

(c) the minor has been verified as a fugitive, absconder from probation or parole, or a runaway from another state and a formal request has been received, such as a National Crime Information Center verification, a telephone call, FAX, or email from a law enforcement officer or a verified call, FAX, or email from the institution, to hold, pending return to the other jurisdiction, whether or not an offense is currently charged.

(4) A minor not otherwise qualified for admission to a secure detention facility may not be detained for any of the following:

(a) ungovernable or runaway behavior;

(b) neglect, abuse, abandonment, dependency, or other status requiring protection for any other reason;

(c) status offenses such as curfew, possession or consumption of alcohol, tobacco, minor-in-a-tavern, truancy; or

(d) attempted suicide.

R547-13-5. Juvenile Court Warrants for Custody or Pickup Orders.

A minor shall be admitted to a secure detention facility when a juvenile court judge or commissioner has issued a warrant for custody pursuant to 80-2-202.

R547-13-6. Juvenile Justice Services' Cases.

A minor who is on parole or involved in a trial placement from a secure facility, and who is detained solely on a warrant from the division may be held in a secure detention facility up to 48 hours excluding weekends and legal holidays.

R547-13-7. DCFS Cases.

A minor in the custody or under the supervision of the Division of Child and Family Services (DCFS) cannot be held in a secure detention facility unless the minor qualifies for detention under a section of this rule.

R547-13-8. Traffic Cases.

A minor brought to detention for a traffic violation cannot be held in a secure detention facility unless the minor qualifies for detention under a section of this rule.

R547-13-9. Interstate Cases.

(1) Out-of-state minors who are escapees, absconders, and runaways shall be detained in accordance with Subsection R547-13-3(3)(c).

(2) Minors who are out-of-state runaways who commit any non-status criminal offense may be admitted to a secure detention facility.

(3) Out-of-state, non-runaway minors, when brought to a secure detention facility with an alleged criminal offense, may be detained or released based on the same criteria that applies to resident minor.

R547-13-10. Immigration Cases.

A minor may be detained at a secure detention facility when a lawful detainer or order is presented by United States Immigration and Customs Enforcement.

R547-13-11. AWOL Military Personnel.

Absent without leave (AWOL) military personnel who are minors shall be admitted to a secure detention facility.

R547-13-12. Home Detention.

(1) In accordance with Section 88-2-202, the division establishes the following guidelines for use of home detention:

(2) Home detention is a court-ordered program that is an alternative to being placed into secure detention. The minor and parent or guardian shall sign the home detention rules and expectations before being released from secure detention.

(3) Division staff will monitor the minor's compliance to the home detention rules and expectations and additional "special conditions" ordered by the Juvenile Court.

(4) Division will provide probation weekly updates on the minor's behavior and compliance on home detention.

R547-13-13. Home Detention Violations.

(1) If a home detention violation is alleged, the home detention counselor may cause the alleged violator to be brought to a secure detention facility by fil[~~l~~]ing an[~~d~~] affidavit in support of a request for a warrant for custody or requesting and expedited hearing for the court to review allegations for a probable cause determination.

(2) If the case involves a violator who is a runaway where a warrant for custody or pickup order has not yet been issued, a law enforcement officer may bring the violator to a secure detention facility. The home detention counselor may then transfer the minor back to the status of home detention, if appropriate, or may authorize the minor to be held in secure detention for a re-hearing.

(3) A minor placed on home detention who is arrested by a law enforcement officer for an alleged non-status criminal offense shall be admitted to a secure detention facility[~~ pursuant to Utah Rule of Juvenile Procedure 7a. The request for warrant shall be supported by an affidavit from the requesting authority the next business day~~].

R547-13-14. Probation Violation - Contempt of Court - Stayed Order for Detention.

A minor may be admitted to a secure detention facility for conditions such as: an alleged probation violation, contempt of court, or a stayed order for detention when it has been ordered by a judge. When it is not possible to get a written order, verbal authorization from a judge to detention is sufficient to hold a minor in a secure detention facility pursuant to Utah Rule of Juvenile Procedure 7a. The request for warrant shall be supported by an affidavit from the requesting authority the next business day.

R547-13-15. Other Court Orders for Detention.

A minor brought to a secure detention facility pursuant to either federal or out-of-state court orders shall be admitted unless otherwise directed by a juvenile court judge.

R547-13-16. Detention Risk Assessment Tool.

(1) Minors who meet the detention admission guidelines shall receive the "Detention Risk Assessment Tool" (DRAT) to inform placement decisions. Minors that score below the cutoff on the DRAT will be "diverted" and not admitted to locked detention.

(2) A minor and parent or guardian will sign an "Alternative to Detention Contract" (ADC) before leaving detention. If the parent or guardian is unavailable, the minor will sign the ADC and be transported to the local Youth Services Center.

(3) Division staff will create a supervision plan based on the minor's recent behavior in the community, school and home. The level of supervision may include the following based on the current needs:

(a) parent or guardian restrictions;

(b) division staff supervision; and

(c) youth services crisis residential.

(4) A minor and parent or guardian will be given a commitment to appear at meetings with probation and the Juvenile Court, and the minor's behavior and compliance to the contract will be reported to the Juvenile Court.

R547-13-17. Authority of the Division.

To the extent permitted by this rule and by law, the Director has full authority to limit or adjust individual admissions to a secure detention facility.

KEY: juvenile corrections, juvenile detention, admission guidelines, juvenile justice services
Date of Last Change: 2022

Notice of Continuation: March 27, 2017
Authorizing, and Implemented or Interpreted Law: 80-5-202; 80-5-203; 80-5-204; 80-5-205

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	**R657-10**	**Filing ID: 54339**

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room no.:	2110	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact person(s):		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R657-10. Taking Cougar
3. Publication date of previous proposed rule or change in proposed rule:
02/01/2022 (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the February 1, 2022, issue of the Utah State Bulletin, on page 316. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)
4. Reason for this change (Why is the agency submitting this filing?):
This change is to correct text that was submitted erroneously.

5. Summary of this change (What does this filing do?)**:**

This filing will remove "big game" and replace it with "cougar".

Fiscal Information

6. Aggregate anticipated cost or savings to:

A) State budget:

This proposed rule amendment corrects language that was inserted in error; therefore, the Division of Wildlife Resources (DWR) does not believe that these amendments would create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.

B) Local government:

Since the proposed amendments regulate the take of cougar this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

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

The proposed rule amendment does not have the potential to impact small businesses. The filing corrects an error in the filing text.

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

The proposed rule amendment does not have the potential to impact non-small businesses. The filing corrects an error in the filing text.

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

The proposed rule amendment does not have the potential to impact other persons. The filing corrects an error in the filing text.

F) Compliance costs for affected persons:

The DWR has determined that this amendment will not create additional costs for those individuals who will be removing the trail cameras during the closed season.

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 measurable fiscal impact to businesses. Brian Steed, Executive Director

7. 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

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:

Section 23-14-18	Section 23-14-19	

Public Notice Information

10. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	No formal comment period

11. This rule change MAY become effective on:	05/02/2022
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:	J. Shirley, Division Director	**Date:**	03/14/2022

R657. Natural Resources, Wildlife Resources.
R657-10. Taking Cougar.
R657-10-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking and pursuing cougar.

(2) Specific dates, areas, number of permits, limits, and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking cougar.

R657-10-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Canned hunt" means that a cougar is treed, cornered, held at bay or its ability to escape is otherwise restricted to allow a person who was not a member of the initial hunting party to arrive and take the cougar.

(b) "Compensation" means anything of economic value in excess of $100 that is paid, loaned, granted, given, donated, or transferred to a dog handler for or in consideration of pursuing cougar for any purpose.

(c) "Cougar" means Puma concolor, commonly known as mountain lion, lion, puma, panther or catamount.

(d) "Cougar pursuit permit" means a permit that authorizes a person to pursue cougar during designated seasons.

(e) "Dog handler" means the person in the field that is responsible for transporting, releasing, tracking, controlling, managing, training, commanding and retrieving the dogs involved in the pursuit. The owner of the dogs is presumed the dog handler when the owner is in the field during pursuit.

(f) "Evidence of sex" means the sex organs of a cougar, including a penis, scrotum or vulva.

(g) "Green pelt" means the untanned hide or skin of any cougar.

(h) "Harvest objective" means an identified limit on the number of cougars that may be harvested during the season on a particular unit.

(i) "Harvest objective permit" means any permit that can be obtained without entering a drawing and is valid on all units during non-limited entry seasons. A person may use dogs to hunt cougars with this permit.

(j) "Immediate family member" means a livestock owner's spouse, child, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchild and grandchild.

(k) "Kitten" means a cougar that has obvious spots on its sides or its back or has obvious leg barring coloration.

(l) "Limited entry season" means any season listed in the hunt tables of the guidebook of the Wildlife Board for taking cougar, which is identified as limited entry and a person must draw a permit to hunt that season.

(m) "Limited entry permit" means any permit obtained for a limited entry season by any means, including conservation permits and sportsman permits. Limited entry permits may only be used on the specific unit they are issued for during the limited entry season. Limited entry permits may be used on any unit open to cougar hunting once the limited entry season for which the permit is valid ends.

(n) "Location of Harvest" means the exact location that the cougar is killed. GPS coordinates are preferred.

(o) "Private lands" means any lands that are not public lands, excluding Indian trust lands.

(p) "Public lands" means any lands owned by the state, a political subdivision or independent entity of the state, or the United States, excluding Indian trust lands, that are open to the public for purposes of engaging in pursuit.

(q) "Pursue" means to chase, tree, corner or hold a cougar at bay.

(r) "Spot-and-stalk permit" means a cougar permit available over the counter for seasons and units designated by the Division Director as per Statute 23-16-10. A hunter who obtains this permit may not use dogs to take a cougar.

(s) "Predator management unit" means a unit managed under direction of DWR W1AG-4 to reduce cougar densities. This type of unit does not have a limit on the number of cougars that may be harvested during the season.

(t) "Trail Camera" means a device that is not held or manually operated by a person and is used to capture images, video, or location data of wildlife using heat or motion to trigger the device.

(u) "Waiting period" means a specified period that a person who has obtained a cougar permit must wait before applying for any other limited entry cougar season.

(v) "Written permission" means written authorization from the owner or person in charge to enter upon private lands and must include:

(i) the name and signature of the owner or person in charge;

(ii) the address and phone number of the owner or person in charge;

(iii) the name of the dog handler given permission to enter the private lands;

(iv) a brief description of the pursuit activity authorized;

(v) the appropriate dates; and

(vi) a general description of the property.

R657-10-6. Firearms, Archery Equipment, Crossbows, and Airguns.

(1) A person may only use weapons identified in Sections R657-5-8 through R657-5-11.

R657-10-9. Prohibited Methods.

(1) Cougar may be taken or pursued only during open seasons and using methods prescribed in this rule and the guidebook of the Wildlife Board for taking cougar. Otherwise, under the Wildlife Resources Code, it is unlawful for any person to pursue, possess, capture, kill, injure, drug, rope, trap, snare or in any way harm or transport cougar.

(2)(a) A person may not pursue a single cougar in repeated pursuits such that it renders the cougar physically unable to escape.

(b) After a cougar has been pursued, chased, treed, cornered or held at bay, a person may not, in any manner, restrict or hinder the animal's ability to escape.

(c) A person must make reasonable efforts to call dogs off of a cougar that has been cornered or held at bay.

(3) A person may not engage in a canned hunt.

(4) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.

(5) Electronic locating equipment may not be used to locate cougars wearing electronic radio devices.

(6)(a) A person shall not place, maintain, or use any trail camera or non-handheld device capable of capturing image, video, location, time or date data in the field to take, attempt to take, or aid in the take or attempted take of [~~big game~~]cougar between July 31 and December 31;

(b) Engage in the sale or purchase of trail camera or other non-handheld device media, including images, video, location, time, or date data to take, attempt to take, or aid in the take or attempted take of cougar; or

(c) Engage in the storage and sale or purchase of stored media, including image, video, location, time or date data to take, attempt to take, or aid in the take or attempted take of cougar.

(d) The prohibition on the use of trail cameras does not apply to:

(i) private landowners monitoring or protecting their property from trespass;

(ii) monitoring active agricultural operations;

(iii) to aid in the take of bear and cougar depredating livestock; and

(iv) municipalities participating in the Urban Deer Program.

(e) Trail cameras and other non-handheld devices described in Subsection (6)(a) on private property cannot be used to take, attempt to take, or aid in the take or attempted take of cougar between July 31 and December 31.

KEY: wildlife, cougar, game laws
Date of Last Change: 2022
Notice of Continuation: July 2, 2021
Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	**R657-33**	**Filing ID: 54340**

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room no.:	2110	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact person(s):		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R657-33. Taking Bear
3. Publication date of previous proposed rule or change in proposed rule:
02/01/2022 (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the February 1, 2022, issue of the Utah State Bulletin, on page 319. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)
4. Reason for this change (Why is the agency submitting this filing?)**:**
This change is to correct text that was submitted erroneously.

5. Summary of this change (What does this filing do?)**:**

This filing will remove "big game" and replace it with "bear".

Fiscal Information

6. Aggregate anticipated cost or savings to:

A) State budget:

This proposed rule amendment corrects language that was inserted in error; therefore, the Division of Wildlife Resources (DWR) does not believe that these amendments would create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.

B) Local government:

Since the proposed amendments regulate the take of bear this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

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

The proposed rule amendment does not have the potential to impact small businesses. The filing corrects an error in the filing text.

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

The proposed rule amendment does not have the potential to impact non-small businesses. The filing corrects an error in the filing text.

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

The proposed rule amendment does not have the potential to impact other persons. The filing corrects an error in the filing text.

F) Compliance costs for affected persons:

The DWR has determined that this amendment will not create additional costs for those individuals who will be removing the trail cameras during the closed season.

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 measurable fiscal impact to businesses. Brian Steed, Executive Director

7. 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

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:

Section 23-14-18	Section 23-14-19	

Public Notice Information

10. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	No formal comment period

11. This rule change MAY become effective on:	05/02/2022
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:	J. Shirley, Division Director	**Date:**	03/14/2022

R657. Natural Resources, Wildlife Resources.
R657-33. Taking Bear.
R657-33-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking and pursuing bear.

(2) Specific dates, areas, number of permits, limits and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking and pursuing bear.

R657-33-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Accompany" means at a distance within which visual contact and verbal communication are maintained without the assistance of any electronic device.

(b) "Bait" means any lure containing animal, mineral or plant materials.

(c) "Baiting" means the placing, exposing, depositing, distributing or scattering of bait to lure, attract or entice bear on or over any area.

(d) "Bear" means Ursus americanus, commonly known as black bear.

(e) "Canned hunt" means that a bear is treed, cornered, held at bay or its ability to escape is otherwise restricted to allow a person who was not a member of the initial hunting party to arrive and take the bear.

(f) "Compensation" means anything of economic value in excess of $100 that is paid, loaned, granted, given, donated, or transferred to a dog handler for or in consideration of pursuing bear for any purpose.

(g) "Control permit" means a permit issued in response to bear depredation to commercial crops pursuant to Subsection R657-33-23(4).

(h) "Cub" means a bear less than one year of age.

(i) "Draw-lock" means a mechanical device used to hold and support the draw weight of a conventional or compound bow at any increment of draw until released by the archer using a trigger mechanism attached to the device.

(j) "Dog handler" means the person in the field that is responsible for transporting, releasing, tracking, controlling, managing, training, commanding and retrieving the dogs involved in the pursuit. The owner of the dogs is presumed the dog handler when the owner is in the field during pursuit.

(k) "Evidence of sex" means the teats, and sex organs of a bear, including a penis, scrotum or vulva.

(l) "Green pelt" means the untanned hide or skin of a bear.

(m) "Harvest-objective hunt" means any hunt that is identified as harvest-objective in the hunt table of the guidebook for taking bear.

(n) "Harvest-objective permit" means any permit valid on harvest-objective units.

(o) "Harvest-objective unit" means any unit designated as harvest-objective in the hunt table of the guidebook for taking bear.

(p) "Immediate family member" means a landowner's or lessee's spouse, child, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchild, and grandchild.

(q)(i) "Limited entry hunt" means any hunt listed in the hunt table, published in the guidebook of the Wildlife Board for taking bear, which is identified as a limited entry hunt for bear.

(ii) The Wildlife Board may authorize certain limited entry hunts that span multiple seasons, identified in the guidebook for taking bear as multi-season limited entry hunts.

(iii) "Limited entry hunt" does not include harvest objective hunts or pursuit only.

(r) "Limited entry permit" means any permit obtained for a limited entry hunt, including conservation permits, expo permits, and sportsman permits.

(s) "Private lands" means any lands that are not public lands, excluding Indian trust lands.

(t) "Public lands" means any lands owned by the state, a political subdivision or independent entity of the state, or the United States, excluding Indian trust lands, that are open to the public for purposes of engaging in pursuit.

(u) "Pursue" means to chase, tree, corner or hold a bear at bay with dogs.

(v) "Restricted pursuit unit" means a bear pursuit unit where pursuit is allowed only by a dog handler who:

(i) possesses a pursuit permit issued for that particular pursuit unit;

(ii) possesses or is accompanied by a person who possesses a limited entry bear permit for the unit, and the pursuit occurs within the area and during the season established for the limited entry bear permit; or

(iii) is engaged in pursuit for compensation as provided in Subsection R657-33-26(2).

(w) "Spot-and-stalk hunt" means a hunt prohibiting the use of bait or dogs to pursue or harvest a bear.

(x) "Spot-and-stalk permit" means an bear permit available over the counter for seasons and units designated by the Division Director as per Statute 23-16-10. A hunter who obtains this permit may not use bait or dogs to take a bear.

(y) "Trail Camera" means a device that is not held or manually operated by a person and is used to capture images, video, or location data of wildlife using heat or motion to trigger the device.

(z)(i) "Valid application" means:

(A) it is for a species for which the applicant is eligible to possess a permit;

(B) there is a hunt for that species regardless of estimated permit numbers; and

(C) there is sufficient information on the application to process the application, including personal information, hunt information, and sufficient payment.

(ii) Applications missing any of the items in Subsection (i) may still be considered valid if the application is corrected before the deadline through the application correction process.

(aa) "Waiting period" means a specified period that a person who has obtained a bear permit must wait before applying for any other bear permit.

(bb) "Written permission" means written authorization from the owner or person in charge to enter upon private lands and must include:

(i) the name and signature of the owner or person in charge;

(ii) the address and phone number of the owner or person in charge;

(iii) the name of the dog handler given permission to enter the private lands;

(iv) a brief description of the pursuit activity authorized;

(v) the appropriate dates; and

(vi) a general description of the property.

R657-33-3. Permits for Taking Bear.

(1)(a) To harvest a bear, a person must first obtain a valid limited entry bear permit, a harvest objective bear permit, a spot-and-stalk permit, or a bear control permit for a specified hunt unit as provided in the guidebook of the Wildlife Board for taking bear.

(b) Any person who obtains a limited entry bear permit or a harvest objective bear permit which allows the use of dogs may pursue bear without a pursuit permit while hunting during the season and on the unit for which the take permit is valid, provided the person is the dog handler.

(2)(a) A person may not apply for or obtain more than one bear permit per year, except:

(b) if the person is unsuccessful in the drawing administered by the division under Rule R657-62, the person may purchase a permit available outside of the drawing; and

(c) a person may acquire more than one bear control permit as described in Subsection R657-33-23(4).

(3) Any bear permit purchased after the season opens is not valid until three days after the date of purchase.

(4) Residents and nonresidents may apply for and receive limited entry bear permits, and may purchase harvest objective bear permits and bear pursuit permits.

(5)(a) A person must complete a mandatory orientation course before applying for or obtaining a limited entry, harvest objective, or bear pursuit permit.

(b) The orientation course is not required to receive a bear control permit under Subsection R657-33-23(4).

(c) The orientation course shall include training on hunter ethics.

(6) To obtain a limited entry, harvest objective, spot-and-stalk permit, or bear pursuit permit, a person must possess a valid Utah hunting or combination license.

R657-33-6. Firearms, Archery Equipment, Crossbows, and Airguns.

(1)
A person may only use weapons identified in Sections R657-5-8 through R657-5-11.

(2) A person is prohibited from using weapons identified in Section R657-5-7.

R657-33-7. Traps and Trapping Devices.

(1) Bear may not be taken with a trap, snare or any other trapping device, except as authorized by the division.

(2) Bear accidentally caught in any trapping device must be released unharmed.

(3)(a) Authorization must be obtained from a division representative to remove the carcass of a bear from any trapping device.

(b) The carcass shall remain the property of Utah and must be surrendered to the division.

R657-33-9. Prohibited Methods.

(1) Bear may be taken or pursued only during open seasons and using methods prescribed in this rule and the guidebook of the Wildlife Board for taking and pursuing bear. Otherwise, under the Wildlife Resources Code, it is unlawful for any person to pursue, possess, capture, kill, injure, drug, rope, trap, snare, or in any way harm or transport bear.

(2)(a) A person may not pursue a single bear in repeated pursuits such that it renders the bear physically unable to escape.

(b) After a bear has been pursued, chased, treed, cornered, legally baited or held at bay, a person may not, in any manner, restrict or hinder the animal's ability to escape.

(c) A person must make reasonable efforts to call dogs off [~~of~~]a bear that has been cornered or held at bay.

(3) A person may not engage in a canned hunt.

(4) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.

(5)(a) A person shall not place, maintain, or use any trail camera or non-handheld device capable of capturing image, video, location, time or date data in the field to take, attempt to take, or aid in the take or attempted take of [~~big game~~]bear between July 31 and December 31;

(b) Engage in the sale or purchase of trail camera or other non-handheld device media, including images, video, location, time, or date data to take, attempt to take, or aid in the take or attempted take of bear; or

(c) Engage in the storage and sale or purchase of stored media, including images, video, location, time, or date data to take, attempt to take, or aid in the take or attempted take of bear[~~.~~];

(d) The prohibition on the use of trail cameras does not apply to:

(i) private landowners monitoring or protecting their property from trespass;

(ii) monitoring active agricultural operations;

(iii) to aid in the take of bear and cougar depredating livestock; and

(iv) municipalities participating in the Urban Deer Program.

(e) Trail cameras and other non-handheld devices described in Subsection (5)(a) on private property cannot be used to take, attempt to take, or aid in the take or attempted take of bear between July 31 and December 31.

R657-33-13. Certificate of Registration Required for Bear Baiting.

(1) A certificate of registration for baiting must be obtained before establishing a bait station.

(2) Certificates of registration for bear baiting are issued only to holders of limited entry permits authorizing the use of bait, as provided in the guidebook of the Wildlife Board for taking bear.

(3) A certificate of registration may be obtained from the division office within the region where the bait station will be established by applying on the division website.

(4) A new certificate of registration must be obtained before moving a bait station. All materials used as bait must be removed from the old site before the issuing of a new certificate of registration.

(5) The following information must be provided to obtain a certificate of registration for baiting: a 1:24000 USGS quad map with the bait location marked, or the Universal Transverse Mercator (UTM) or latitude and longitude coordinates of the bait station, including the datum, type of bait used and written permission from the appropriate landowner for private lands.

(6)(a) Any person interested in baiting on lands administered by the Bureau of Land Management must verify that the lands are open to baiting before applying for and receiving a certificate of registration for bear baiting.

(b) Information on areas that are open to baiting on National Forests must be obtained from district offices.

(c) Issuance of a certificate of registration for baiting does not authorize an individual to bait if it is otherwise unlawful to bait under the regulations of the applicable land management agency.

(7) A handling fee must accompany the application.

(8) Only hunters listed on the certificate of registration may hunt over the bait station and the certificate of registration must be in possession while hunting over the bait station.

(9) Any person tending a bait station must be listed on the certificate of registration.

R657-33-14. Use of Bait.

(1)(a) A person who has obtained a limited entry bear permit for a season and hunt unit that allows baiting may use firearms and archery equipment as provided in Section R657-33-6.

(b) Bear lured to a bait station may only be taken using firearms and archery equipment approved by the Wildlife Board and described in the guidebook for taking bear.

(c) A person may establish or use no more than two bait stations. The bait stations may only be used during periods designated in the guidebook for taking bear.

(d) Bear lured to a bait station may not be taken with dogs.

(e) Bait may not be contained in or include any metal, glass, porcelain, plastic, cardboard, or paper.

(f) The bait station must be marked with a sign provided by the division and posted within 10 feet of the bait.

(g) A dog handler may not intentionally run dogs off [~~of~~]a bait station while pursuing bear.

(2)(a) Bait may be placed only in areas open to hunting and only during the open seasons.

(b) All materials used as bait must be removed within 72 hours after the close of the season or within 72 hours after the persons, who are registered for that bait station harvest a bear.

(3) A person may use nongame fish as bait, except those listed as prohibited in Rule R657-13 and the guidebook of the Wildlife Board for Taking Fish and Crayfish. No other species of protected wildlife may be used as bait.

(4)(a) Domestic livestock or its parts, including processed meat scraps, may be used as bait.

(b) A person using domestic livestock or their parts for bait must have in possession:

(i) a certificate of brand inspection, bill of sale, or other proof of ownership or legal possession.

(5) Bait may not be placed within:

(a) 100 yards of water or a public road or designated trail; or

(b) 1/2 mile of any permanent dwelling or campground.

R657-33-22. Waste of Wildlife.

(1) A person may not waste or permit to be wasted or spoiled any protected wildlife or their parts in accordance with Section 23-20-8.

(2) The skinned carcass of a bear may be left in the field and does not constitute waste of wildlife.

R657-33-26. Bear Pursuit.

(1)(a) Except as provided in Subsection R657-33-3(1)(b) and Subsection (2), bear may be pursued only by persons who have obtained a bear pursuit permit.

(b) The bear pursuit permit does not allow a person to:

(i) kill a bear; or

(ii) pursue bear for compensation.

(c) A person may pursue bear for compensation only as provided in Subsection (2).

(d) To obtain a bear pursuit permit, a person must possess a Utah hunting or combination license.

(2)(a) A person may pursue bear on public lands for compensation, provided the dog handler:

(i) receives compensation from a client or customer to pursue bear;

(ii) is a licensed hunting guide or outfitter under Title 58, Chapter 79, Hunting Guides and Outfitters Licensing Act and authorized to pursue bear;

(iii) possesses on their person the Utah hunting guide or outfitter license;

(iv) possesses on their person all permits and authorizations required by the applicable public lands managing authority to pursue bear for compensation; and

(v) is accompanied by the client or customer at all times during pursuit.

(b) A person may pursue bear on private lands for compensation, provided the dog handler:

(i) receives compensation from a client or customer to pursue bear;

(ii) is accompanied by the client or customer at all times during pursuit; and

(iii) possesses on their person written permission from all private landowners on whose property pursuit takes place.

(c) A person who is an employee or agent of the Division of Wildlife Services may pursue bear on public lands and private lands while acting within the scope of their employment.

(3) A pursuit permit is not required to pursue bear if the individual satisfies the requirements in Subsection (2).

(4)(a) A person pursuing bear for compensation under Subsections (2)(a) and (2)(b) shall comply with all other requirements and restrictions in statute, rule and the guidebooks of the Wildlife Board regulating the pursuit and take of bear.

(b) Any violation of, or failure to comply with Title 23, Wildlife Resources Code, this rule, or the guidebooks of the Wildlife Board may be grounds for suspension of the privilege to pursue bear for compensation under this subsection, as determined by a division hearing officer.

(5) Except as provided in Subsection (6), a bear pursuit permit authorizes the holder to pursue bear with dogs on any unit open to pursuing bear during the seasons and under the conditions prescribed by the Wildlife Board in guidebook.

(6) The Wildlife Board may establish or designate in the guidebook restricted pursuit units as determined necessary or convenient to better manage wildlife resources, including to protect wildlife, curtail over-utilization of resources, reduce conflict with other recreational activities, reduce conflict with private and public land activities, and protect wildlife habitat.

(a) Bear may not be pursued on a restricted pursuit unit unless the dog handler:

(i) possesses a pursuit permit issued for the particular restricted pursuit unit;

(ii) possesses or is accompanied by a person who possesses a limited entry or harvest objective bear permit allowing the use of dogs, and the pursuit occurs within the area and during the season established by the respective permit; or

(iii) is engaged in pursuit for compensation as provided in Subsection (2), and pursuit occurs within the area and during the season established for the:

(A) paying client's limited entry or harvest objective bear permit allowing the use of dogs; or

(B) restricted pursuit unit.

(b) A pursuit permit issued for a restricted pursuit unit authorizes the holder to pursue bear on:

(i) the particular restricted pursuit unit for which the permit is issued; and

(ii) any other bear pursuit unit not designated as a restricted pursuit unit.

(c) Notwithstanding Subsection (6)(a)(i), when two or more dog owners are in the field pursuing bear together, only one must possess a restricted pursuit unit permit, provided the dog owners accompany the person possessing the restricted pursuit unit permit at all times.

(i) A dog handler pursuing bear on a restricted pursuit unit may leave the pursuit permit holder to retrieve dogs that separate from the pack, provided the dog handler;

(A) takes reasonable steps to keep the pack together before and during pursuit;

(B) separates from the pursuit permit holder exclusively to retrieve stray dogs and does not attempt to actively pursue bear during the retrieval process; and

(C) immediately releases any bear incidentally treed or held at bay by the stray dogs.

(ii) Maximum number of dogs in the field and pack sizes described in Section R657-33-12 remain applicable, even if there are multiple dog owners in the same hunting party.

(7) Pursuit permits may be obtained at division offices, through the [~~I~~]internet and at license agents.

(a) The division may distribute pursuit permits for restricted pursuit units:

(i) through its offices, license agents, or online resources on a first-come, first-served basis; or

(ii) through a random drawing.

(8) A person may not:

(a) take or pursue a female bear with cubs;

(b) repeatedly pursue, chase, tree, corner or hold at bay the same bear during the same day; or

(c) individually or in combination with another person, use more than eight dogs in the field to pursue a bear during the summer pursuit season as established by the Wildlife Board in the guidebook[~~; or~~].

(9) If eligible, a person who has obtained a bear pursuit permit may also obtain a limited entry or harvest objective bear permit.

(10) Season dates, closed areas and bear pursuit permit areas are published in the guidebook of the Wildlife Board for taking and pursuing bear.

R657-33-31. Harvest Objective Unit Closures.

(1) Before hunting in a harvest objective unit, a hunter must visit the division's website to verify that the bear hunting unit is still open. The website will be updated each day by 12 noon. Updates become effective the following day 30 minutes before official sunrise.

(2) Harvest objective units are open to hunting until:

(a) the bear harvest objective for that harvest objective unit is met and the division closes the area; or

(b) the end of the hunting season as provided in the guidebook of the Wildlife Board for taking bear.

(3) Upon closure of a harvest objective unit, a hunter may not take or pursue bear except as provided in Section R657-33-26.

KEY: wildlife, bear, game laws
Date of Last Change: 2022
Notice of Continuation: November 28, 2017
Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-13-2

End of the Notices of Changes in Proposed Rules Section

NOTICES OF
120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([~~example~~]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (**. . . . . .**) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	**R978-2**	**Filing ID: 54404**

Agency Information

1. Department:	Veterans' and Military Affairs	
Agency:	Administration	
Room no.:	Ste 105	
Street address:	550 Foothill Drive	
City, state and zip:	Salt Lake City, UT 84113	
Mailing address:	PO Box 581217	
City, state and zip:	Salt Lake City, UT 84156	
Contact person(s):		
Name:	**Phone:**	**Email:**
Jennica Gruver	801-234-0836	jennicagruver@utah.gov
Gary Harter	801-440-6946	gharter@utah.gov
Jeff Hanson	801-897-8762	jbhanson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R978-2. Rule Governing Veterans' Affairs
3. Effective Date:
03/08/2022
4. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
Rule R978-1 expired because the Department did not file a five-year review by the due date. The purpose of this emergency filing is to reinstate the expired rule text. The Office of Administrative Rules' filing management system will not allow reuse of numbers so Rule R978-1 is put back into place as Rule R978-2 but the text is the same. (EDITOR'S NOTE: A corresponding proposed new Rule R978-2 is under ID No. 54418 in this issue, April 1, 2022, of the Bulletin.)

5. Summary of the new rule or change (What does this filing do?)**:**

This emergency rule filing is to reinstate rule text which regulates the operations of the Utah Department of Veterans Military Affairs (Department), the appointment and duties of the department's executive director, the maintenance and operations of the Utah Veterans Cemetery and Memorial Park as well as the department's four state veterans nursing homes. Statutory authority for these rules can be found in Title 71.

6. A) The agency finds that regular rulemaking would:

X	cause an imminent peril to the public health, safety, or welfare;
	cause an imminent budget reduction because of budget restraints or federal requirements; or
X	place the agency in violation of federal or state law.

B) Specific reasons and justifications for this finding:

The Department did not file a five-year review before the due date for Rule R978-1. This rule is necessary to comply with state code (Title 71) and provide for the welfare of veterans' and military members. This rule describes specific procedures at the four state veterans' homes and state veterans' cemetery. A lapse in the rules may affect the Department's services to veterans.

Fiscal Information

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

A) State budget:

Enacting this rule results in no additional state funds. For the state veterans' homes, the funding for their operation is paid from federal funds or private funds, not state funds.

B) Local governments:

Local governments do not provide funding for the operation of our veterans' homes, veterans cemetery nor making veterans aware of benefits. Separately from this rule, local governments do interaction with military installations in their areas to ensure their communities are great places for military service members to live and succeed.

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

The Department does contract for services with private companies. This rule does not change this opportunity.

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***)**:**

Most costs for veteran residents in our veterans' skilled nursing facilities and interment in the veterans' cemetery are paid for the U.S. Veterans Affairs (VA). Costs for care by residents in the veterans home not fully covered by the U.S. VA, are the responsibility of the resident. Fees charged for the interment of spouses of veterans interred in the veterans' cemetery are borne by the families.

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

No compliance costs associated with this rule.

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):

No impact on businesses. Gary Harter, 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:

Section 71-8-2		

Agency Authorization Information

Agency head or designee, and title:	Gary Harter, Executive Director	**Date:**	03/08/2022

R978. Veterans' and Military Affairs, Administration.
R978-2. Rule Governing Veterans' Affairs.
R978-2-1. Authority.

(1) This rule is established pursuant to Section 71-8-2 which established the Department of Veterans' and Military Affairs. This rule is made pursuant to Title 63G, Chapter 3 of the Utah Administrative Rulemaking Act.

R978-2-2. Purpose.

(1) The purpose of this rule is to define the functions and mission of the Department of Veterans' and Military Affairs under Sections 71-8-1 through 71-11-10 and 38 CFR.

R978-2-3. Definitions.

(1) Terms used in this rule are defined in Sections 71-8-1, 71-10-1, and 71-11-2.

(2) Additional terms are defined as follows:

(a) "Homeless veteran" means a qualified veteran who is currently experiencing an episode of homelessness without a stable, regular indoor place of residence.

(b) "Nursing Home" means a State licensed facility accommodating persons who require skilled nursing care and related medical services.

(c) "State Officer" means the State official authorized to oversee the operations of a State veterans nursing home.

(d) "Widow" means the unmarried spouse of a deceased veteran of either sex.

R978-2-4. Nursing Homes.

(1) The department shall administer the various state veterans' nursing homes in accordance with Title 71, Chapter 11, Utah Veterans' Nursing Home Act.

(2) Each nursing home shall have a State Officer who shall act as the department's liaison to carry out the requirements of this act.

(3) Each home shall enforce admission requirements in accordance with Section 71-11-6 as established by the department.

(4) Each home shall comply with 38 CFR 51, "Per Diem for Nursing Home Care of Veterans" for per diem payments, per diem payments for veterans with service connected disabilities, payments for drugs and medicines for certain veterans, and nursing home standards.

(5) The department may contract with reputable nursing home management firms for the day-to-day operation of the nursing homes as provided in 38 CFR 51.210. Selection shall be by a competitive bid process under State Purchasing rules with criteria established by the department. The department shall establish the duration for the management contracts and other contractual terms and conditions in the best interests of the residents.

(6) Notwithstanding the authority of the management firm to employ and direct all nursing home employees, the State Officer shall be an employee of the department and shall be independent of the management firm. The State Officer shall oversee the operations of the state nursing home.

R978-2-5. Cemetery and Memorial Park.

(1) The department shall administer the state veterans' cemetery and memorial park in accordance with Section 71-7-3.

(2) Fees charged for burial expenses shall be posted at the cemetery office and on the department website. Fees charges for other funeral expenses, including headstone replacement, shall be posted at the cemetery office and on the department website.

(3) Private burial fees shall be equivalent to the annually determined federal burial reimbursement rate.

R978-2-6. Homeless Veterans.

(1) The department shall coordinate with local, state and federal programs providing short and long term housing for homeless veterans in the state as provided in Subsection 71-8-3 (1)(d).

R978-2-7. Education Programs.

(1) The department shall administer the State Approving Agency (SAA) for Veterans Education as directed in Subsection 71-8-3(1)(e).

(2) The SAA shall perform all duties necessary for the inspection, approval and supervision of educational programs offered by qualified educational institutions, training establishments, and tests for licensing and certification in accordance with the standards and provisions of 38 U.S.C. 30, 32, 33, 35, and 36, and 10 U.S.C. 1606 and 1607.

(3) The SSA shall provide in-depth technical assistance and outreach liaison with all related organizations, agencies, individuals and activities to help veterans and other eligible persons achieve their educational and vocational goals.

(4) The SSA shall reach out to eligible persons and inform them of their benefits through the GI Bill, which will assist veterans in making the most informed decision toward their vocational and educational goals.

(5) The SSA shall perform other duties and functions as determined by the U.S. Department of Veteran Affairs via annual contract for SSA services.

R978-2-8. State Benefits.

(1) The department shall assist veterans, their widows and dependents in procurement of all rights and benefits which may accrue to them by reason of military service to the United States in accordance with Section 71-9-1. Specifically, the department shall disseminate information on benefits to veterans and interested parties via:

(a) community outreach

(b) fairs, exhibits and community events

(c) the Utah Veterans Voice publication and other appropriate print and electronic media

(d) the department's public website (http://veterans.utah.gov)

(e) cooperative activities with other veterans organizations

(2) Specific state benefits that the department shall assist veterans and their dependents in securing include:

(a) Disabled Veteran Property Tax Abatement

(b) Purple Heart Tuition Waiver

(c) Purple Heart Fee Exemption

(d) Scott B Lundell Tuition Waiver for military members' surviving dependents

(e) Honorary high school diplomas

(f) Veteran's license plates

(g) Free use of armories

(h) Fishing license privileges

(i) Special fun tags

(j) America the Beautiful pass

(k) Trax/bus reduced fare cards

(l) Veterans Upward Bound

(m) Utah Veterans with Disabilities Honors Pass

(n) Veterans assistance registry

(o) Resident tuition for state colleges and universities

(p) Such other state benefits to veterans as may be established by statute

R978-2-9. Federal Benefits.

(1) The department cannot administer any federal veterans benefit programs, but it shall provide information and assistance to veterans, their widows and dependents in understanding and navigating the rules of federal veterans' benefits. These federal benefits include:

(a) Veterans compensation and pensions

(b) Dependency and indemnity compensation (DIC) payments

(c) Disability compensation

(d) Home loan guarantee program

(e) G.I. Bill

(2) The department may contract with other military service organizations to assist veterans, their spouses, widows and dependents in securing their rights, benefits, and employment preferences as provided in Section 71-9-1.

R978-2-10. Tracking Veteran Employees.

(1) The department shall coordinate with the Utah State Department of Human Resource Management (DHRM) to maintain current counts of the number of veterans employed by the State of Utah in each department, as provided in Subsection 71-8-3 (5). The

department shall encourage state agencies and departments to properly record veteran status for all employees.

(2) A count of veterans in state government shall be updated and kept on file at least twice per year.

R978-2-11. Record of Veterans.

(1) The department shall create and maintain a record of veterans in Utah as provided in Subsection 71-8-3 (6).

(2) The department shall maintain a searchable self-registration for Utah veterans on the department website.

(3) The department shall work with the Utah Department of Information Technology, the Department of Workforce Services, and the Utah Drivers License Division to develop a searchable, digital database of Utah veterans.

(4) The department shall secure paper and digital copies of veterans' form DD-214 to assist in creating a database of verified veterans from Utah and to assist Utah veterans in securing all available benefits.

(5) The department shall contract, as appropriate, for technical assistance in creating and maintaining veterans' databases.

R978-2-12. Military Affairs.

(1) The department shall develop and maintain cooperative relationships with military-related organizations and with leaders of military installations in Utah in accordance with 71-8-3 including but not limited to:

(a) Camp Williams

(b) Dugway Proving Ground

(c) Hill Air Force Base including Ogden Air Logistics Complex

(d) Tooele Army Depot

(e) Utah Test and Training Range

(2) The department shall develop and maintain cooperative relationships with Utah's congressional delegation and military staffers and shall cooperate on military issues, challenges and opportunities that arise in Utah.

R978-2-13. Boards.

(1) The department provides support and participates in several boards in order to accomplish its mission. These boards include, but are not limited to:

(a) Veterans Advisory Council

(b) George E. Wahlen Ogden Veterans Home Advisory Board

(c) William E. Christoffersen Salt Lake Veterans Home Advisory Board

(d) Mervyn S. Bennion Central Utah Veterans Home Advisory Board

(e) Southern Utah Veterans Home Advisory Board

(f) Utah Veterans Cemetery and Memorial Park Advisory Board

(g) Other boards as may be created

(2) Board members are appointed in accordance with statute:

(a) The Governor appoints members of the Veterans Advisory Council with input from the department executive director.

(b) The executive director appoints members of the remaining boards with input from the state officers of the nursing homes and the cemetery manager.

(3) Boards meet at a minimum of quarterly with agenda and minutes maintained and posted as required by statute.

(a) Board members may participate in required meetings either in person or by electronic means to include, but not limited to: telephone, internet or mobile device.

(b) If a board member does participate via telephonic communication, the board member will be on speaker phone. The speaker phone will be amplified so that the other board members and all other persons present in the board meeting will be able to hear all participants.

(c) All those participating either in person or by electronic means will count for quorum requirements and voting on issues, as appropriate.

R978-2-14. Grant Program.

(1) The department shall administer a grants program for veterans organizations as directed in Subsection 71-8-2(4) and consistent with the availability of funds as determined by the executive director in consultation with the Governor's Office of Management and Budget.

(2) Grants may be solicited by the department at any time following the determination that funds are available.

(3) Grants are limited to a one year period of performance.

(4) Grants may be awarded for one or more of the following purposes such as supporting veteran and military outreach, employment, education, mental wellness, healthcare, homelessness prevention, recognition events and other areas as determined by the department and consistent with the department mission.

(5) The department may award a grant to:

(a) an institution of higher education listed in Section 53B-1-102;

(b) a nonprofit organization involved in veterans or military-related activities; or

(c) a political subdivision of the state.

(6) Grant submissions will include name of submitting organization, verification of organization eligibility to receive grant as outlined in Subsection R978-1-14(5), purpose of the proposal, amount of requested funds, targeted veterans or military population, intended outcomes, time period for accomplishment of effort, matching funds to be applied to the effort, metrics and measurements, any partners and other elements that the department may request.

(7) Grants will be reviewed by a four member committee comprised of two members from the department, designated by the executive director, and two members from the Veterans Advisory Council, designated by the council chair.

(a) The committee will make recommendations to the executive director for final approval.

(b) Committee members may participate in required meetings either in person or by electronic means to include telephone, internet or mobile device.

(c) Grants will be evaluated on a best value determination.

(8) Grants will be limited to not exceed ten thousand dollars from department funds for any one submission and the limit could be set lower depending on available funds.

(a) Submitting organizations are required to designate matching funds for the grant at a ratio to be determined by the department.

(b) At the completion of the performance period the department may request any remaining funds be returned to the department.

(9) Recipients of grants are required to submit quarterly reports to the department detailing performance of the effort, veterans serviced, metrics and measurements, funds expended and future efforts.

(10) An applicant that receives a grant under this part shall return the grant proceeds or a portion of the grant proceeds to the office if the applicant:

(i) fails to perform in accordance with the contract or other binding agreement; or

(ii) fails to maintain a qualifying status as described in Subsection (5).

KEY: veterans' and military affairs
Date of Last Change: March 8, 2022
Authorizing, and Implemented or Interpreted Law: 71-8-2

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.):	**R21-1**	**Filing ID: 53505**
Effective Date:	**03/10/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Debt Collections	
Room no.:	First Floor	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2400 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141031	
City, state and zip:	Salt Lake City, UT 84114-1031	
Contact person(s):		
Name:	**Phone:**	**Email:**
Ally Branch	801-957-3523	abranch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R21-1. Transfer of Collection Responsibility of State Agencies

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 established pursuant to Subsections 63A-3-502(3)(m), 63A-3-502(7)(f), 63A-3-502(4)(g), and 63A-3-502(6)(b); Section 15-1-4; and the office intent language and fees authorized by the Legislature in applicable laws. Subsection 63A-3-502(3)(m) authorizes the office to establish procedures for writing off accounts receivable for accounting and collection purposes. Subsection 63A-3-502(7)(f) authorizes the office to require state agencies to bill and make initial collection efforts of its receivables up to the time the accounts must be transferred. Subsection 63A-3-502(7)(a) authorizes the office to require state agencies to transfer collection responsibility to the office or its designee according to time limits specified by the office. Subsection 63A-3-502(4)(g) authorizes the office to establish: 1) a fee to cover administrative costs of collection; 2) a late penalty fee; 3) an interest charge; and 4) fees to collect accounts receivable for higher education by following the procedures and requirements of Section 63J-1-504. Subsection 63A-3-502(6)(b) prohibits the office from assessing the interest charge established by the office under Subsection 63A-3-502(4)(g) on an account receivable subject to the post judgment interest rate established by Section 15-1-4. Section 15-1-4 requires civil and criminal judgments of the district court and justice court to bear interest at the federal post judgment interest rate and sets forth the procedures to be followed. The annual appropriation act authorizes the fees charged by the office to collect accounts and provides legislative intent language allowing the costs of collection to be collected from the debtor.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received.

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 to establish the procedures by which agencies shall bill and make initial collection efforts according to a coordinated schedule, the method to be used by agencies to transfer their delinquent accounts receivable to the Office of State Debt Collection or its designee for additional collection action, write-off of receivables, and the procedures and allocation of costs of collection established pursuant to Subsections 63A-3-502(4)(g), 63A-3-502(6)(b), and Section R15-1-4, and by the Legislature in applicable laws. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Janica Gines, Director	**Date:**	03/10/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R277-479**	**Filing ID: 50440**
Effective Date:	**03/12/2022**	

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:
R277-479. Funding for Charter School Students With Disabilities on an IEP
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 Constitution and state law; Subsection 53E-3-501(1)(c)(vi)(A) which directs the Board to adopt rules regarding services for persons with disabilities; and Section 53E-7-202 which directs the Board to set standards for state funds appropriated for students with disabilities.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There were no public comments received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because this rule specifies standards and procedures for funding of charter school students with disabilities on an Individualized Education Program (IEP). Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	03/12/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R277-612**	**Filing ID: 50505**
Effective Date:	**03/12/2022**	

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:
R277-612. Foreign Exchange Students
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 53F-2-303(3)(b) which directs the Board to make rules to administer the cap on the number of foreign exchange students for purposes of apportioning state monies for the students; and Subsection 53E-3-401(4) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There were no public comments received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because this rule administers the cap on the number of foreign exchange students that may be counted by school districts and charter schools for state funding; and provides guidance to school districts and charter schools in working with exchange student agencies and accepting foreign exchange students to provide for safety and fairness to the exchange students and Utah public school students. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	03/12/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R277-801**	**Filing ID: 50546**
Effective Date:	**03/12/2022**	

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:
R277-801. Services for Students who are Deaf, Hard of Hearing, Blind, Visually Impaired, and Deaf-Blind
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 53E-8-201 which creates the Utah School for the Deaf and Blind (USDB), and authorizes USDB to provide services to qualifying students.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There were no public comments received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because this rule establishes rules for local education agencies (LEAs) and USDB to provide services to students who are deaf, hard of hearing, blind, visually impaired, and deaf-blind. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	03/12/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R311-200**	**Filing ID: 53576**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Environmental Quality	
Agency:	Environmental Response and Remediation	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144840	
City, state and zip:	Salt Lake City, UT 84114-4840	
Contact person(s):		
Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Therron Blatter	801-554-6762	tblatter@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R311-200. Underground Storage Tanks: Definitions
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 19-6-403 of the Utah Underground Storage Tank (UST) Act gives the Utah Waste Management and Radiation Control Board authority to regulate USTs and petroleum storage tanks and make rules for administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act gives the board the authority to establish standards governing USTs and aboveground petroleum storage tanks.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments on this rule have been received since the last five-year review
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary for continued operation of the Underground Storage Tank program. It contains important definitions that clarify terms used elsewhere in the UST rules. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brent Everett, Director	**Date:**	02/15/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R311-201**	**Filing ID: 53577**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Environmental Quality	
Agency:	Environmental Response and Remediation	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144840	
City, state and zip:	Salt Lake City, UT 84114-4840	
Contact person(s):		
Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Therron Blatter	801-554-6762	tblatter@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R311-201. Underground Storage Tanks: Certification Programs and UST Operator 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:
Section 19-6-403 of the Utah Underground Storage Tank (UST) Act gives the Utah Waste Management and Radiation Control Board authority to regulate USTs and petroleum storage tanks and make rules for the administration of the petroleum storage tank program and certification of UST installers, inspectors, testers, removers, and petroleum storage tank consultants. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act gives the board the authority to establish standards governing USTs and aboveground petroleum storage tanks.

Subsection 19-6- 402(7)(a) of the UST Act refers to education and experience standards established by board rule for certified petroleum storage tank consultants.

Section 19-1-301 of the Environmental Quality Code requires that the Department of Environmental Quality and its boards comply with procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act (APA), and specifies that procedures for an adjudicative proceeding conducted by an administrative law judge are governed by the APA and rules adopted by a board as allowed by Subsection 63G-4-102(6).

Section 63G-4-102 of the APA states that the APA governs actions by state agencies that determine or limit legal rights and privileges of persons and governs judicial review of those actions. It allows agencies to enact and follow rules affecting or governing adjudicative proceedings if the rules are enacted according to procedures outlined in Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and if the rules conform to the requirements of the APA.

Sections 63G-4-201 through 63G-4-205 of the APA allow agencies to enact rules governing certain aspects of adjudicative proceedings, such as commencement of proceedings, designation of categories of proceedings as formal or informal, and procedures for conducting informal and formal proceedings.

Section 63G-4-503 of the APA requires an agency to issue rules regarding declaratory orders.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments on this rule have been received since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary for continued operation of the Petroleum Storage Tank program. As directed by Subsection 19-6-403(1)(a) of the Utah UST Act, the rule provides certification requirements for UST installers, UST removers, UST testers, UST inspectors, and petroleum storage tank consultants. It also provides for training and registration of UST operators, as required by the Energy Policy Act and Subsection 19-6-403(1)(b) of the UST Act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brent Everett, Director	**Date:**	02/15/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	**R311-202**	**Filing ID: 53169**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Environmental Quality
Agency:	Environmental Response and Remediation
Building:	Multi Agency State Office Building
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144840
City, state and zip:	Salt Lake City, UT 84114-4840

Contact person(s):

Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Therron Blatter	801-554-6762	tblatter@utah.gov

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

General Information

2. Rule catchline:

R311-202. Federal Underground Storage Tank Regulations

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 19-6-403 of the Utah Underground Storage Tank (UST) Act gives the Utah Waste Management and Radiation Control Board authority to regulate USTs and petroleum storage tanks and make rules for administration of the petroleum storage tank program and the adoption of applicable Federal UST regulations.

Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act gives the board the authority to establish standards governing USTs and aboveground petroleum storage tanks

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments on this rule have been received since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary for the continued operation of the Petroleum Storage Tank program. It provides for the incorporation by reference of the federal UST regulations (40 CFR Part 280) and is specifically mandated by Subsection 19-6-403(1)(b) of the Utah UST Act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brent Everett, Director	**Date:**	02/15/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R311-203**	**Filing ID: 53580**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Environmental Quality	
Agency:	Environmental Response and Remediation	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144840	
City, state and zip:	Salt Lake City, UT 84114-4840	
Contact person(s):		
Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Therron Blatter	801-554-6762	tblatter@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R311-203. Underground Storage Tanks: Technical 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 19-6-403 of the Utah Underground Storage Tank (UST) Act gives the Utah Waste Management and Radiation Control Board authority to regulate USTs and petroleum storage tanks and make rules for registration of tanks and administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act gives the board the authority to establish standards governing USTs and aboveground petroleum storage tanks. Section 19-6-408 of the UST Act provides for the assessment of an annual petroleum storage tank registration fee on petroleum storage tanks. Subsection 19-6-411(2)(b) of the UST Act requires the board to make rules specifying which portions of an underground storage tank installation shall be subject to the permitting fees when less than a full UST system is installed.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments on this rule have been received since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary for continued operation of the Petroleum Storage Tank program. It clarifies when UST owners/operators and installers must notify on new installations, upgrades, and changes of ownership. It provides for the administration of the registration fee mandated by Section 19-6-408 of the Utah UST Act, the installer permit fees mandated by Section 19-6-411, and the installer notification requirements mandated by Section 19-6-407. It also provides clarification of the tank testing requirements in Section 19-6-413 of the UST Act and subparts C (General Operating Requirements) and D (Release Detection) of 40 CFR 280, the federal UST regulations. It also provides clarification of the secondary containment and Operator Inspection requirements in subparts B (UST Systems: Design, Construction, Installation and Notification) and J (Operator Training) of 40 CFR 280, the federal UST regulations. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brent Everett, Director	**Date:**	02/15/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R311-204**	**Filing ID: 53581**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Environmental Quality	
Agency:	Environmental Response and Remediation	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144840	
City, state and zip:	Salt Lake City, UT 84114-4840	
Contact person(s):		
Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Therron Blatter	801-554-6762	tblatter@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R311-204. Underground Storage Tanks: Closure and Remediation
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 19-6-403 of the Utah Underground Storage Tank (UST) Act gives the Utah Waste Management and Radiation Control Board authority to regulate USTs and petroleum storage tanks and make rules for administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act gives the board the authority to establish standards governing USTs and aboveground petroleum storage tanks. Section 19-6-402 of the UST Act provides definitions for terms pertinent to the underground storage tank program, including "Certified petroleum storage tank consultant", and refers to consultant education and experience standards established by the board.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments on this rule have been received since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary for continued operation of the Petroleum Storage Tank program. It specifies the requirements for UST closure plans, specifies labeling requirements and acceptable disposal methods for USTs that have been removed, and specifies when remedial activities may take place without the supervision of a certified petroleum storage tank consultant. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brent Everett, Director	**Date:**	02/15/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R311-205**	**Filing ID: 53582**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Environmental Quality	
Agency:	Environmental Response and Remediation	
Building:	Multi Agency State Office Building	
Street address:	195 N1950 W	
City, state and zip:	Salt Lake City, UT84116	
Mailing address:	PO Box 144840	
City, state and zip:	Salt Lake City, UT 84114-4840	
Contact person(s):		
Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Therron Blatter	801-554-6762	tblatter@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R311-205. Underground Storage Tanks: Site Assessment Protocol
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 19-6-403 of the Utah Underground Storage Tank (UST) Act gives the Utah Waste Management and Radiation Control Board authority to regulate USTs and petroleum storage tanks and make rules for administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act gives the board the authority to establish standards governing USTs and aboveground petroleum storage tanks. Section 19-6-413 of the UST Act refers to requirements set by rule for tightness tests performed as part of the application to receive a petroleum storage tank certificate of compliance.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division of Environmental Response and Remediation (Division) received comments regarding this rule during the informal comment period related to rulemaking. The comments dealt with concerns regarding sampling protocols and procedures in the "Utah Petroleum Storage Tank Environmental Media Sampling Handbook" which were incorporated by reference in this rule. The Division determined that the comment received would not change the essence of the proposed rules but will be considered in future implementation of the program.
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 for continued operation of the Petroleum Storage Tank program. It also specifies the requirements for site assessments for UST closures and specifies tank testing and site check requirements for tanks that will be covered by the Petroleum Storage Tank Trust Fund after a period of non-participation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brent Everett, Director	**Date:**	02/15/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R311-206**	**Filing ID: 53583**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Environmental Quality
Agency:	Environmental Response and Remediation
Building:	Multi Agency State Office Building
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144840
City, state and zip:	Salt Lake City, UT 84114-4840

Contact person(s):		
Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Therron Blatter	801-554-6762	tblatter@utah.gov

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

General Information

2. Rule catchline:
R311-206. Underground Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms
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 19-6-403 of the Utah Underground Storage Tank (UST) Act gives the Utah Waste Management and Radiation Control Board authority to regulate USTs and petroleum storage tanks, and make rules for administration of the petroleum storage tank program, including format and required information regarding records to be kept by tank owner/operators who are participating in the Petroleum Storage Tank Trust Fund, and voluntary participation in the Fund of above-ground petroleum storage tanks and unregulated underground tanks. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act gives the board the authority to establish standards governing USTs.

Subsection 19-6-410.5(5)(d) required that the Division of Environmental Response and Remediation, by January 1, 2015, create a risk profile model and rebate schedule for rebates of a percentage of the environmental assurance fee collected from UST owner/operators that participate in the environmental assurance program.

Subsection 19-6-411(7)(b) of the UST Act specifies that the board shall make rules providing for the identification of tanks that do not qualify for a certificate of compliance.

Subsection 19-6-428(3)(b) of the UST Act provides that the Director of the Division of Environmental Response and Remediation may determine, with reasonable cause, that soil/groundwater sampling is not required to establish that no petroleum has been released when a petroleum storage tank owner/operator desires to place petroleum storage tank facility under Fund coverage after a period of non-participation.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments on this rule have been received since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary for continued operation of the Underground Storage Tank program. It specifies requirements for petroleum storage tank owners and operators participating in the Petroleum Storage Tank Trust Fund, and for those who show financial responsibility by other mechanisms. It also provides rules for identification of compliant tanks, as mandated by Subsection 19-6-411(7) of the UST Act. It also specifies the conditions under which the director may determine that there is reasonable cause under Subsection 19-6-428(3)(b) of the UST Act to establish that no sampling is required for sites that will participate in the Fund after a period of non-participation. This rule includes Section R311-206-11, requirements for the environmental assurance fee rebate program mandated by Subsection 19-6-410.5(5)(d) of the UST Act. The maximum rebate percentage is set by statute and cannot be changed in rule. Risk factors were developed in the context of the various components of a facility and an overall risk level assigned to a UST facility based on facility's characteristics. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brent Everett, Director	**Date:**	02/15/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	**R311-207**	**Filing ID: 53584**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Environmental Quality
Agency:	Environmental Response and Remediation
Building:	Multi Agency State Office Building
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144840
City, state and zip:	Salt Lake City, UT 84114-4840

Contact person(s):

Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Therron Blatter	801-554-6762	tblatter@utah.gov

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

General Information

2. Rule catchline:

R311-207. Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks

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 19-6-403 of the Utah Underground Storage Tank (UST) Act gives the Utah Waste Management and Radiation Control Board authority to regulate USTs and petroleum storage tanks and make rules for administration of the petroleum storage tank program.

Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act gives the board the authority to establish standards governing USTs and aboveground petroleum storage tanks.

Section 19-6-409 of the UST Act creates the Petroleum Storage Tank (PST) Trust Fund and provides for payment of costs covered by the fund, including certain costs of certified petroleum storage tank consultants hired by third parties who have been affected by a release from a petroleum storage tank.

Section 19-6-419 of the UST Act specifies costs to be paid by the Petroleum Storage Tank Trust Fund for investigating and cleaning up releases at covered petroleum storage tank sites and specifies that the board shall make rules governing the apportionment of costs among third-party claimants for releases that are covered by the fund.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Division of Environmental Response and Remediation received comments regarding this rule during the informal comment period related to rulemaking. The comments dealt with the personnel classifications and labor rates found in the Cost Guidelines for Underground Storage Tank Sites which were incorporated by reference in this rule. The personnel classifications and labor rates were updated based on comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is an integral part of the Petroleum Storage Tank Trust Fund and provides the necessary protocol allowing access to fund monies for investigating and cleaning up petroleum releases covered by the fund. It helps maintain the financial viability of the fund to provide a means for petroleum storage tank owner/operators to meet the federal and state-mandated financial responsibility requirements and provide reimbursement for expenses associated with covered petroleum releases. It provides necessary requirements to implement Subsection 19-6-409(2)(e) of the UST Act and provides for payment of certain costs of certified petroleum storage tank consultants hired by third parties. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brent Everett, Director	**Date:**	02/15/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R311-208**	**Filing ID: 53585**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Environmental Quality
Agency:	Environmental Response and Remediation
Building:	Multi Agency State Office Building
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144840
City, state and zip:	Salt Lake City, UT 84114-4840

Contact person(s):

Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Therron Blatter	801-554-6762	tblatter@utah.gov

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

General Information

2. Rule catchline:

R311-208. Underground Storage Tank Penalty Guidance

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 19-6-403 of the Utah Underground Storage Tank (UST) Act gives the Utah Waste Management and Radiation Control Board authority to regulate USTs and petroleum storage tanks and make rules for administration of the petroleum storage tank program.

Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act gives the board the authority to establish standards governing UST and aboveground petroleum storage tanks.

Section 19-6-425 of the UST Act provides for civil penalties for violations of the Act.

Section 19-6-416 of the UST Act provides for penalties for deliveries of petroleum to a regulated petroleum storage tank that is not identified as being properly certified and in compliance.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments on this rule have been received since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule provides guidance to the Director of the Division of Environmental Response and Remediation in imposing and negotiating appropriate penalties against the various degrees of violations. The guidance provides that penalty amounts shall be in accordance with the severity of the

violation, risk of harm, and the willingness of individuals to cooperate. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brent Everett, Director	**Date:**	02/15/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R311-209**	**Filing ID: 53586**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Environmental Quality	
Agency:	Environmental Response and Remediation	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144840	
City, state and zip:	Salt Lake City, UT 84114-4840	
Contact person(s):		
Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Therron Blatter	801-554-6762	tblatter@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R311-209. Petroleum Storage Tank Cleanup Fund and State Cleanup Appropriation

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 19-6-403 of the Utah Underground Storage Tank (UST) Act gives the Utah Waste Management and Radiation Control Board authority to regulate petroleum storage tanks and make rules for administration of the petroleum storage tank program.

Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act gives the board the authority to establish standards governing USTs and aboveground petroleum storage tanks.

Section 19-6-405.7(4) of the UST Act gives the director of the Division of Environmental Response and Remediation the authority to use the Petroleum Storage Tank Cleanup Fund to investigate, abate, or take corrective action regarding releases from USTs that are not covered by the Petroleum Storage Tank Trust Fund.

Subsection 19-6-420(10) of the UST Act allows the director to recover costs incurred for managing and overseeing cleanups of releases not covered by the Petroleum Storage Tank Fund.

Section 19-6-424.5 of the UST Act allows the director to finance cleanup costs that are part of an agreement or order.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments on this rule have been received since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is integral to the goals of the UST Act to protect human health and the environment. It provides criteria for use of the Petroleum Storage Tank Cleanup Fund created by Section 19-6-405.7 of the UST Act and the cleanup appropriations made by the legislature. It also provides rules for recovery of management and oversight expenses allowed by Subsection 19-6-420(10) of the UST Act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brent Everett, Director	**Date:**	02/15/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R311-210**	**Filing ID: 50709**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Environmental Quality
Agency:	Environmental Response and Remediation
Building:	Multi Agency State Office Building
Street address:	195 N 1950 W

City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144840	
City, state and zip:	Salt Lake City, UT 84114-4840	
Contact person(s):		
Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Therron Blatter	801-554-6762	tblatter@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R311-210. Administrative Procedures
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 19-6-403 of the Utah Underground Storage Tank (UST) Act gives the Utah Waste Management and Radiation Control Board authority to regulate USTs and petroleum storage tanks and make rules for administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act gives the board the authority to establish standards governing USTs and aboveground petroleum storage tanks. Section 19-1-301 of the Environmental Quality Code requires that the Department of Environmental Quality and its boards comply with procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act (APA), and specifies that procedures for an adjudicative proceeding conducted by an administrative law judge are governed by the APA and rules adopted by a board as allowed by Subsection 63G-4-102(6). Sections 63G-4-201 through 63G-4-205 of the APA allow agencies to enact rules governing certain aspects of adjudicative proceedings, such as: commencement of proceedings, designation of categories of proceedings as formal or informal, and procedures for conducting informal and formal proceedings. Section 63G-4-503 of the APA requires an agency to issue rules regarding declaratory orders.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments on this rule have been received since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The rules regarding administrative procedures for all divisions within the Department of Environmental Quality are found in Rule R305-7. Rule R311-210 contains only one sentence, stating that underground storage tank administrative proceedings are governed by Rule R305-7. Adjudicative rules are necessary to address agency adjudicative needs not addressed in the Administrative Procedures Act, such as delineating the role of a presiding officer, providing a standard of agency review, designating proceedings as formal or informal, and providing specific procedures for involved formal adjudications. Without this rule, it would be difficult or impossible to conduct UST Act adjudications adequately. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brent Everett, Director	**Date:**	02/15/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R311-211**	**Filing ID: 53199**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Environmental Quality	
Agency:	Environmental Response and Remediation	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144840	
City, state and zip:	Salt Lake City, UT 84114-4840	
Contact person(s):		
Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Therron Blatter	801-554-6762	tblatter@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R311-211. Corrective Action Cleanup Standards Policy - UST and CERCLA Sites
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 19-6-403 of the Utah Underground Storage Tank (UST) Act gives the Utah Waste Management and Radiation Control Board authority to regulate petroleum storage tanks and make rules for administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act gives the board the authority to establish standards governing USTs and aboveground petroleum storage tanks. Section 19-6-303 of the Hazardous Substance Mitigation Act authorizes the executive director to make rules consistent with the state's responsibilities and involvement with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Section 19-6-106 of the Solid and Hazardous Waste Act authorizes the Waste Management and Radiation Control Board to make rules under CERCLA, to the extent the board has jurisdiction.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments on this rule have been received since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule provides essential standards to be used in directing corrective action at contaminated UST and CERCLA sites and determining when cleanup is complete. This oversight of cleanup is an essential part of the agency's statutory responsibility. By statutory authority, the Division of Environmental Response and Remediation administers both the UST and CERCLA programs. Because of this structure and the common cleanup standards that apply in both programs, it is appropriate, from Utah's perspective, to retain both in this rule. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brent Everett, Director	**Date:**	02/15/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R311-212**	**Filing ID: 53587**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Environmental Quality
Agency:	Environmental Response and Remediation
Building:	Multi Agency State Office Building
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144840
City, state and zip:	Salt Lake City, UT 84114-4840

Contact person(s):		
Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Therron Blatter	801-554-6762	tblatter@utah.gov

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

General Information

2. Rule catchline:
R311-212. Administration of the Petroleum Storage Tank Loan 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 19-6-403 of the Utah Underground Storage Tank (UST) Act gives the Utah Waste Management and Radiation Control Board authority to regulate USTs and petroleum storage tanks and make rules for administration of the petroleum storage tank program. Subsection 19-6-105(1)(g) of the Solid and Hazardous Waste Act gives the board the authority to establish standards governing USTs and aboveground petroleum storage tanks. Section 19-6-409 of the UST Act authorizes the board to make rules for the administration of the Petroleum Storage Tank Loan Program.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments on this rule have been received since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary for continued operation of the Petroleum Storage Tank Loan program and is required by statute. The UST Act contains the basic framework of the loan program, and mandates that the Board make rules for the program's administration. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Brent Everett, Director	**Date:**	02/15/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R414-60**	**Filing ID: 53359**
Effective Date:	**03/11/2022**	

Agency Information

1. Department:	Health	
Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 N1460 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:

R414-60. Medicaid Policy for Pharmacy 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 while Section 26-1-5 authorizes the Department to adopt rules for program implementation. Additionally, 42 CFR 447.502 through 447.520 sets forth criteria for the payment of drugs.

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 determined that this rule is necessary because it implements pharmacy services and prescription drug coverage, clarifies coverage for over-the-counter drugs, specifies reimbursement and pharmacy dispensing fees, and implements federal policy for covered outpatient drugs. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	**Date:**	03/10/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R414-310**	**Filing ID: 50988**
Effective Date:	**03/11/2022**	

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:
R414-310. Medicaid Primary Care Network Demonstration Waiver
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 while Section 26-1-5 authorizes the Department to adopt rules for program implementation. Additionally, Section 1115 of the Social Security Act authorizes services under a waiver of federal Medicaid 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:
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 determined that this rule is necessary because it specifies enrollee rights and responsibilities, sets forth eligibility and verification requirements, spells out eligibility as it relates to creditable health coverage, specifies provisions for income and budgeting, specifies application procedures, sets forth procedures for eligibility decisions and reviews, clarifies the effective date of enrollment, outlines criteria for reporting changes, specifies notice and termination procedures, and clarifies the meaning of improper medical coverage. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	**Date:**	03/10/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-1**	**Filing ID: 53657**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations
Agency:	Human Resource Management
Room no.:	2100
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129-2128
Mailing address:	PO Box 141531
City, state and zip:	Taylorsville, UT 84114-1531
Contact person(s):	

Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov

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

General Information

2. Rule catchline:
R477-1. Definitions
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 provides the definitions used throughout Title R477. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-2**	**Filing ID: 53674**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations

Agency:	Human Resource Management	
Room no.:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-2. Administration
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 specifies the applicability of Title R477, clarifies record keeping and financial responsibilities relating to employment activities by state agencies, and contains statements required by various state and federal laws. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-3**	**Filing ID: 53675**

Effective Date:	**03/09/2022**

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room no.:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-3. Classification
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 sets out the framework for classifying positions in state government. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-4**	**Filing ID: 53676**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room no.:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-4. Filling Positions
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 sets for the procedures by which positions in state government may be filled. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-5**	**Filing ID: 53677**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room no.:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-5. Employee Status and Probation
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 sets forth the requirements for career service eligible employees to obtain career service status. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-6**	**Filing ID: 54204**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room no.:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-6. Compensation
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 sets for the framework for determining compensation for jobs, mechanisms by which employee pay may be adjusted, administration of various benefits, incentive awards, and more. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-7**	**Filing ID: 54205**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room no.:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-7. Leave
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 outlines leave types, how leave is to be used, and specifies limits on leave accrual and use. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-8**	**Filing ID: 53665**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room no.:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-8. Working Conditions
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 outlines working conditions for state employees including the setting of work schedules, overtime, breaks, time reporting, dual employment, and other conditions in the workplace. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-9**	**Filing ID: 53666**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room no.:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-9. Employee Conduct
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 outlines the standards for employee conduct in the workplace and while interacting with the public. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-10**	**Filing ID: 53667**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room no.:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-10. Employee Development
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 outlines procedures for measuring, correcting, and developing employee performance. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-11**	**Filing ID: 53668**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room no.:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-11. Discipline

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 specifies the procedures by which employees are disciplined or dismissed from employment. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-12**	**Filing ID: 53669**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room no.:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-12. Separations
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 outlines the procedures by which employees leave state employment not through the disciplinary process. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-13**	**Filing ID: 53658**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room no.:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov

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

General Information

2. Rule catchline:
R477-13. Volunteer 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:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 contains the guidelines which govern volunteer programs operated by state agencies to maintain a difference between an employee and a volunteer. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-14**	**Filing ID: 53670**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations
Agency:	Human Resource Management
Room no.:	2100
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129-2128
Mailing address:	PO Box 141531
City, state and zip:	Taylorsville, UT 84114-1531

Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-14. Substance Abuse and Drug-Free Workplace
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 specifies the standards for a drug-free workplace and procedures for testing and management action to detect and eliminate the influence of drugs or alcohol from the workplace. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-15**	**Filing ID: 53671**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations
Agency:	Human Resource Management
Room no.:	2100
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129-2128

Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-15. Workplace Harassment Prevention
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 outlines standards and procedures relating to discrimination and workplace harassment as required by state and federal law. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-16**	**Filing ID: 53672**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations
Agency:	Human Resource Management
Room no.:	2100
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129-2128
Mailing address:	PO Box 141531
City, state and zip:	Taylorsville, UT 84114-1531
Contact person(s):	
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-16. Abusive Conduct Prevention
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 outlines the standards and procedures related to abusive conduct prevention as required by state law. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R477-101**	**Filing ID: 53673**
Effective Date:	**03/09/2022**	

Agency Information

1. Department:	Government Operations
Agency:	Human Resource Management

Room no.:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact person(s):		
Name:	**Phone:**	**Email:**
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R477-101. Administrative Law Judge Conduct Committee
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
All rules in Title R477 are authorized and required by Subsection 63A-17-106(5)(j) to carry out human resources functions as directed in the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been 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 contains the standards and procedures related to oversight of Administrative Law Judges working for the state as required by state law. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	John Barrand, Division Director	**Date:**	03/09/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R590-262**	**Filing ID: 51439**
Effective Date:	**03/03/2022**	

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:
R590-262. Health Data Authority Health Insurance Claims Reporting
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-22-614.5 requires the insurance commissioner to adopt rules regarding uniform claims processing and to coordinate them with rules adopted by the Department of Health.
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 (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 allows the sharing of certain health coverage information between the Department and Department of Health. Without this rule, insurers would not be required to report important enrollment and claim information to the Department of Health. This would affect the processing of claims in a uniform manner and would have an adverse effect on consumers. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	**Date:**	03/03/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R652-1**	**Filing ID: 51679**
Effective Date:	**03/02/2022**	

Agency Information

1. Department:	Natural Resources	
Agency:	Forestry, Fire and State Lands	
Room no.:	352	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145703	
City, state and zip:	Salt Lake City, UT 84114-5703	
Contact person(s):		
Name:	**Phone:**	**Email:**
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-1. Definition of Terms
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule implements Subsection 65A-1-4(2) which authorizes the Division of Forestry, Fire and State Lands (Division) to provide definitions which apply to all rules promulgated by the Division unless otherwise provided.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule gives the Division the authority to define terms used within rules promulgated by the Division. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jamie Barnes, Director	**Date:**	03/02/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R652-3**	**Filing ID: 51680**
Effective Date:	**03/02/2022**	

Agency Information

1. Department:	Natural Resources	
Agency:	Forestry, Fire and State Lands	
Room no.:	352	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145703	
City, state and zip:	Salt Lake City, UT 84114-5703	
Contact person(s):		
Name:	**Phone:**	**Email:**
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-3. Applicant Qualifications and Application Forms
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule implements Sections 65A-6-2 and 65A-7-1 which authorize the Division of Forestry, Fire and State Lands (Division) to prescribe the applicant requirements and the form of application.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule gives the Division the authority to determine if a person is qualified to apply for a lease or permit through the Division, which forms shall be provided, and how applications shall be processed. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jamie Barnes, Director	**Date:**	03/02/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R652-4**	**Filing ID: 51690**
Effective Date:	**03/07/2022**	

Agency Information

1. Department:	Natural Resources	
Agency:	Forestry, Fire and State Lands	
Room no.:	352	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145703	
City, state and zip:	Salt Lake City, UT 84114-5703	
Contact person(s):		
Name:	**Phone:**	**Email:**
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-4. Application Fees and Assessments

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule implements Subsection 65A-1-4(2) which authorizes the Division of Forestry, Fire and State Lands (Division) to adopt rules necessary to fulfill the purposes of Title 65A.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule gives the Division the authority to establish and maintain a fee schedule for the Division's applications and assessments. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jamie Barnes, Director	**Date:**	03/07/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R652-5**	**Filing ID: 51682**
Effective Date:	**03/02/2022**	

Agency Information

1. Department:	Natural Resources	
Agency:	Forestry, Fire and State Lands	
Room no.:	352	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145703	
City, state and zip:	Salt Lake City, UT 84114-5703	
Contact person(s):		
Name:	**Phone:**	**Email:**
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov

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

General Information

2. Rule catchline:
R652-5. Payments, Royalties, Audits, and Reinstatements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule implements Subsection 65A-1-4(2) which authorizes the Division of Forestry, Fire and State Lands (Division) to adopt rules necessary to fulfill the purposes of Title 65A.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule gives the Division the authority to adopt the rules necessary to fulfill the purposes of Title 65A, specifically how payments, royalties, audits, and reinstatements will be handled by the Division. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jamie Barnes, Director	**Date:**	03/02/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R652-6**	**Filing ID: 51683**
Effective Date:	**03/02/2022**	

Agency Information

1. Department:	Natural Resources
Agency:	Forestry, Fire and State Lands
Room no.:	352
Building:	Department of Natural Resources
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 145703
City, state and zip:	Salt Lake City, UT 84114-5703

Contact person(s):		
Name:	**Phone:**	**Email:**
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-6. Government Records Access and Management
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 provides procedures for appropriate access to Division of Forestry, Fire and State Lands (Division) records. This rule is authorized by Sections 63G-2-204, 63G-2-603, 63A-12-104, 65A-1-10, and 65A-6-7.
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 defines the terms and roles and responsibilities of the Division in responding to requests for access to records. It also identifies circumstances in which a record may be denied, appealed, and fees associated with a request. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jamie Barnes, Director	**Date:**	03/02/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R652-20**	**Filing ID: 51689**
Effective Date:	**03/02/2022**	

Agency Information

1. Department:	Natural Resources
Agency:	Forestry, Fire and State Lands
Room no.:	352

Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145703	
City, state and zip:	Salt Lake City, UT 84114-5703	
Contact person(s):		
Name:	**Phone:**	**Email:**
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-20. Mineral Resources
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule implements Section 65A-6-2 which authorizes the Division of Forestry, Fire and State Lands (Division) to establish rules for the issuance of mineral leases and management of state-owned lands and mineral resources.
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 authorizes the Division to establish rules for the issuance of mineral leases and the management of state-owned lands and mineral resources. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jamie Barnes, Director	**Date:**	03/02/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R652-30**	**Filing ID: 51691**

Effective Date:	**03/07/2022**

Agency Information

1. Department:	Natural Resources	
Agency:	Forestry, Fire and State Lands	
Room no.:	352	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145703	
City, state and zip:	Salt Lake City, UT 84114-5703	
Contact person(s):		
Name:	**Phone:**	**Email:**
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-30. Special Use Leases
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule implements Section 65A-7-1 which authorizes the Division of Forestry, Fire and State Lands (Division) to prescribe standards and conditions for the leasing and development of surface resources on state lands.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule gives the Division the authority to set the standards and conditions for the leasing and/or development of surface resources on state lands. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jamie Barnes, Director	**Date:**	03/07/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R652-40**	**Filing ID: 51692**
Effective Date:	**03/07/2022**	

Agency Information

1. Department:	Natural Resources	
Agency:	Forestry, Fire and State Lands	
Room no.:	352	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145703	
City, state and zip:	Salt Lake City, UT 84114-5703	
Contact person(s):		
Name:	**Phone:**	**Email:**
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-40. Easements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule implements Section 65A-7-8 which authorizes the Division of Forestry, Fire and State Lands(Division) to establish rules for the issuance of easements on, through, and over any sovereign land, and to establish price schedules for this use.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule gives the Division the authority to establish rules for the issuance of easements on, through, and over any sovereign land, and to establish price schedules for this use. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jamie Barnes, Director	**Date:**	03/07/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R652-50**	**Filing ID: 51694**
Effective Date:	**03/07/2022**	

Agency Information

1. Department:	Natural Resources	
Agency:	Forestry, Fire and State Lands	
Room no.:	352	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145703	
City, state and zip:	Salt Lake City, UT 84114-5703	
Contact person(s):		
Name:	**Phone:**	**Email:**
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-50. Range Management
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule implements Section 65A-9-2 which authorizes the Division of Forestry, Fire and State Lands (Division) to establish rules prescribing standards and conditions for

the utilization of forage and related development of range resources on sovereign lands.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule gives the Division the authority to establish rules prescribing standards and conditions for the utilization of forage and related development of range resources on sovereign lands. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jamie Barnes, Director	**Date:**	03/07/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R652-60**	**Filing ID: 51698**
Effective Date:	**03/07/2022**	

Agency Information

1. Department:	Natural Resources	
Agency:	Forestry, Fire and State Lands	
Room no.:	352	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145703	
City, state and zip:	Salt Lake City, UT 84114-5703	
Contact person(s):		
Name:	**Phone:**	**Email:**
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-60. Cultural Resources
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule implements Subsection 65A-2-2(1) which authorizes the Division of Forestry, Fire and State Lands (Division) to prescribe the management of cultural resources on sovereign lands. This rule outlines the manner by which the Division shall, pursuant to Section 9-8-404, take into account the effect of sovereign land uses on any district, site, building, structure or specimen that is included in or eligible for inclusion in the State Register or National Register of Historic Places, and allow the State Historic Preservation Officer a reasonable opportunity to comment with regard to the undertaking.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule gives the Division the authority to prescribe the management of cultural resources on sovereign lands. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jamie Barnes, Director	**Date:**	03/07/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R652-70**	**Filing ID: 51700**
Effective Date:	**03/07/2022**	

Agency Information

1. Department:	Natural Resources
Agency:	Forestry, Fire and State Lands
Room no.:	352
Building:	Department of Natural Resources
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116

Mailing address:	PO Box 145703	
City, state and zip:	Salt Lake City, UT 84114-5703	
Contact person(s):		
Name:	**Phone:**	**Email:**
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-70. Sovereign Lands
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 provides for the management and classification of the surface of sovereign lands in Utah, which include but are not limited to, the beds of Bear Lake, the Great Salt Lake, Utah Lake, the Jordan River, the Bear River from the Amalga Bridge to the Great Salt Lake, the summer channel of the Bear River from the Utah-Idaho border to the Amalga Bridge, and portions of the beds of the Green and Colorado Rivers. Should any other lakes or streams, or portions thereof, be declared navigable by the courts, the beds of such lakes or streams would fall under the authority of these rules. It also provides for the issuance of special use leases, general permits and easements on sovereign lands and the procedures and fees necessary to obtain these rights of use. This rule implements Article XX of the Utah Constitution, and Section 65A-10-1.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule gives the Division of Forestry, Fire and State Lands the authority to manage and classify the surface of sovereign lands in Utah and provides for the issuance of special use leases, general permits and easements on sovereign lands and the procedures and fees necessary to obtain these rights of use. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jamie Barnes, Director	**Date:**	03/07/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R652-90**	**Filing ID: 52440**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Natural Resources	
Agency:	Forestry, Fire and State Lands	
Room no.:	352	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145703	
City, state and zip:	Salt Lake City, UT 84114-5703	
Contact person(s):		
Name:	**Phone:**	**Email:**
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-90. Sovereign Lands Management Planning
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule implements Sections 65A-2-2 and 65A-2-4 which requires that planning procedures be developed for sovereign lands, and for the opportunity for the public to participate in the planning process.
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 sets forth the planning procedures for natural and cultural resources on sovereign land as required by law. These procedures establish comprehensive land-management policies using multiple-use, sustained-yield principles in order to make the interest of the beneficiary paramount. Management plans shall guide the implementation of stated management objectives and provide direction for land-use decisions and activities on sovereign lands. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jamie Barnes, Director	**Date:**	03/08/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R652-100**	**Filing ID: 51702**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Natural Resources	
Agency:	Forestry, Fire and State Lands	
Room no.:	352	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 145703	
City, state and zip:	Salt Lake City, UT 84114-5703	
Contact person(s):		
Name:	**Phone:**	**Email:**
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-100. Materials Permits

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule implements Section 65A-7-1 which authorizes the Division of Forestry, Fire and State Lands (Division) to prescribe Division objectives, standards and conditions for the issuance of materials permits and for conveyances for common varieties of sand, gravel, cinders, and similar materials on sovereign lands.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule gives the Division the authority to create and implement the objectives, standards, and conditions for the issuance of materials permits and for conveyances of materials on sovereign lands. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jamie Barnes, Director	**Date:**	03/08/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R655-1**	**Filing ID: 51713**
Effective Date:	**03/13/2022**	

Agency Information

1. Department:	Natural Resources	
Agency:	Water Rights	
Room no.:	220	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	1594 W North Temple Suite 220	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	**Phone:**	**Email:**
Marianne Burbidge	801-538-7370	marianneburbidge@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R655-1. Wells Used for the Discovery and Production of Geothermal Energy in the State of Utah
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is issued pursuant to Section 73-22-5, wherein the Division of Water Rights is given jurisdiction and authority to require that all wells for the discovery and production of water and steam at temperatures greater than 120 degrees centigrade to be used for geothermal energy production in the state of Utah, be drilled, operated, maintained, and abandoned in a manner as to safeguard life, health, property, the public welfare, and to encourage maximum economic recovery.
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 in 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 still required for processing and acceptance by the State Engineer. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Teresa Wilhelmsen, State Engineer/Director	**Date:**	03/11/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R655-6**	**Filing ID: 51725**
Effective Date:	**03/13/2022**	

Agency Information

1. Department:	Natural Resources
Agency:	Water Rights
Room no.:	220
Street address:	1594 W North Temple Suite 220
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	1594 W North Temple Suite 220
City, state and zip:	Salt Lake City, UT 84116

Contact person(s):		
Name:	**Phone:**	**Email:**
Marianne Burbidge	801-538-7370	marianneburbidge@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R655-6. Administrative Procedures for Informal Proceedings Before the Division of Water Rights
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 establishes and governs the administrative procedures for informal adjudicative proceedings before the Division of Water Rights as required by Section 63G-4-203. This rule governs all informal adjudicative proceedings commenced on or after January 1, 1988. Adjudicative proceedings commenced prior to January 1, 1988, are governed by Rule R655-2.
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 comment has been received in 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 still required for processing and acceptance by the State Engineer. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Teresa Wilhelmsen, State Engineer/Director	**Date:**	03/11/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R655-15**	**Filing ID: 51726**
Effective Date:	**03/13/2022**	

Agency Information

1. Department:	Natural Resources
Agency:	Water Rights
Room no.:	220
Street address:	1594 W North Temple Suite 220

City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	1594 W North Temple Suite 220	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	**Phone:**	**Email:**
Marianne Burbidge	801-538-7370	marianneburbidge@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R655-15. Administrative Procedures for Distribution Systems and Water Commissioners
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated pursuant to Subsections 73-2-1(5)(a) and 73-2-1(5)(b) which authorize the State Engineer to make rules governing water distribution systems, water commissioners, water measurement and reporting that are consistent with Title 73, Chapter 5, "Administration and Distribution".
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 in 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 still required for processing and acceptance by the State Engineer. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Teresa Wilhelmsen, State Engineer/Director	**Date:**	03/11/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R694-1**	**Filing ID: 51848**
Effective Date:	**03/08/2022**	

Agency Information

1. Department:	Public Lands Policy Coordinating Office	
Agency:	Administration	
Room no.:	3rd Floor	
Building:	Highland Drive	
Street address:	3760 S Highland Drive	
City, state and zip:	Salt Lake City, UT 84106	
Mailing address:	PO Box 141107	
City, state and zip:	Salt Lake City, UT 84106	
Contact person(s):		
Name:	**Phone:**	**Email:**
Redge Johnson	801-870-3638	redgejohnson@utah.gov
Laura Ault	801-550-7754	lauraault@utah.gov
Kristopher Carambelas	801-231-2896	kcarambelas@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R694-1. Archaeological Permits
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
As authorized by Subsection 9-8-305(5), this rule establishes requirements for the issuance of archaeological survey and excavation permits for all lands in Utah, and to ensure compliance with permit provisions and the underlying rules and 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 comments were received from interested persons supporting or opposing 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:
Pursuant to Subsection 9-8-305(5), Rule R694-1 establishes specific rules for obtaining archaeological survey or excavation permits, including Public Lands Policy Coordinating Office's right to seek advice during the review process; delegating authority to other agencies to issue excavation permits; amending, suspending,

revoking, and reinstating permits; and waiving permit provisions under certain circumstances. Critically, this rule also provides specific permit provisions and describes what information applicants may provide in lieu of the graduate degree and professional experience requirements. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Laura Ault, Deputy Director, Operations	**Date:**	03/08/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R895-3**	**Filing ID: 53716**
Effective Date:	**03/07/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Technology Services	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Contact person(s):		
Name:	**Phone:**	**Email:**
Stephanie Weteling	801-599-7870	stephanie@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R895-3. Computer Software Licensing, Copyright, Control, Retention, and Transfer

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 issued by the Chief Information Officer under the authority of Section 63A-16-205 of the Technology Governance Act, and in accordance with Section 63G-3-201 of the Utah Rulemaking Act.

The Division of Technology Services (DTS) must provide a rule with direction for state agencies on computer software licensing, copyright, control, retention, and transfer. This rule meets that requirement.

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 during and since the last five-year of this rule from interested persons supporting or opposing 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:

DTS must provide a rule with direction for state agencies on computer software licensing, copyright, control, retention, and transfer. This rule meets that requirement. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Alan Fuller, CIO	**Date:**	03/07/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	**R926-4**	**Filing ID: 52130**
Effective Date:	**03/03/2022**	

Agency Information

1. Department:	Transportation	
Agency:	Program Development	
Room no.:	Administrative Suite, 1st Floor	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 148455	
City, state and zip:	Salt Lake City, UT 84114-8455	
Contact person(s):		
Name:	**Phone:**	**Email:**
Linda Hull	801-965-4253	lhull@utah.gov
Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R926-4. Establishing and Defining a Functional Classification of Highways in the State of Utah
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Rule R926-4 establishes and defines a functional classification of highways to implement Section 72-4-102.5, defines and designates regionally significant arterial highways, and establishes an access management policy consistent with the functional classification of roadways.
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 Transportation (Department) has not received any written comments during and since the last five-year review of this rule from interested persons supporting or opposing 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:
Subsection 72-4-102.5(7) requires the Department to make and maintain Rule R926-4. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Carlos M. Braceras, PE, Executive Director	**Date:**	03/03/2022

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.):	**R356-3**	**Filing ID: 50852**
New Deadline Date:	**07/11/2022**	

Agency Information

1. Department:	Governor	
Agency:	Criminal and Juvenile Justice (State Commission on)	
Room no.:	330	
Building:	Senate Building	
Street address:	Utah State Capitol Complex	
City, state and zip:	Salt Lake City, UT 84114-2330	
Mailing address:	PO Box 142330	
City, state and zip:	Salt Lake City, UT 84114-2330	
Contact person(s):		
Name:	**Phone:**	**Email:**
Angelo Perillo	801-538-1047	aperillo@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R356-3. Electronic Meetings
3. Reason for requesting the extension and the new deadline date:
The agency needs more time to review this rule and the deadline is soon, so an extension is requested.

Agency Authorization Information

Agency head or designee, and title:	Tom Ross, Executive Director	**Date:**	03/09/2022

NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Utah Admin. Code Ref (R no.):	**R651-410**	**Filing ID: 51635**
New Deadline Date:	**07/05/2022**	

Agency Information

1. Department:	Natural Resources	
Agency:	Parks and Recreation	
Room no.:	116	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact person(s):		
Name:	**Phone:**	**Email:**
Amber Stubbings	801-538-7418	amberstubbings@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R651-410. Off-Highway Vehicle Safety Equipment

3. Reason for requesting the extension and the new deadline date:
Due to other obligations at the agency, the five-year review could not be done by the deadline. An extension is requested to give the agency time to get it done.

Agency Authorization Information

Agency head or designee, and title:	Jeff Rasmussen, Division Director	**Date:**	03/07/2022

End of the Notices of Five-Year Review Extensions Section

NOTICES OF
FIVE-YEAR EXPIRATIONS

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). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. 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 EXTENSION** (**EXTENSION**) with the Office. However, if the agency fails to file either the **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION** or the **EXTENSION** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **NOTICE OF FIVE-YEAR EXPIRATION** (**EXPIRATION**) to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

NOTICE OF EXPIRED RULE		
Utah Admin. Code Ref (R no.):	**R978-1**	**ID No. 53203**

Agency Information

1. Department:	Veterans' and Military Affairs	
Agency:	Administration	
Street address:	550 Foothill Dr, Suite 105	
City, state, and zip:	Salt Lake City, UT 84113	
Contact person(s):		
Name:	**Phone:**	**Email:**
Nancy L. Lancaster	801-957-7102	rulesonline@utah.gov

General Information

2. Title of rule (catchline)**:**	
R978-1. Rule Governing Veterans' Affairs	
3. Effective Date:	**03/02/2022**
4. Summary:	
The five-year review and notice of continuation was not filed for this rule by the deadline. This rule has expired and will be removed from the Utah Administrative Code. (EDITOR'S NOTES: A 120-day emergency rule that put this rule back into place under R978-2 is effective as of 03/08/2022 and is under ID No. 54404. The proposed new Rule R978-2 is under ID No. 54418. Both are in this issue, April 1, 2022, of the Bulletin.)	

End of the Notices of Notices of Five-Year Expirations 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.

Commerce
Occupational and Professional Licensing
No. 54140 (Amendment) R156-60b: Marriage and Family Therapist Licensing Act Rule
Published: 12/15/2021
Effective: 03/07/2022

Securities
No. 54309 (Amendment) R164-1: Fraudulent Practices of Broker-Dealers, Broker-Dealer Agents, and Issuer-Agents
Published: 02/01/2022
Effective: 03/11/2022

No. 54312 (Amendment) R164-2: Investment Adviser – Unlawful Acts
Published: 02/01/2022
Effective: 03/11/2022

Education
Administration
No. 54217 (Amendment) R277-419: Pupil Accounting
Published: 01/01/2022
Effective: 03/15/2022

No. 54216 (New Rule) R277-427: LEA Financial Information Systems
Published: 01/01/2022
Effective: 03/15/2022

No. 54251 (Amendment) R277-484: Data Standards
Published: 01/15/2022
Effective: 03/15/2022

No. 54218 (Repeal) R277-703: Centennial Scholarship for Early Graduation
Published: 01/01/2022
Effective: 03/15/2022

Environmental Quality
Drinking Water
No. 54090 (Amendment) R309-200-5: Primary Drinking Water Standards
Published: 12/01/2021
Effective: 03/31/2022

No. 54089 (Amendment) R309-530: Facility Design and Operation: Alternative Surface Water Treatment Methods
Published: 12/01/2021
Effective: 03/31/2022

Government Operations
Fleet Operations
No. 54313 (Amendment) R27-5: Fleet Tracking
Published: 02/01/2022
Effective: 03/14/2022

No. 54314 (Amendment) R27-6: Fuel Dispensing Program
Published: 02/01/2022
Effective: 03/14/2022

No. 54315 (Amendment) R27-7: Safety and Loss Prevention of State Vehicles
Published: 02/01/2022
Effective: 03/14/2022

No. 54316 (Amendment) R27-8: State Vehicle Maintenance Program
Published: 02/01/2022
Effective: 03/14/2022

No. 54317 (Amendment) R27-10: Identification Mark for State Motor Vehicles
Published: 02/01/2022
Effective: 03/14/2022

Health
Administration
No. 54326 (Amendment) R380-402: Medical Cannabis Cards
Published: 02/01/2022
Effective: 03/11/2022

No. 54327 (New Rule) R380-413: Administrative Penalties
Published: 02/01/2022
Effective: 03/11/2022

Disease Control and Prevention, Health Promotion
No. 54142 (Repeal) R384-205: Opiate Overdose Outreach Pilot Program
Published: 12/15/2021
Effective: 03/01/2022

Disease Control and Prevention, Epidemiology
No. 54145 (Amendment) R386-703: Injury Reporting Rule
Published: 12/15/2021
Effective: 03/16/2022

Disease Control and Prevention, Environmental Services
No. 54166 (Amendment) R392-300: Recreation Camp Sanitation
Published: 12/15/2021
Effective: 03/10/2022

No. 54143 (Amendment) R392-400: Temporary Mass Gathering Sanitation
Published: 12/15/2021
Effective: 03/10/2022

No. 54165 (Amendment) R392-501: Temporary Labor Community Sanitation
Published: 12/15/2021
Effective: 03/10/2022

No. 54173 (Repeal and Reenact) R392-700: Indoor Tanning Facility Sanitation
Published: 12/15/2021
Effective: 03/01/2022

Health Care Financing, Coverage and Reimbursement Policy
No. 54271 (Amendment) R414-10: Physician Services
Published: 01/15/2022
Effective: 03/01/2022

Family Health and Preparedness, Licensing
No. 54267 (Amendment) R432-5: Nursing Care and Pediatric Respite Care Facility Construction
Published: 01/15/2022
Effective: 03/03/2022

No. 54093 (New Rule) R432-153: Pediatric Respite Care Facility
Published: 12/15/2021
Effective: 03/10/2022

Center for Health Data, Vital Records and Statistics
No. 54337 (Amendment) R436-1: Duties of the Department of Health
Published: 02/01/2022
Effective: 03/16/2022

No. 54328 (Repeal and Reenact) R436-3: Amendments and Corrections to Vital Records
Published: 02/01/2022
Effective: 03/16/2022

No. 54331 (Amendment) R436-5: New Birth Certification After Legitimation, Court Determination of Paternity, or Adoption
Published: 02/01/2022
Effective: 03/16/2022

No. 54333 (Amendment) R436-8: Authorization for Final Disposition of Deceased Persons
Published: 02/01/2022
Effective: 03/16/2022

No. 54325 (Amendment) R436-9: Persons and Institutions Required to Keep Monthly Listings of Vital Statistics Events
Published: 02/01/2022
Effective: 03/16/2022

No. 54321 (Amendment) R436-10: Death Registration
Published: 02/01/2022
Effective: 03/16/2022

No. 54334 (Amendment) R436-12: Certified Copies of Vital Statistics Records
Published: 02/01/2022
Effective: 03/16/2022

No. 54336 (Amendment) R436-13: Disclosure of Records
Published: 02/01/2022
Effective: 03/16/2022

No. 54332 (Amendment) R436-17: Review and Approval of Research Requests
Published: 02/01/2022
Effective: 03/16/2022

No. 54322 (Amendment) R436-19: Abortion Reporting
Published: 02/01/2022
Effective: 03/16/2022

Human Services
Administration, Administrative Services, Licensing
No. 54008 (Repeal and Reenact) R501-8: Outdoor Youth Programs
Published: 11/01/2021
Effective: 03/07/2022

No. 54008 (Change in Proposed Rule) R501-8: Outdoor Youth Programs
Published: 02/01/2022
Effective: 03/07/2022

Child and Family Services
No. 54273 (Amendment) R512-2: Title IV-B Child and Family Services and Title IV-E Foster Care, Prevention, and Permanency
Published: 02/01/2022
Effective: 03/11/2022

No. 54274 (Amendment) R512-31: Foster Parent Due Process
Published: 02/01/2022
Effective: 03/11/2022

No. 54275 (Amendment) R512-40: Recruitment, Home Studies, and Approval of Adoptive Families for Children in the Custody of Child and Family Services
Published: 02/01/2022
Effective: 03/11/2022

No. 54276 (Amendment) R512-41: Qualifying Adoptive Families and Adoption Placement
Published: 02/01/2022
Effective: 03/11/2022

No. 54277 (Amendment) R512-43: Adoption Assistance
Published: 02/01/2022
Effective: 03/11/2022

No. 54278 (Amendment) R512-44: Choose Life Adoption Support Restricted Account
Published: 02/01/2022
Effective: 03/11/2022

No. 54279 (Amendment) R512-51: Fee Collection for Criminal Background Screening for Prospective Foster and Adoptive Parents and for Employees of Other Department of Human Services Licensed Programs
Published: 02/01/2022
Effective: 03/11/2022

No. 54280 (Amendment) R512-60: Children's Account
Published: 02/01/2022
Effective: 03/11/2022

No. 54281 (Amendment) R512-75: Rules Governing Adjudication of Consumer Complaints
Published: 02/01/2022
Effective: 03/11/2022

No. 54282 (Amendment) R512-76: Expungement of Child and Family Services Allegations
Published: 02/01/2022
Effective: 03/11/2022

No. 54283 (Amendment) R512-80: Definitions of Abuse, Neglect, and Dependency
Published: 02/01/2022
Effective: 03/11/2022

No. 54240 (Amendment) R512-100: In-Home Services
Published: 02/01/2022
Effective: 03/11/2022

No. 54284 (Amendment) R512-200: Child Protective Services, Intake Services
Published: 02/01/2022
Effective: 03/11/2022

No. 54285 (Amendment) R512-201: Child Protective Services, Investigation Services
Published: 02/01/2022
Effective: 03/11/2022

No. 54286 (Amendment) R512-202: Child Protective Services, General Allegation Categories
Published: 02/01/2022
Effective: 03/11/2022

No. 54241 (Amendment) R512-203: Child Protective Services, Significant Risk Assessments
Published: 02/15/2022
Effective: 03/25/2022

No. 54242 (Amendment) R512-205: Child Protective Services, Investigation of Domestic Violence Related Child Abuse
Published: 02/15/2022
Effective: 03/25/2022

No. 54243 (Amendment) R512-300: Out-of-Home Services
Published: 02/15/2022
Effective: 03/25/2022

No. 54244 (Amendment) R512-301: Out-of-Home Services, Responsibilities Pertaining to a Parent or Guardian
Published: 02/01/2022
Effective: 03/11/2022

No. 54245 (Amendment) R512-302: Out-of-Home Services, Responsibilities Pertaining to an Out-of-Home Caregiver
Published: 02/01/2022
Effective: 03/11/2022

No. 54246 (Amendment) R512-305: Out-of-Home Services, Transition to Adult Living Services
Published: 02/01/2022
Effective: 03/11/2022

No. 54248 (Amendment) R512-306: Out-of-Home Services, Transition to Adult Living Services, Education and Training Voucher Program
Published: 02/01/2022
Effective: 03/11/2022

No. 54287 (Amendment) R512-308: Out-of-Home Services, Guardianship Services and Placements
Published: 02/01/2022
Effective: 03/11/2022

No. 54249 (Amendment) R512-309: Out-of-Home Services, Foster Parent Reimbursement of Motor Vehicle Insurance Coverage for Youth in Foster Care
Published: 02/01/2022
Effective: 03/11/2022

No. 54250 (Amendment) R512-310: Reasonable and Prudent Parent Standard
Published: 02/01/2022
Effective: 03/11/2022

No. 54252 (Amendment) R512-311: Psychotropic Medication Oversight Panel
Published: 02/15/2022
Effective: 03/25/2022

No. 54288 (Amendment) R512-500: Kinship Services, Placement and Background Screening
Published: 02/01/2022
Effective: 03/11/2022

Services for People with Disabilities
No. 54360 (New Rule) R539-12: Person-Centered Budget
Published: 02/15/2022
Effective: 03/25/2022

Juvenile Justice Services
No. 54073 (New Rule) R547-2: Credit for Good Behavior
Published: 11/15/2021
Effective: 03/04/2022

No. 54221 (Amendment) R547-6: Youth Parole Authority
Published: 01/15/2022
Effective: 03/04/2022

No. 54068 (Amendment) R547-11: Guidelines for the Transfer to the Department of Corrections of a Minor Provisionally Housed in a Juvenile Justice Services Secure Care Facility
Published: 11/15/2021
Effective: 03/04/2022

No. 54223 (Amendment) R547-15: Formula for Reform Savings
Published: 01/15/2022
Effective: 03/04/2022

Insurance
Administration
No. 54362 (Repeal and Reenact) R590-91: Credit Life Insurance and Credit Accident and Health Insurance
Published: 02/15/2022
Effective: 03/25/2022

No. 54319 (Amendment) R590-143: Life And Health Reinsurance Agreements
Published: 02/01/2022
Effective: 03/16/2022

No. 54320 (Amendment) R590-157: Surplus Lines Insurance Premium Tax and Stamping Fee
Published: 02/01/2022
Effective: 03/16/2022

No. 54363 (Amendment) R590-160: Adjudicative Proceedings
Published: 02/15/2022
Effective: 03/25/2022

No. 54364 (Amendment) R590-176: Health Benefit Plan Enrollment
Published: 02/15/2022
Effective: 03/25/2022

No. 54365 (Amendment) R590-181: Yankee Bond Rule
Published: 02/15/2022
Effective: 03/25/2022

Natural Resources
Administration
No. 54361 (New Rule) R634-4: Health Reform - Health Insurance Coverage in State Contracts - Implementation
Published: 02/15/2022
Effective: 03/28/2022

Wildlife Resources
No. 54338 (Amendment) R657-5: Taking Big Game
Published: 02/01/2022
Effective: 03/14/2022

No. 54329 (Amendment) R657-9: Taking Waterfowl, Snipe and Coot
Published: 02/01/2022
Effective: 03/14/2022

No. 54330 (Amendment) R657-62: Drawing Application Procedures
Published: 02/01/2022
Effective: 03/14/2022

Tax Commission
Administration
No. 54350 (Amendment) R861-1A-42: Waiver of Penalty and Interest for Reasonable Cause Pursuant to Utah Code Ann. Section 59-1-401
Published: 02/01/2022
Effective: 03/28/2022

Motor Vehicle Enforcement
No. 54349 (Amendment) R877-23V-14: Dealer Identification of Fees Associated with Issuance of Temporary Permits Pursuant to Utah Code Ann. Sections 41-3-301 and 41-3-302
Published: 02/01/2022
Effective: 03/28/2022

Transportation
Motor Carrier
No. 54318 (Amendment) R909-3: Standards for Advertisement on Utah School Buses
Published: 02/01/2022
Effective: 03/14/2022

Workforce Services
Employment Development
No. 53955 (Amendment) R986-700: Child Care Assistance Amendment
Published: 10/01/2021
Effective: 03/31/2022

No. 53955 (Change in Proposed Rule) R986-700: Child Care Assistance Amendment
Published: 12/01/2021
Effective: 03/31/2022

End of the Notices of Rule Effective Dates Section