

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed July 16, 2022, 12:00 a.m. through August 01, 2022, 11:59 p.m.

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Nancy L. Lancaster, Managing Editor

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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## EDITOR'S NOTES

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### Nonsubstantive Changes Filed by Office of Administrative Rules

Subsection 63G-3-402(3)(c) authorizes the Office of Administrative Rules (Office) file a nonsubstantive change for an agency if a catchline needs to be changed to more accurately reflect the substance of each section, part, rule, or title. Subsection 63G-3-402(5) directs the Office to publish a list in the Utah State Bulletin of the changes the Office has filed under Subsection 63G-3-402(3).

Affected Code Citation	Description of the Change	Date the Change Was Made
R512-2-4	"R152" is changed to "R512" to accurately reflect the rule number	07/27/2022

**End of the Editor's Notes Section**



## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between July 16, 2022, 12:00 a.m., and August 01, 2022, 11:59 p.m. are included in this, the August 15, 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 September 14, 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 December 13, 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.

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R151-1	Filing ID: 54760

#### Agency Information

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Administration	
<b>Street address:</b>	160 E 300 S, 2nd Floor	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	Box 146701	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6701	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Masuda Medcalf	801-530-7663	mmedcalf@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

#### General Information

2. Rule or section catchline:
R151-1. Department of Commerce General Provisions
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This amendment updates this rule to become consistent with recent legislative amendments (H.B. 22 passed in the 2022 General Session) and making clerical changes for consistency with the Utah Rulewriting Manual.
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):
In Section R151-1-2, the change removes the capitalization of the first letter in lists, and otherwise clarifying and simplifying existing language.
Other changes further update the language based on amendments to the Open and Public Meetings Act in H.B. 22 (2022), provide that in electronic meetings the presence of a quorum and vote taking may be done by roll call, and that electronic meetings may be held without an anchor location for public health and safety concerns.

#### Fiscal Information

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

This rule does not amend fees or any revenue generation for the state and will not affect the state budget.

B) Local governments:

Local governments are not typically involved in electronic meetings before the Department of Commerce and are not impacted by this amendment.

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

This rule is procedural in nature and has no discernable impact on the costs required for a small business to take part in electronic meetings before the Department.

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

This rule is procedural in nature and has no discernable impact on the costs required for a non-small business to take part in electronic meetings before the Department.

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

This rule is procedural in nature and has no discernable impact on the costs required for other persons to take part in electronic meetings before the Department.

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

As indicated in above fiscal impact sections, this rule is procedural in nature and should result in no discernable costs to affected persons.

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

Regulatory Impact Table			
Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this regulatory impact analysis. The changes are not expected to impact small and non-small business revenues or expenditures because the amendments clarify definitions, standards, and procedures to incorporate current requirements and update this rule to conform to the rulewriting recommendations from the Office of Administrative Rules. There is no expected fiscal impact as these costs are either inestimable or there is not a fiscal impact that will result.

**Citation Information**

**6. 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:**

Art IV, Sec 10	Subsection 53-13-101(12)	Subsection 13-1-6(1)
Subsection 13-1-2(1)(b)	Section 52-4-207	

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	09/14/2022
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<b>9. This rule change MAY become effective on:</b>	09/21/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Margaret W. Busse, Executive Director	<b>Date:</b>	07/18/2022
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**R151. Commerce, Administration.**

**R151-1. Department of Commerce General Provisions.**

**R151-1-1. Oaths to Investigators and to Members of Boards and Commissions.**

Each investigator employed by the Department of Commerce, and each board member and commission member working in conjunction with the department or its divisions, shall take the oath of office required by the Utah Constitution, Art. IV, Sec. 10. The oath of office may be administered by the following personnel within the department: department executive director and deputy director, division directors, administrative law judges, Commerce managers II, division assistant directors, and division bureau managers.

**R151-1-2. Electronic Meetings.**

In compliance with Section 52-4-207, the following shall apply to electronic meetings held by any "public body" as defined in Section 52-4-103[~~within the Department of Commerce.~~]:

(1) ~~[E]~~electronic meetings are not prohibited but may be limited by an agency director or designee based on budget, public policy, or logistic[~~at~~] considerations[~~;~~];

(2)(a) ~~[A]~~an agency director or designee~~[, on the director or designee's own initiative,]~~ may establish an electronic meeting on the agency director or designee's initiative or after considering a request from any member of the public body[~~;~~];

(b)(i) ~~[Any member of a public body may also request an agency director to establish an electronic meeting;~~

~~(i) any such request]~~a member's request for an electronic meeting shall be made as far in advance as possible, but not less than three business days ~~[prior to]~~before a meeting to allow for arrangements to be made for the electronic meeting~~[, and];~~

(ii) the agency director or designee may shorten this time frame upon a determination of reasonable need;~~[or~~

~~(ii) the agency director or designee may determine whether such a request should be granted and no vote of the public body is required.]~~

(3)(a) ~~[A]~~a quorum of the public body is not required to be present at ~~[a single]~~the anchor location~~[for an electronic meeting.];~~

(b) the presence of a quorum shall be established by roll call at the beginning of an electronic meeting and at any time during the meeting on the demand of any member;

(4) except for a unanimous vote, the public body shall take votes by roll call;

([4]5) ~~[A]~~any number of separate connections for members of a public body is allowed for an electronic meeting, unless an agency director or designee limits the number of separate connections based on available equipment capability or other relevant and reasonable considerations[~~;~~];

(6) a meeting of a public body may be held electronically without an anchor location as provided in Subsection 52-4-207(5) for public health or safety reasons.

## NOTICES OF PROPOSED RULES

**KEY:** oath, board members, investigators, electronic meetings  
**Date of Last Change:** ~~2022~~~~September 20, 2021~~  
**Notice of Continuation:** October 3, 2019  
**Authorizing, and Implemented or Interpreted Law:** Art. IV, Sec. 10; 53-13-101(12); 13-1-6(1); 13-1-2(1)(b); 52-4-207

### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R151-55</b>	<b>Filing ID:</b> <b>54761</b>
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### Agency Information

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Administration	
<b>Street address:</b>	160 E 300 S, 2nd Floor	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	Box 146701	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6701	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Masuda Medcalf	801-530-7663	mmedcalf@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

### General Information

<b>2. Rule or section catchline:</b>
R151-55. Regulatory Sandbox Program Rule
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
H.B. 243, passed in the 2022 General Session, repealed the Department of Commerce Regulatory Sandbox Program. Therefore the Department of Commerce is repealing the Regulatory Sandbox Program Rule, which is now moot.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This filing repeals the Regulatory Sandbox Program Rule in its entirety.

### Fiscal Information

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

#### A) State budget:

The fiscal note to H.B. 243 (2022) states that the repeal of the regulatory sandbox program could result in a decrease of expenditures by \$148,000 ongoing beginning in FY 2023. However, no additional costs or savings are anticipated to the state budget as a result of this rule repeal.

#### B) Local governments:

No costs or savings are anticipated to local governments as a result of this rule repeal.

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

The fiscal note for HB 243 (2022) remarks that the repeal of the regulatory sandbox program could result in a decrease of expenditures by \$148,000 beginning in FY 2023, however, small businesses may not specifically be affected by the repeal. Accordingly, no fiscal impact is expected as these costs are either inestimable or there is no fiscal impact.

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

The changes are not expected to impact non-small business revenues or expenditures. For the same reasons relating to small business, there is no expected fiscal impact as these costs are either inestimable or there is not a fiscal impact that will result.

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

This rule is being repealed, so no costs or savings are anticipated to other persons as a result of this rule repeal.

#### 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 being repealed, so there are no costs for affected persons.

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

##### Regulatory Impact Table

Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this regulatory impact analysis. The changes are not expected to impact non-small businesses' revenues or expenditures. For the same reasons relating to small businesses, there is no expected fiscal impact as these costs are either inestimable or there is not a fiscal impact that will result.			

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection		
13-1-6(2)		

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	09/14/2022

<b>9. This rule change MAY become effective on:</b>	09/21/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Margaret W. Busse, Executive Director	<b>Date:</b>	07/18/2022
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**R151. Commerce, Administration.****[R151-55. Regulatory Sandbox Program Rule.****R151-55-1. Title.**

~~This rule shall be known as the "Regulatory Sandbox Program Rule".~~

**R151-55-2. Authority Purpose.**

~~This rule governs adjudicative proceedings under Title 13, Chapter 55, Regulatory Sandbox Program, and is authorized by Utah Code Subsection 13-1-6(2).~~

**R151-55-3. Adjudicative Proceedings.**

~~(1) Informal Proceeding. Adjudicative Proceedings before the Department of Commerce under Title 13, chapter 55, Regulatory Sandbox Program are designated as informal adjudicative proceedings.~~

~~(2) Applicable Rules. In addition to Title 63G, Chapter 4, Administrative Procedures Act, any adjudicative proceedings under the Regulatory Sandbox Program shall be conducted in accordance with this rule and with the Department of Commerce Administrative Procedures Act Rule, R151-4.~~

~~(3) Hearings. Hearings will not be held in proceedings under the Regulatory Sandbox Program.~~

~~(4) Presiding Officer. The Regulatory Sandbox Program Manager is designated as the presiding officer in Regulatory Sandbox Program proceedings.~~

~~**KEY: Regulatory Sandbox Program, informal proceedings, adjudicative proceedings**~~

~~**Date of Last Change: November 8, 2019**~~

~~**Authorizing, and Implemented or Interpreted Law: 13-1-6(2)**~~

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Rule or Section Number:</b>	<b>R154-1</b>	<b>Filing ID:</b>	<b>54775</b>
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**Agency Information**

<b>1. Department:</b>	Commerce
<b>Agency:</b>	Corporations and Commercial Code
<b>Building:</b>	Heber M Wells Building
<b>Street address:</b>	160 E 300 S
<b>City, state and zip:</b>	Salt Lake City, UT 84111-2316

## NOTICES OF PROPOSED RULES

<b>Mailing address:</b>	PO Box 146705	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6705	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Leigh Veillette	801-530-6162	lveillette@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

## General Information

<b>2. Rule or section catchline:</b>
R154-1. Central Filing System for Agriculture Product Liens
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
This filing is made in accordance with Executive Order No. 2021-12 to update this rule and make changes consistent with the Utah Rulewriting Manual.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Rule R154-1 was due for a review and update to ensure that this rule conforms to any changes to agency processes resulting from the agency's new UCC/CFS filing system, as well as to incorporate a more recent version of a federal regulation.

## Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
No costs or savings because the changes made through the amendment merely clarify this rule and ensure it accurately reflects agency processes.
<b>B) Local governments:</b>
No costs or savings because the changes made through the amendment merely clarify this rule and ensure it accurately reflects agency processes.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
No costs or savings because the changes made through the amendment merely clarify this rule and ensure it accurately reflects agency processes.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):

No costs or savings because the changes made through the amendment merely clarify this rule and ensure it accurately reflects agency processes.

**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 costs or savings because the changes made through the amendment merely clarify this rule and ensure it accurately reflects agency processes.

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

No costs or savings because the changes made through the amendment merely clarify this rule and ensure it accurately reflects agency processes.

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

Regulatory Impact Table			
Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Net Benefits	Fiscal	\$0	\$0	\$0
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>				
The Executive Director of the Department of Commerce, Margaret Busse, has reviewed and approved this regulatory impact analysis.				

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section		
70A-9a-320		

**Incorporations by Reference Information**

<b>7. Incorporations by Reference :</b>	
<b>A) This rule adds, updates, or removes the following title of materials incorporated by references:</b>	
<b>Official Title of Materials Incorporated (from title page)</b>	9 CFR Part 205 – Clear Title – Protection for Purchasers of Farm Products
<b>Publisher</b>	Government Publishing Office
<b>Issue Date</b>	01/01/2021
<b>Issue or Version</b>	01/01/2021 Edition

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	09/14/2022

<b>9. This rule change MAY become effective on:</b>	09/21/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Leigh Veillette, Director	<b>Date:</b>	07/28/2022
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**R154. Commerce, Corporations and Commercial Code.****R154-1. Central Filing System for Agricultural Product Liens.****R154-1-1. Definitions.**

Terms used in this rule that are defined in the Food Security Act of 1985, 7 U.S.C. Section 1631 or Section R154-2-100 and not

otherwise defined in this section shall have the respective meanings given the terms in 7 U.S.C. Section 1631 and Section R154-2-100.

(1) "Division" means the Utah Division of Corporations and Commercial Code in the Utah Department of Commerce.

(2) "Central filing system" or "CFS" means the Division's UCC and CFS system, as described in Sections R154-2-300 through R154-2-314.

(3) "CFS filing" includes:

(a) a CFS-1 Effective Financing Statement;

(b) a CFS-2 Request for Information;

(d) a CFS-3 Statement of Amendment, Assignment, Continuation, or Termination; and

(e) any supplements thereto.

(4) "CFS-4" means the Division's master list registration form.

**R154-1-[4]2. Incorporation by Reference.**

[The Department of Commerce, Division of Corporations and Commercial Code (hereinafter "Division")] This rule incorporates by reference in its entirety 9 CFR Part 205 [1992, entitled "Protection for Purchasers of Farm Products," which was developed by the Secretary of Agriculture to fulfill the Secretary's responsibility under Section 1324 of the Food Security Act of 1985, P.L. 99-198](2021).

**R154-1-[2]3. Official Filing Office.**

The system operator for the [C]central [F]filing [S]system is the Division. [All filings of any Effective Financing Statement, amendment thereto, or continuation thereof,] CFS filings are filed with the [above] Division. There are no other agencies of the [State of Utah]state for filing.

**[R154-1-3. Master List.**

The secured party must refile all liens on farm products produced in Utah presently on file in the Uniform Commercial Code Section of the Division in the Central Filing System on or before December 24, 1986, to protect the security interests of the secured party. Products not produced in Utah cannot be registered in the Central Filing System.

The Division shall publish the first Master List 30 days after December 24, 1986.]

**R154-1-4. [Central Filing System (CFS)]Means to Deliver CFS Filings; Forms.**

[Any](1) A CFS filing[s in the Central Filing System must] shall be filed electronically through the central filing system or on a paper-based CFS[-] form.

(2) Paper-based CFS forms are approved by the Division from time to time, and a list of CFS forms approved by the Division will be made available upon request. [- Each filing must bear the signature of the debtor or be accompanied by a copy of the UCC-1 financing statement, certified by an employee of the secured party, showing filing date and the debtor's signature.]

(3) A[ny] CFS filing [will be]is effective for a period of five years from the date of filing, except that a continuation CFS filing will extend the effective period for a CFS filing for an additional five years. [- Continuation CFS filings will extend the CFS filing for an additional five year period.]

**[R154-1-5. Collateral of Crop Year.**

Any filing which does not specify a particular crop year as to any one or more of the described farm products, shall be deemed

## NOTICES OF PROPOSED RULES

to include all described farm products existing as of the date of filing together with all described farm products born, acquired or grown during the effective period of such filing.]

### **R154-1-6. Recording of Effective Filing Statement.**

The Division shall not record Effective Filing Statements received in the office after 4:00 p.m. until the next business day.]

### **R154-1-7. Fees.**

The [Division shall charge] fee[s] for [the use of the] filing a CFS [Central Filing System] filing is established pursuant to [according to] Section 63J-1-301[504]. [Fees shall be reasonable and fair, and shall reflect the costs of the services provided. The specific fees charged are posted at the Division offices or may be obtained by calling the Division offices.]

### **R154-1-9. Searches.**

Requests for information about a[n] [EFS]CFS filing[s] will only be accepted by:

- (1) debtor name[-];
- (2) debtor tax identification number;[-or-]
- (3) debtor social security number; or[-by-]
- (4) Effective [Filing]financing [S]statement file number.

### **R154-1-10. Telephone Requests.**

Telephone requests for information concerning [Central Filing System]CFS filings are limited to three [inquiries]requests per call.

### **R154-1-11. Requests for Certified Copies.**

Requests for certified copies of [Central Filing System]CFS file[s]ings must be received in writing on the applicable CFS form[Form CFS-2].

### **R154-1-12. Application for [CFS]Master List.**

(1) An applicant must register with the Division each year using either the central filing system or a [Form] CFS-4 to receive the [CFS-M]master [L]list and update.

(2) Registrations [will]expire at 5[:00] p.m. on the last business day of the registration year.

### **R154-1-13. Change of Address.**

Registrants must notify the Division of any change of address by filling out a new [registration form]CFS-4 [in order]to continue to receive copies of the [Central Filing System M]master [L]list.

### **R154-1-14. Distribution of Master List.**

(1) The Division [shall]distributes the [Utah State Central Filing System M]master [L]list to all current registrants at the beginning of each month, followed by an [Master List]update on the 15th of [the same month]. The Division shall distribute the Master List and Master List update to all current registrants[that month].

[4-](2)(a) New [Effective Financing Statement]CFS filings only appear in the latest edition of the [M]master [L]list or its update if filed with the Division before [the cut off deadline]. The deadline for the monthly Master List update is filings made by 4[:00] p.m. on the 15th day of the month.

(b) If the deadline falls on a weekend, holiday, or other non-business day, the deadline will be the next business day after the normal deadline.

[2. The Division shall mail Master Lists and update to registrants within five business days after the deadline day.]

(3) The Division distributes the master list in accordance with a registrant's choice:

- (a) via email in Microsoft Excel format;
- (b) on a CD in Microsoft Excel format; or
- (c) in printed format for an additional cost.

### **R154-1-15. Mailing of Master List.**

The Division shall distribute all Central Filing System Master Lists and Central Filing System Master List Updates to current registrants by U.S. Post Office First Class Mail.

The Division shall require registrants residing in a state requiring notification by other than First Class Mail to pay any additional costs for mailing other than First Class Mail as a part of their registration filing.]

### **R154-1-16. Notification of Registrants.**

Registrants will be considered notified if:

1. The Division has mailed the list by First Class Mail by the deadline;
2. The Division has not received notice from the registrant of non-receipt of the list by 4:00 p.m. on the fifth business day after the distribution date.
3. Registrants notifying the Division of non-receipt will receive a new list by next day mail sent the same day as notice is given to the Division.]

### **R154-1-12. Filing Office Rules.**

Any topic related to CFS filings not specifically addressed in this rule is handled by the Division in accordance with Rule R154-2 as if the CFS filing is a UCC record.

KEY: liens, crops

Date of Last Change: 2022[1991]

Notice of Continuation: September 11, 2017

Authorizing, and Implemented or Interpreted Law: [70A-9-400]70A-9a-320

## NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal and Reenact

Rule or Section Number:	R154-2	Filing ID:	54776
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## Agency Information

1. Department:	Commerce
Agency:	Corporations and Commercial Code
Building:	Heber M Wells Building
Street address:	160 E 300 S
City, state and zip:	Salt Lake City, UT 84111-2316
Mailing address:	PO Box 146705
City, state and zip:	Salt Lake City, UT 84114-6705

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Leigh Veillette	801-530-6162	lveillette@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R154-2. Utah Uniform Commercial Code, Revised Article 9 Rules
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
This filing is made in accordance with Executive Order No. 2021-12 to update this rule and make changes consistent with the Utah Rulewriting Manual.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Rule R154-2 was due for a review and update to ensure that this rule conformed as much as possible with the International Association of Commercial Administrators (IACA) 2018 model rule, as well as any changes to agency processes resulting from the Division of Corporations and Commercial Code's new UCC/CFS filing system.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
No costs or savings because the changes made through the repeal and reenactment merely clarify this rule and ensure it accurately reflects agency processes.
<b>B) Local governments:</b>
No costs or savings because the changes made through the repeal and reenactment merely clarify this rule and ensure it accurately reflects agency processes.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
No costs or savings because the changes made through the repeal and reenactment merely clarify this rule and ensure it accurately reflects agency processes.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):

No costs or savings because the changes made through the repeal and reenactment merely clarify this rule and ensure it accurately reflects agency processes.

**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 costs or savings because the changes made through the repeal and reenactment merely clarify this rule and ensure it accurately reflects agency processes.

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

No costs or savings because the changes made through the repeal and reenactment merely clarify this rule and ensure it accurately reflects agency processes.

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

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

# NOTICES OF PROPOSED RULES

<b>Net Benefits</b>	<b>Fiscal \$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Commerce, Margaret Busse, has reviewed and approved this regulatory impact analysis.			

## Citation Information

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 70A-9a-526		

## Public Notice Information

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	09/14/2022

<b>9. This rule change MAY become effective on:</b>	09/21/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Leigh Veillette, Director	<b>Date:</b>	07/28/2022
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**R154. Commerce, Corporations and Commercial Code.**  
**[R154-2. Utah Uniform Commercial Code, Revised Article 9 Rules:**

### **R154-2-100. Definitions:**

(1) Terms included in this Subsection R154-2-100(1) shall have the meanings stated:

(a) "Active Record" means a UCC record that has been stored in the UCC information management system and indexed in, but not yet removed from, the Searchable Indexes.

(b) "Address" means:

(i) any street address, route number (may include box) or post office box number that includes a city, state, and zip code within the United States of America; or

(ii) any address that purports to be a mailing address outside the United States of America.

(c) "Amendment Statement" means a UCC record that amends the information contained in a financing statement, and includes:

- (i) an assignment;
- (ii) a continuation; or
- (iii) a termination.

(d)(i) "Assignment Statement" means an amendment that assigns to another person all or a part of a secured party's power to authorize an amendment to a financing statement.

(ii) Any assignment statement not clearly marked on the filing form as a partial assignment shall be deemed a full assignment.

(e) "Information Statement" means a UCC record indicating that a financing statement is inaccurate or wrongfully filed.

(f) "Filing office" or "filing officer" means the Utah Division of Corporations and Commercial Code in the Utah Department of Commerce.

(g) "Filing officer statement" means a statement entered into the filing office's UCC information management system to correct an error made by the filing office.

(h) "Initial financing statement" means a UCC record by which the filing office establishes the initial record of filing of a financing statement.

(i)(i) "Remitter" means a person who tenders a UCC record to the filing officer for filing, including:

- (A) the filer;
- (B) an agent of the filer responsible for tendering the record for filing; or
- (C) a service provider acting as a filer's representative in the filing process.

(ii) "Remitter" does not include a person responsible merely for the delivery of the record to the filing office, such as the postal service or a courier service.

(j) "Searchable indexes" means a list maintained in the UCC information management system that may be searched by:

- (i) individual debtor name(s); or
- (ii) organization debtor name(s);
- (k) "Secured party of record" means:
  - (i) a secured party of record as defined in the UCC;
  - (ii) a person:
    - (A) who is on record as a secured party; and
    - (B) with respect to whom an amendment is filed purporting to delete the person as a secured party of record; or
  - (iii) the person identified as the assignor on an amendment that purports to be an assignment.

(l) "UCC" means the Uniform Commercial Code as adopted in this State.

(m) "UCC information management system" means the data system used by the filing office to store, index, and retrieve information relating to financing statements as described in Subsection R154-2-300 of these rules.

(n) "UCC record" means:

- (i) an initial financing statement;
- (ii) an amendment;
- (iii) an assignment;
- (iv) a continuation statement;
- (v) a termination statement;
- (vi) a filing officer statement;
- (vii) an information statement; or
- (viii) any other record maintained by the filing office, whether the record is in an electronic format or paper-based.

(o) "Unlapsed record" means a UCC record that:

- (i) has been stored and indexed in the UCC information management system; and
- (ii) with respect to all secured parties of record, has not lapsed under UCC Section 9-515.

(2) Any term that is not defined in Subsection R154-2-100(1) but that is defined by the UCC shall have the meaning accorded the term by the UCC.

**R154-2-101. Means to Deliver UCC Records; Time of Filing.**

~~(1)(a) Subsection R154-2-101(1)(b) does not apply to:~~

~~(i) an initial financing statement that is being filed in connection with:~~

~~(A) a manufactured home; or~~

~~(B) a public finance transaction; or~~

~~(ii) a financing statement that is filed:~~

~~(A) against a debtor that is a transmitting utility; and~~

~~(B) in order to affect the filing office's determination of a lapse date under Subsection R154-2-307(3) or R154-2-308.~~

~~(b) UCC records other than those identified in Subsection R154-2-101(1)(a) may be tendered for filing at the filing office as follows:~~

~~(i) Personal delivery by the Remitter or by an agent of the Remitter.~~

~~(A) The filing shall be tendered at the filing office's physical location.~~

~~(B) The time of filing shall be the time delivery is taken by the filing office.~~

~~(C) To utilize personal delivery, the Remitter shall remain at the filing office for a determination of whether the UCC record will be taken.~~

~~(D) A filing tendered by personal delivery may subsequently be rejected by the filing office.~~

~~(ii) Courier delivery by a person other than the Remitter or an agent of the Remitter.~~

~~(A) The filing shall be tendered at the filing office's physical location.~~

~~(B) If delivered when the filing office is open for business, the time of filing shall be the earlier of:~~

~~(I) the time the UCC record is first examined by the filing office for processing; or~~

~~(II) the next close of business following the time of delivery.~~

~~(C) If delivered when the filing office is not open for business, the time of filing shall be the earlier of:~~

~~(I) the time the UCC record is first examined by the filing office for processing; or~~

~~(II) close of business on the next day following the time of delivery and on which the filing office is open for business.~~

~~(D) A filing tendered by courier may subsequently be rejected by the filing office.~~

~~(iii) Postal service delivery.~~

~~(A) The filing shall be mailed to the filing office's mailing address.~~

~~(B) If delivered when the filing office is open for business, the time of filing shall be the next close of business following the time of delivery.~~

~~(C) If delivered when the filing office is not open for business, the time of filing shall be the close of business on the next day following the date of delivery and on which the filing office is open for business.~~

~~(D) A filing tendered by postal service delivery may subsequently be rejected by the filing office.~~

~~(iv) Electronic mail.~~

~~(A) The filing shall be submitted to the filing office's e-mail address.~~

~~(B) If submitted when the filing office is open for business, the time of filing shall be the earlier of:~~

~~(I) the time the UCC record is first examined by the filing office for processing; or~~

~~(II) the next close of business following the time of submission.~~

~~(C) If submitted when the filing office is not open for business, the time of filing shall be the earlier of:~~

~~(I) the time the UCC record is first examined by the filing office for processing; or~~

~~(II) the close of business on the next day following the time of submission and on which the filing office is open for business.~~

~~(D) A filing tendered by electronic mail may subsequently be rejected by the filing office.~~

~~(v) Telefaesimile delivery.~~

~~(A) The filing shall be faxed to the filing office's fax filing telephone number.~~

~~(B) If faxed when the filing office is open for business, the time of filing shall be the earlier of:~~

~~(I) the time the UCC record is first examined by the filing office for processing; or~~

~~(II) the next close of business following the time of submission.~~

~~(C) If faxed when the filing office is not open for business, the time of filing shall be the earlier of:~~

~~(I) the time the UCC record is first examined by the filing office for processing; or~~

~~(II) the close of business on the next day following the time of submission and on which the filing office is open for business.~~

~~(D) A filing tendered by telefaesimile delivery may subsequently be rejected by the filing office.~~

~~(vi) Electronic filing—XML format.~~

~~(A) This Subsection R154-2-101(1)(b)(vi) does not apply to:~~

~~(I) information statements; and~~

~~(II) filing officer statements.~~

~~(B) To submit an electronic filing in XML format, a Remitter shall first contact the filing office:~~

~~(I) to become an authorized XML Remitter; and~~

~~(II) to obtain the filing office implementation guide prescribing the XML Format acceptable for use.~~

~~(C) The time of filing shall be the time that the filing office's UCC information management system analyzes the relevant transmission and determines that all required elements of the transmission have been received in a required format and are machine-readable.~~

~~(vii) Electronic filing—ANSI X12-154 format.~~

~~(A) To submit an electronic filing in ANSI X12-154 format, a Remitter shall first contact the filing office to obtain the filing office implementation guide prescribing the use of ANSI X12-154.~~

~~(B) The time of filing shall be the time the on-line system acknowledges entry of all required elements of the UCC record in the proper format.~~

~~(viii) Electronic filing—web page data entry.~~

~~(A) To submit an electronic filing through the filing office's website, a Remitter shall follow the data entry and payment procedures provided at <http://corporations.utah.gov/ucc-efs/ucc.html>.~~

~~(B) The time of filing shall be the time the on-line system acknowledges entry of all required elements of the UCC record in the proper format.~~

~~(2)(a) This Subsection R154-2-101(2)(b) applies to:~~

~~(i) an initial financing statement that is being filed in connection with:~~

~~(A) a manufactured home; or~~

## NOTICES OF PROPOSED RULES

~~\_\_\_\_\_ (B) a public finance transaction; or~~  
~~\_\_\_\_\_ (ii) a financing statement that is filed;~~  
~~\_\_\_\_\_ (A) against a debtor that is a transmitting utility; and~~  
~~\_\_\_\_\_ (B) in order to affect the filing office's determination of a~~  
~~lapse date under Subsection R154-2-307(3) or R154-2-308.~~  
~~\_\_\_\_\_ (b) To file a UCC record identified in this Subsection~~  
~~R154-2-101(2)(a), a Remitter shall:~~  
~~\_\_\_\_\_ (i) check the appropriate box on a UCC1 Financing~~  
~~Statement filed with respect to the financing statement; or~~  
~~\_\_\_\_\_ (ii) transmit the requisite information in the proper field in~~  
~~the applicable electronic filing.~~  
~~\_\_\_\_\_ (3) Means of communication:~~  
~~\_\_\_\_\_ (a) Regardless of the method of delivery, information~~  
~~submitted to the UCC filing office shall be communicated in the form~~  
~~of characters that are:~~  
~~\_\_\_\_\_ (i) defined in a character set forth in this Subsection R154-~~  
~~2-101; or~~  
~~\_\_\_\_\_ (ii) otherwise determined by the filing office to be~~  
~~acceptable.~~  
~~\_\_\_\_\_ (b) A financing statement or amendment form shall~~  
~~designate separate fields for:~~  
~~\_\_\_\_\_ (i) organization name(s) and individual name(s); and~~  
~~\_\_\_\_\_ (ii) the surname, first personal name, additional~~  
~~name(s)/initial(s), and suffix(es) for individual name(s).~~

### **R154-2-102. Search Request Delivery.**

~~\_\_\_\_\_ (1) A UCC search request may be delivered to the filing~~  
~~office by any of the means by which a UCC record may be delivered~~  
~~to the filing office.~~  
~~\_\_\_\_\_ (2) A search request may not be delivered by checking a~~  
~~box or otherwise including a search request in, or on, an initial~~  
~~financing statement, but may be delivered in, or on, a separate search~~  
~~request after the initial financing statement is filed.~~

### **R154-2-103. Forms.**

~~\_\_\_\_\_ The following forms are accepted by the filing office:~~  
~~\_\_\_\_\_ (1) any form prescribed by UCC Section 9-521;~~  
~~\_\_\_\_\_ (2) any paper-based form approved by the International~~  
~~Association of Commercial Administrators on or prior to April 20,~~  
~~2011; and~~  
~~\_\_\_\_\_ (3) any form otherwise approved by the filing office from~~  
~~time to time, a list of which may be obtained on request.~~

### **R154-2-104. Fees.**

~~\_\_\_\_\_ All fees are established by the Utah Legislature according~~  
~~to the most current fee schedule.~~

### **R154-2-105. Expedited Service.**

~~\_\_\_\_\_ (1) Expedited service is available to process filings within~~  
~~one business day.~~  
~~\_\_\_\_\_ (2) Expedited service requires an additional filing fee~~  
~~according to the fee schedule.~~

### **R154-2-106. Methods of Payment.**

~~\_\_\_\_\_ (1) Filing fees and fees for public records services may be~~  
~~paid by the following methods:~~  
~~\_\_\_\_\_ (a) Cash, if paid in person at the filing office.~~  
~~\_\_\_\_\_ (b) Personal check, cashier's check, or money order made~~  
~~payable to the filing office, if the drawer (or the issuer in the case of~~  
~~a cashier's check or money order) is deemed creditworthy by the~~  
~~filing office in its discretion.~~

~~\_\_\_\_\_ (c) Debit or credit card, if:~~  
~~\_\_\_\_\_ (i) the card is issued by an approved issuer; and~~  
~~\_\_\_\_\_ (ii) the Remitter provides the filing officer with:~~  
~~\_\_\_\_\_ (A) the card number;~~  
~~\_\_\_\_\_ (B) the expiration date of the card;~~  
~~\_\_\_\_\_ (C) the name of the card issuer;~~  
~~\_\_\_\_\_ (D) the name of the person or entity to whom the card is~~  
~~issued; and~~  
~~\_\_\_\_\_ (E) the billing address for the card.~~  
~~\_\_\_\_\_ (3) Payment by debit or credit card will not be deemed~~  
~~tendered until the card issuer or its agent confirms payment.~~

### **R154-2-107. Overpayment and Underpayment Policies.**

~~\_\_\_\_\_ (1) Overpayment shall be handled in accordance with State~~  
~~and/or Agency refund policy.~~  
~~\_\_\_\_\_ (2) Underpayment. Upon receipt of a document with an~~  
~~insufficient fee, the filing officer shall do the following:~~  
~~\_\_\_\_\_ (a) send a notice of the deficiency to the Remitter; and~~  
~~\_\_\_\_\_ (b) return the UCC record to the Remitter pursuant to~~  
~~Subsection R154-2-204, along with a notice of rejection.~~  
~~\_\_\_\_\_ (3)(a) A document that is rejected and returned under this~~  
~~Subsection R154-2-107(2) may be refiled.~~  
~~\_\_\_\_\_ (b) The time of filing shall be the time and date on which~~  
~~the full filing fee is received by the filing office.~~

### **R154-2-108. Public Records Services.**

~~\_\_\_\_\_ (1) Public records services shall be provided by the filing~~  
~~office on a non-discriminatory basis to any member of the public.~~  
~~\_\_\_\_\_ (2) Copies of individual UCC records, bulk copies of~~  
~~records, and data elements from the filing office's UCC information~~  
~~management system shall be made available to the public by the~~  
~~filing office in such forms, at such times, and for such fees as the~~  
~~filing office may prescribe from time to time.~~  
~~\_\_\_\_\_ (3) The filing office shall make such information regarding~~  
~~its prescribed forms, times, and fees as is then currently available at~~  
~~least weekly in every medium then available to the filing office.~~

### **R154-2-109. Fees for Public Records Services.**

~~\_\_\_\_\_ (1) Fees for public records services shall be established by~~  
~~the filing office from time to time.~~  
~~\_\_\_\_\_ (2) The filing office's fee schedule shall be available upon~~  
~~request.~~

### **R154-2-200. Role of Filing Officer.**

~~\_\_\_\_\_ Sections within the 200 series of this rule (e.g., R154-2-~~  
~~201) pertain to the role of the filing officer.~~

### **R154-2-201. Accepting and Refusing Records.**

~~\_\_\_\_\_ (1) The duties and responsibilities of the filing officer with~~  
~~respect to the administration of the UCC are ministerial.~~  
~~\_\_\_\_\_ (2) In acting on a UCC record filed pursuant to these rules,~~  
~~the filing officer does not:~~  
~~\_\_\_\_\_ (a) determine the legal sufficiency or insufficiency of the~~  
~~UCC record;~~  
~~\_\_\_\_\_ (b) determine that information in the record is correct or~~  
~~incorrect, in whole or in part; or~~  
~~\_\_\_\_\_ (c) create a presumption that information in the UCC~~  
~~record is correct or incorrect, in whole or in part.~~

### **R154-2-202. Time for Filing a Continuation Statement.**

~~\_\_\_\_\_ (1) First day permitted.~~

\_\_\_\_\_ (a) The first day on which a continuation statement may be filed is the date six months prior to the date on which the related financing statement is scheduled to lapse.

\_\_\_\_\_ (b) If no date can be generated pursuant to this Subsection R154-2-202(1)(a), the first day on which a continuation statement may be filed is the last day of the sixth month preceding the month in which the financing statement is scheduled to lapse.

\_\_\_\_\_ (c) Subsections R154-2-202(1)(a) and (b) are subject to:

\_\_\_\_\_ (i) the ability of the filing office to take delivery of the continuation statement as tendered; and

\_\_\_\_\_ (ii) the continuation statement being properly delivered to the filing office pursuant to Subsection R154-2-101.

\_\_\_\_\_ (2) Last day permitted.

\_\_\_\_\_ (a) The last day on which a continuation statement may be filed is the date upon which the related financing statement lapses.

\_\_\_\_\_ (b) Subsection R154-2-202(2)(a) is subject to:

\_\_\_\_\_ (i) the ability of the filing office to take delivery of the continuation statement as tendered; and

\_\_\_\_\_ (ii) the continuation statement being properly delivered to the filing office pursuant to Subsection R154-2-101.

\_\_\_\_\_ (3) In order to ensure that a continuation statement is timely filed, a Remitter shall effect delivery of the filing:

\_\_\_\_\_ (a) on or prior to the last day permitted; and

\_\_\_\_\_ (b) on a date and at a time when the filing office is open for business.

#### **R154-2-203. Grounds for Refusal.**

\_\_\_\_\_ The filing office:

\_\_\_\_\_ (1) shall refuse to accept a UCC record that does not provide an address that meets the minimum requirements as set forth in Subsection R154-2-100(1)(b); and

\_\_\_\_\_ (2) may refuse to accept a UCC record for any one or more reasons as set forth in UCC Section 9-516.

#### **R154-2-204. Procedure Upon Refusal.**

\_\_\_\_\_ (1) Except as provided in Subsection R154-2-107, if the filing officer finds grounds to refuse a UCC record, the filing officer shall not refund the filing fee.

\_\_\_\_\_ (2) Communication of the refusal, the reason(s) for the refusal, and other related information shall be made to the Remitter:

\_\_\_\_\_ (a)(i) as soon as practicable; and

\_\_\_\_\_ (ii) no later than two business days after the refused UCC record is received by the filing office; and

\_\_\_\_\_ (b)(i) by the same means as the means by which such UCC record was delivered to the filing office;

\_\_\_\_\_ (ii) by mail; or

\_\_\_\_\_ (iii) by such more expeditious means as the filing office may determine.

\_\_\_\_\_ (3) Records of refusal, including a copy of the refused UCC record and the ground(s) for refusal, shall be maintained by the filing office.

#### **R154-2-205. Refusal Errors.**

\_\_\_\_\_ (1) If a secured party or a Remitter demonstrates to the satisfaction of the filing officer that a UCC record that was refused for filing should not have been refused under Subsection R154-2-203:

\_\_\_\_\_ (a) the filing officer shall file the UCC record with the filing date and time the UCC record was originally tendered for filing; and

\_\_\_\_\_ (b) a filing officer statement record relating to the relevant initial financing statement shall be placed in the UCC information management system:

\_\_\_\_\_ (i) on the date that the corrective action is taken; and

\_\_\_\_\_ (ii) providing the date of the correction and an explanation of the nature of the corrective action taken.

\_\_\_\_\_ (2) A record created under this Subsection R154-2-205(1) shall be preserved for so long as the record of the initial financing statement is preserved in the UCC information management system.

#### **R154-2-206. Notification of Defects.**

\_\_\_\_\_ (1) Nothing in these rules shall be construed or interpreted to prevent a filing officer from communicating to a filer or a Remitter any apparent potential defect(s) in a UCC record, regardless of whether the filing is accepted or refused for filing.

\_\_\_\_\_ (2) The filing office is under no obligation to screen filings for defects.

\_\_\_\_\_ (3) The responsibility for the legal effectiveness of filing rests with filers and Remitters, and the filing office bears no responsibility for such effectiveness.

#### **R154-2-300. UCC Information Management System.**

\_\_\_\_\_ Sections within the 300 series of this rule (e.g., R154-2-301) pertain to the UCC Information Management System.

#### **R154-2-301. General Provisions.**

\_\_\_\_\_ (1) The filing office shall use a UCC information management system to store, index, and retrieve information relating to financing statements.

\_\_\_\_\_ (2) The UCC information management system shall include an index of the names of debtors included on financing statements that are Active Records.

#### **R154-2-302. Primary Data Elements.**

\_\_\_\_\_ The primary data elements used in the UCC information management system are the following:

\_\_\_\_\_ (1) Identification numbers.

\_\_\_\_\_ (a)(i) Each initial financing statement is identified by a file number.

\_\_\_\_\_ (ii) Identification of the initial financing statement is stamped on written UCC records or otherwise permanently associated with the record maintained for UCC records in the UCC information management system.

\_\_\_\_\_ (iii) A record is created in the UCC information management system for each initial financing statement, and all information comprising such record is maintained in the system.

\_\_\_\_\_ (iv) The record is identified by the same information assigned to the initial financing statement.

\_\_\_\_\_ (b)(i) A UCC record other than an initial financing statement is identified by a unique file number assigned by the filing officer.

\_\_\_\_\_ (ii) In the UCC information management system, records of all UCC records other than initial financing statements are linked to the record of their related initial financing statement.

\_\_\_\_\_ (2) Type of Record. The type of UCC record from which data is transferred is identified in the UCC information management system from information supplied by the Remitter.

\_\_\_\_\_ (3) Filing date and filing time.

\_\_\_\_\_ (a) The filing date and filing time of UCC records are stored in the UCC information management system.

~~(b) Calculation of the lapse date of an initial financing statement is based upon the filing date.~~  
~~(4) Identification of parties. The names and addresses of debtors and secured parties are transferred from UCC records to the UCC information management system.~~  
~~(5) Page count. The total number of pages, including staff classification marks, in a UCC record is maintained in the UCC information management system.~~  
~~(6) Lapse indicator.~~  
~~(a) An indicator is maintained by which the UCC information management system identifies:~~  
~~(i) whether or not a financing statement will lapse; and,~~  
~~(ii) if applicable, when a financing statement will lapse.~~  
~~(b) The lapse date is determined as provided in Subsections R154-2-307(3), 308, and 309(1).~~  
~~(7) Indexes of names.~~  
~~(a) The filing office maintains in the UCC information management system:~~  
~~(i) a searchable index of organization debtor names; and~~  
~~(ii) a searchable index of individual debtor names.~~  
~~(b)(i) The filing office may also maintain a searchable index of names of secured parties of record.~~  
~~(ii) Such an index need not be a separate database, but may be comprised of records in the UCC information management system identified to be included in such searchable index.~~

**R154-2-303. Individual Debtor Names.**

~~(1) Individual debtor names. For purposes of this rule, an individual debtor name is any name provided as a debtor name in a UCC record in a format that identifies the name as that of a debtor who is an individual, without regard to the nature or character of the name or to the nature or character of the actual debtor.~~  
~~(2) Individual name fields.~~  
~~(a) Individual debtor names are stored in files that include only the individual debtor names and not organization debtor names.~~  
~~(b) Separate data entry fields are established for:~~  
~~(i) surnames (last or family names);~~  
~~(ii) first personal names (given names); and~~  
~~(iii) additional name(s)/initial(s) of individuals.~~  
~~(c) The name of a debtor with a single name (e.g., "Cher") is treated as a surname and shall be entered in the individual surname field.~~  
~~(d) The filing officer assumes no responsibility for the accurate designation of the components of a name but shall accurately enter the data in accordance with the filer's designations.~~  
~~(3) Titles, prefixes, and suffixes.~~  
~~(a) Titles, prefixes (e.g. "Ms."), and suffixes or indications of status (e.g. "M.D.") are not typically part of a debtor's name.~~  
~~(b) Suffixes used to distinguish between family members with otherwise identical names (e.g., "JR.") may be provided in the Suffix field.~~  
~~(c) When entering a "name" into the UCC information management system, the filing office will enter data exactly as provided by the filer.~~  
~~(4) Extended debtor name field.~~  
~~(a) The Financing Statement form has limited space for individual debtor names. If any portion of the individual debtor name is too long for the corresponding field, the filer shall check the box that indicates the name is too long and enter the name in item 10 of the Addendum Form UCC1AD.~~

~~(b) A filing officer shall not refuse to accept a Financing Statement that lacks debtor information in item 1 and/or item 2 if the record includes an Addendum that provides a debtor name in item 10.~~  
~~(5) Truncation – individual names. Personal name fields in the UCC information management system are fixed in length. Although filers should continue to provide full names on their UCC records, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field. The lengths of data entry name fields are as follows:~~  
~~(a) Surname: 50 characters;~~  
~~(b) First personal name: 50 characters;~~  
~~(c) Additional name(s)/initial(s): 50 characters; and~~  
~~(d) Suffix: 5 characters.~~

**R154-2-304. Organization Debtor Names.**

~~(1) For purposes of these rules, an "organization debtor name" is any name provided as a debtor name in a UCC record in a format that identifies the name as that of a debtor that is an organization, without regard to the nature or character of the name or to the nature or character of the actual debtor.~~  
~~(2) Single field.~~  
~~(a) Organization debtor names are stored in files that include only organization debtor names and not individual debtor names.~~  
~~(b) A single field is used to store an organization debtor name.~~  
~~(3) Truncation – organization names. The organization debtor name field in the UCC information management system is fixed in length. The maximum length is 500 characters. Although filers should continue to provide full names on their UCC records, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the organization debtor name field.~~

**R154-2-305. Collateral Being Administered by a Decedent's Personal Representative.**

~~(1) The debtor name to be provided on a financing statement when the collateral is being administered by a decedent's personal representative is the name of the relevant decedent.~~  
~~(2) In order for the UCC information management system to function in accordance with the usual expectations of filers and searchers, the filer shall provide the debtor name as an individual debtor name.~~  
~~(3) The filing office shall enter data submitted by a filer in the fields designated by the filer exactly as the data appears in such fields.~~

**R154-2-306. Collateral Held in a Trust.**

~~(1) The debtor name to be provided when the collateral is held in a trust that is not a registered organization is:~~  
~~(a) the name of the trust as set forth in the trust's organic record(s), if the trust has such a name; or~~  
~~(b) if the trust is not so named, the name of the trust's settlor.~~  
~~(2) In order for the UCC information management system to function in accordance with the usual expectations of filers and searchers:~~  
~~(a) the name of a trust or of a settlor that is an organization shall be provided as an organization debtor name without regard to the nature or character of the debtor; and~~

~~\_\_\_\_\_ (b) the name of a settlor who is an individual shall be provided as an individual debtor name without regard to the nature or character of the debtor.~~

~~\_\_\_\_\_ (3) The filing office shall enter data submitted by a filer in the fields designated by the filer exactly as the data appears in such fields.~~

#### **R154-2-307. Initial Financing Statement.**

~~\_\_\_\_\_ Upon the filing of an initial financing statement, the status of the parties and the status of the financing statement shall be as follows:~~

~~\_\_\_\_\_ (1) Status of secured party:~~

~~\_\_\_\_\_ (a) If no assignee is named, each secured party named on an initial financing statement shall be a secured party of record.~~

~~\_\_\_\_\_ (b) If the UCC record names an assignee:~~

~~\_\_\_\_\_ (i) the secured party/assignor shall not be a secured party of record; and~~

~~\_\_\_\_\_ (ii) the secured party/assignee shall be a secured party of record.~~

~~\_\_\_\_\_ (2) Status of debtor. Each debtor name provided by the initial financing statement shall be indexed in the UCC information management system for as long as the financing statement is an Active Record.~~

~~\_\_\_\_\_ (3) Status of financing statement:~~

~~\_\_\_\_\_ (a) The financing statement shall be an Active Record.~~

~~\_\_\_\_\_ (b) A lapse date shall be calculated as follows:~~

~~\_\_\_\_\_ (i) Unless this Subsection R154-2-307(3)(b)(ii) or (iii) applies, the lapse date shall be five years from the file date.~~

~~\_\_\_\_\_ (ii) If the initial financing statement indicates, as provided in Subsection R154-2-101(2), that it is filed with respect to a public-financing transaction or a manufactured-home transaction, the lapse date shall be thirty years from the file date.~~

~~\_\_\_\_\_ (iii) If the initial financing statement indicates, as provided in Subsection R154-2-101(2), that it is filed against a transmitting utility, there shall be no lapse date.~~

#### **R154-2-308. Amendments Generally.**

~~\_\_\_\_\_ (1)(a) Unless this Subsection R154-2-308(1)(b) or (c) applies, the filing of an amendment has no effect on the status of the secured parties of record.~~

~~\_\_\_\_\_ (b) If an amendment adds a debtor or a secured party, the new debtor or secured party shall be:~~

~~\_\_\_\_\_ (i) added to the appropriate index; and~~

~~\_\_\_\_\_ (ii) associated with the record of the financing statement in the UCC information management system.~~

~~\_\_\_\_\_ (c) If an amendment designates an assignee, the filing shall cause the assignee to be added as a secured party of record with respect to the affected financing statement in the UCC information management system.~~

~~\_\_\_\_\_ (2)(a) Notwithstanding the filing of an amendment that deletes a debtor or a secured party from a financing statement, no debtor or secured party of record is deleted from the UCC information management system.~~

~~\_\_\_\_\_ (b) A deleted secured party shall be treated by the filing office as a secured party of record, as the filing office cannot verify the effectiveness of an amendment.~~

~~\_\_\_\_\_ (3) In general, the filing of an amendment does not affect the status of the financing statement.~~

#### **R154-2-309. Continuation Statement.**

~~\_\_\_\_\_ (1) Continuation of lapse date.~~

~~\_\_\_\_\_ (a) Upon the timely filing of one or more continuation statements by one or more secured parties of record, the lapse date of the financing statement shall be postponed:~~

~~\_\_\_\_\_ (i) one time only, regardless of whether more than one continuation statement is filed within a given 6-month period prior to a lapse date; and~~

~~\_\_\_\_\_ (ii) for a period of five years.~~

~~\_\_\_\_\_ (b) Notwithstanding the immediate postponement of the lapse date with respect to one or more secured parties of record who timely file a continuation statement within a given 6-month period prior to a lapse date, such lapse date remains effective solely for purposes of determining whether a subsequent continuation statement filed in the same 6-month period is timely.~~

~~\_\_\_\_\_ (2) Status. The filing of a continuation statement shall have no effect upon the status of:~~

~~\_\_\_\_\_ (a) any party to the financing statement; or~~

~~\_\_\_\_\_ (b) the financing statement.~~

#### **R154-2-310. Termination.**

~~\_\_\_\_\_ The filing of a termination statement shall have no effect upon the status of:~~

~~\_\_\_\_\_ (1) any party to the financing statement; or~~

~~\_\_\_\_\_ (2) the status of the financing statement.~~

#### **R154-2-311. Information Statement.**

~~\_\_\_\_\_ The filing of an information statement shall have no effect upon the status of:~~

~~\_\_\_\_\_ (1) any party to the financing statement;~~

~~\_\_\_\_\_ (2) the status of the financing statement itself; or~~

~~\_\_\_\_\_ (3) the data maintained in the UCC information management system.~~

#### **R154-2-312. Procedure upon Lapse.**

~~\_\_\_\_\_ If there is no timely filing of a continuation with respect to a financing statement, the financing statement lapses on its lapse date, but no action is then taken by the filing office.~~

#### **R154-2-313. Removal of Record.**

~~\_\_\_\_\_ (1) Unless this Subsection R154-2-313(2) applies, a financing statement shall remain as an Active Record until at least one year after it lapses.~~

~~\_\_\_\_\_ (2) If a financing statement indicates that it is to be filed against a transmitting utility, it shall remain as an Active Record until at least one year after it is terminated with respect to all secured parties of record.~~

~~\_\_\_\_\_ (3)(a) On or after the first anniversary of a lapse or termination date:~~

~~\_\_\_\_\_ (i) the filing office or the UCC information management system may remove the financing statement and all related UCC records from the Searchable Indexes or from the UCC information management system; and~~

~~\_\_\_\_\_ (ii) upon such removal, the removed UCC Records shall cease to be Active Records.~~

~~\_\_\_\_\_ (b) UCC Records removed from the UCC information management system shall be maintained as provided by filing office policy.~~

#### **R154-2-400. Filing and Data Entry Procedures.**

~~\_\_\_\_\_ Sections within the 400 series of this rule (e.g., R154-2-401) pertain to filing and data entry procedures.~~

**~~R154-2-401. Errors of the Filing Office.~~**

~~(1) The filing office may correct data entry and indexing errors of filing office personnel in the UCC information management system at any time.~~

~~(2) If a correction is made to a record of a financing statement after the filing office has issued a search report with a through date and time (see Subsection R 154-2-506(2)(d)) that is on or after the filing date and time of the financing statement, the filing office shall associate with the record of the financing statement in the UCC information management system a note. The note shall set forth the date of the corrective action and an explanation of the correction.~~

~~(3) The filing office shall allow a Remitter 30 days to notify the filing office of any data entry errors, and the filing office shall correct those errors.~~

**~~R154-2-402. Data Entry.~~**

~~(1) Data are entered into the UCC information management system exactly as provided in a UCC record, without regard to apparent errors.~~

~~(2) Data provided in electronic form is transferred to the UCC information management system exactly as submitted by the Remitter.~~

**~~R154-2-403. Verification of Data Entry.~~**

~~(1) The filing office shall verify accuracy of the data from UCC records entered in accordance with Subsection R 154-2-402 into the UCC information management system.~~

~~(2) Data entry performed by a Remitter with respect to electronically filed UCC record(s) is the responsibility of the Remitter and is not verified by the filing office~~

**~~R154-2-404. Master Amendments.~~**

~~(1) The filing office shall accept master amendments in writing stating the amendment requested.~~

~~(2)(a) The filing office shall provide an excel spreadsheet listing the filing(s) affected.~~

~~(b) It is the responsibility of the Remitter to acknowledge or correct the spreadsheet.~~

~~(c) Only those filings on the spreadsheet will be affected by the master amendment.~~

~~(3) The fee shall be a single filing fee established for master amendments and not per record amended.~~

**~~R154-2-405. Notice of Bankruptcy.~~**

~~The filing officer shall take no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding involving a debtor named in the UCC information management system.~~

**~~R154-2-406. Redaction of Certain Information.~~**

~~The filing officer shall redact certain information from the information it provides to searchers and bulk data purchasers in accordance with Utah Code Title 63G, Chapter 2, the Utah Government Records Access and Management Act.~~

**~~R154-2-500. Search Requests and Reports.~~**

~~Sections within the 500 series of this rule (e.g., R154-2-501) pertain to search requests and reports.~~

**~~R154-2-501. General Requirements.~~**

~~(1) The filing officer maintains for public inspection a searchable index for all Active Records in the UCC information management system.~~

~~(2) Active Records shall be retrievable by:~~

~~(a) the name of the debtor; or~~

~~(b) the file number of the related initial financing statement.~~

~~(3) Each Active Record related to an initial financing statement is retrieved with the initial financing statement using either retrieval method identified in this Subsection R154-2-501(2).~~

**~~R154-2-502. Search Requests—Required Information.~~**

~~(1) Search requests shall include the following:~~

~~(a) Name searched. A search request shall set forth the name of the debtor to be searched using designated fields for:~~

~~(i) organization or individual surname;~~

~~(ii) first personal name; and~~

~~(iii) additional name(s)/initial(s).~~

~~(b) Requesting party. A search request shall set forth the name and address of the person to whom the search result is to be sent.~~

~~(c) Fee. The appropriate fee shall be tendered by a method described in Subsection R154-2-106.~~

~~(d) Search logic.~~

~~(i) A search request shall specify if a search methodology other than that described in Subsection R154-2-504(2) is to be applied in conducting the search.~~

~~(ii) If no such methodology is specified, the methodology described in Subsection R154-2-504(2) shall be applied.~~

~~(2) A search request shall be processed using the data and designated fields exactly as submitted, including the submission of no data in a given field, without regard to the nature or character of the debtor that is the subject of the search.~~

**~~R154-2-503. Search Requests—Optional Information.~~**

~~A search request may include the following:~~

~~(1) Copies. A request may limit the copies of UCC records that would normally be provided with a search report by requesting that no copies be provided or that copies be limited to those UCC records that:~~

~~(a) include a particular debtor address;~~

~~(b) include a particular city in the debtor address;~~

~~(c) were filed on a particular date or within a particular range of dates; or~~

~~(d) include a particular secured party name.~~

~~(2) Scope of search. A search request may ask for a search that reports all Active Records retrieved by the search rather than only Unlapsed Records retrieved by the search.~~

~~(3) Mode of delivery.~~

~~(a) A search request may specify a mode of delivery for search results.~~

~~(b) Any such request will be honored to the extent the requested mode is made available by the filing office and all requisite fees are tendered.~~

~~(4) Search request with filing.~~

~~(a) If a filer submits a search request with an initial financing statement, the search request shall be deemed to request a search to be conducted as soon as practicable such that it would include all UCC records filed against the debtor name(s) provided on the initial financing statement on or prior to the date the initial financing statement is filed.~~

~~\_\_\_\_\_ (b) A filer may indicate on the search request that it should be held until the filing office through date meets or exceeds the filing date of the initial financing statement.~~

#### **~~R154-2-504. Search Methodology.~~**

~~\_\_\_\_\_ (1)(a) Search results are produced by the application of search logic to the name presented to the filing officer.~~

~~\_\_\_\_\_ (b) Human judgment does not play a role in determining the results of the search.~~

~~\_\_\_\_\_ (2) Standard search logic. The following rules describe the filing office's standard search logic and apply to all searches except those where the search request specifies that a non-standard search logic be used.~~

~~\_\_\_\_\_ (a) There is no limit to the number of matches that may be returned in response to the search criteria.~~

~~\_\_\_\_\_ (b) No distinction is made between upper and lower case letters.~~

~~\_\_\_\_\_ (c)(i) Punctuation marks and accents are disregarded.~~

~~\_\_\_\_\_ (ii) For the purposes of this rule, punctuation and accents include all characters other than:~~

~~\_\_\_\_\_ (A) the numerals 0 through 9; and~~

~~\_\_\_\_\_ (B) the letters A through Z, whether upper or lower case, of the English alphabet.~~

~~\_\_\_\_\_ (d) To the extent practicable as determined by the filing office's programming of its UCC information management system, words and abbreviations at the end of an organization name that indicate the existence or nature of the organization are treated as follows:~~

~~\_\_\_\_\_ (i) All spaces are disregarded.~~

~~\_\_\_\_\_ (ii)(A) For first personal name and additional name(s)/initial(s) of individual debtor names:~~

~~\_\_\_\_\_ (I) initials are treated as the logical equivalent of all names that begin with such initials; and~~

~~\_\_\_\_\_ (II) first personal name and no additional name(s)/initial(s) is equated with all additional name(s)/initial(s).~~

~~\_\_\_\_\_ (B) For example, a search request for "John A. Smith" would cause the search to retrieve all filings against all individual debtors with:~~

~~\_\_\_\_\_ (I) "John" or the initial "J" as the first personal name;~~

~~\_\_\_\_\_ (II) "Smith" as the surname; and~~

~~\_\_\_\_\_ (III) the initial "A" or any name beginning with "A" in the additional name(s)/initial(s) field.~~

~~\_\_\_\_\_ (C) If the search request were for "John Smith" (first personal name and surname with no designation in the additional name(s)/initial(s) field), the search would retrieve all filings against individual debtors with:~~

~~\_\_\_\_\_ (I) "John" or the initial J as the first personal name;~~

~~\_\_\_\_\_ (II) "Smith" as the surname; and~~

~~\_\_\_\_\_ (III) any name, any initial, or no name or initial in the additional name(s)/initial(s) field.~~

~~\_\_\_\_\_ (iii) If the name being searched is the surname of an individual debtor name without any first personal name or additional name(s)/initial(s) provided, the search will retrieve from the UCC information management system all financing statements with individual debtor names that consist of only the surname.~~

~~\_\_\_\_\_ (3) After using the preceding rules to modify the name being searched, the search will retrieve from the UCC information management system all Unlapsed Records, or, if requested by the searcher, all Active Records that pertain to financing statements with debtor names that exactly match the modified name being searched.~~

~~\_\_\_\_\_ (4) Non-standard search logic. Non-standard search logic, such as a "wild card" search can be applied to a non-certified search upon request.~~

#### **~~R154-2-505. Changes in Standard Search Logic.~~**

~~\_\_\_\_\_ If the filing office changes its standard search logic or the implementation of its standard search logic in a manner that could alter search results, the filing office will provide public notice of such change.~~

#### **~~R154-2-506. Search Responses.~~**

~~\_\_\_\_\_ The response to a search request shall include the following:~~

~~\_\_\_\_\_ (1) Copies.~~

~~\_\_\_\_\_ (a) Copies of all UCC records retrieved by the search, unless:~~

~~\_\_\_\_\_ (i) limited copies are requested by the searcher; or~~

~~\_\_\_\_\_ (ii) the searcher requests a certified search.~~

~~\_\_\_\_\_ (b) Copies will reflect any redaction of personal identifying information required by law.~~

~~\_\_\_\_\_ (2) Introductory information. A filing officer shall include the following information with a UCC search response:~~

~~\_\_\_\_\_ (a) identification of the filing office responsible for the search response;~~

~~\_\_\_\_\_ (b) unique number that identifies the search report;~~

~~\_\_\_\_\_ (c) date and time the report was generated;~~

~~\_\_\_\_\_ (d) through date and time, meaning the date and time at, or prior to, which a UCC record must have been filed with the filing office in order for it to be reflected on the search;~~

~~\_\_\_\_\_ (e) certification language consistent with current language;~~

~~\_\_\_\_\_ (f) whether the scope includes both active and unlapsed records;~~

~~\_\_\_\_\_ (g) search logic used;~~

~~\_\_\_\_\_ (h) search logic disclaimer language;~~

~~\_\_\_\_\_ (i) name searched, as provided by searcher;~~

~~\_\_\_\_\_ (j) normalized name as provided by Subsection R154-2-504; and~~

~~\_\_\_\_\_ (k) lien type searched, with the caveat that only those liens filed in the Utah Division of Corporations and Commercial Code that are statutorily permitted may be searched.~~

~~\_\_\_\_\_ (3) Report. The search report shall contain the following:~~

~~\_\_\_\_\_ (a) identification of the filing office responsible for the search report;~~

~~\_\_\_\_\_ (b) unique number assigned under this Subsection;~~

~~\_\_\_\_\_ (c) identification of each initial financing statement, including:~~

~~\_\_\_\_\_ (i) a listing of all related amendments;~~

~~\_\_\_\_\_ (ii) information statements, or filing officer notices, filed on or prior to the through date corresponding to the search criteria (including whether the searcher has requested Active Records or only Unlapsed Records);~~

~~\_\_\_\_\_ (iii) initial financing statement file number;~~

~~\_\_\_\_\_ (iv) date and time the initial financing statement was filed;~~

~~\_\_\_\_\_ (v) lapse date;~~

~~\_\_\_\_\_ (vi) debtor name(s) appearing of record;~~

~~\_\_\_\_\_ (vii) debtor address(es) appearing of record;~~

~~\_\_\_\_\_ (viii) secured party name(s) appearing of record;~~

~~\_\_\_\_\_ (ix) secured party address(es) appearing of record;~~

~~\_\_\_\_\_ (x) indication of type of each amendment, if any;~~

~~\_\_\_\_\_ (xi) date and time each amendment, if any, was filed;~~

- ~~(xii) amendment file number of each amendment, if any;~~
- ~~(xiii) date and time an information statement, if any, was filed; and~~
- ~~(xiv) date and time a filing officer statement, if any, was filed.~~

**R154-2-600. Agricultural Liens.**

~~Rules affecting agricultural liens are found at Utah Administrative Code Section R154-1.]~~

**R154-2. Filing Office Rules.**

**R154-2-100. Definitions.**

(1) Terms used this rule that are defined in the UCC and not otherwise defined in this section shall have the respective meanings given the terms in the UCC.

(2) "Address" means either:

(a) a street address, route number, or PO Box number plus the city, state and zip code; or

(b) an address that purports to be a mailing address outside the United State of America.

(3) "Amendment" means any UCC record filed that relates to the initial financing statement. Amendments include party or collateral changes, assignments, continuations, and terminations.

(4) "Assignment" is an amendment that assigns the whole or a part of a secured party's power to authorize an amendment to a financing statement.

(5) "Filing office" means the Utah Division of Corporations and Commercial Code in the Utah Department of Commerce.

(6) "Filing office statement" means a statement entered into the filing office's UCC information management system to explain an action by the filing office.

(7) "Information statement" means a UCC record that states a financing statement is inaccurate or wrongfully filed.

(8) "Initial financing statement" means a UCC record that causes the filing office to establish the initial record of filing of a financing statement.

(9) "Remitter" means a person who tenders a UCC record to the filing office for filing, whether the person is a filer or an agent of a filer responsible for tendering the record for filing. "Remitter" does not include a person responsible merely for the delivery of the record to the filing office, such as the postal service or a courier service but does include a service provider who acts as a filer's representative in the filing process.

(10) "Searchable indexes" means the searchable index of individual debtor names and the searchable index of organization debtor names the filing office must maintain in the UCC information management system.

(11) "Secured party of record" means any party designated as a secured party in a financing statement, including those for whom an amendment has been filed purporting to delete them as a secured party or purporting to show they have assigned their secured interest, except as provided in Subsection R154-2-306(1).

(12) "UCC" means the Uniform Commercial Code as adopted in Utah.

(13) "UCC information management system" means the information management system used by the filing office to store, index, and retrieve information relating to financing statements as described in Sections R154-2-300 through R154-2-314.

(14) "UCC record" means an initial financing statement, an amendment of party or collateral information, an assignment, a continuation statement, a termination statement, a filing office statement or an information statement, and includes a record

maintained by the filing office. The term shall not be considered to refer exclusively to paper or paper-based writings.

(15) "Unlapsed record" means a UCC record that has been stored and indexed in the UCC information management system, which has a lapse date that has not yet occurred.

**R154-2-101. Means to Deliver UCC Records; Time of Filing.**

(1) UCC records may be tendered for filing at the filing office as follows:

(a) Personal delivery by remitter at the filing office's street address;

(b) Courier delivery by a person other than the remitter at the filing office's street address;

(c) Postal delivery to the filing office's mailing address;

(d) Electronic mail and telefacsimile delivery to the filing office's email address or the filing office's fax filing telephone number;

(e) Electronic filing using the XML Format approved by the International Association of Commercial Administrators; and

(f) Direct online and web page data entry.

(2) The file time for UCC records is as follows:

(a) Subject to Subsection R154-2-101(2)(b), the file time for a UCC record delivered by personal delivery by remitter at the filing office's street address is when delivery of the UCC record is taken by the filing office, even though the UCC record may not yet have been accepted for filing and subsequently may be rejected and this rule applies only to a remitter who tenders a UCC record to the filing office and awaits an immediate determination of whether or not the UCC record will be taken or not.

(b) The file time for a UCC record delivered by courier delivery by a person other than a remitter at the filing office's street address is, notwithstanding the time of delivery, at the earlier of the time the UCC record is first examined by a filing office for processing, even though the UCC record may not yet have been accepted for filing and may be subsequently rejected, or the next close of business following the time of delivery. This rule does not apply to a courier who is acting as an agent of the remitter and who tenders a UCC record to the filing office and awaits an immediate determination of whether or not the UCC record will be taken or not under Subsection (1). A UCC record delivered after regular business hours or on a day the filing office is not open for business, if not examined for processing sooner, will have a filing time of the close of business on the next day the filing office is open for business.

(c) The file time for a UCC record delivered by postal service delivery to the filing office's mailing address is notwithstanding the time of delivery, at the earlier of the time the UCC record is first examined by a filing office for processing or the next close of business following the time of delivery, even though the UCC record may not yet have been accepted for filing and may be subsequently rejected. A UCC record delivered after regular business hours or on a day the filing office is not open for business, if not examined for processing sooner, will have a filing time of the close of business on the next day the filing office is open for business.

(d) The file time for a UCC record delivered by electronic mail and telefacsimile delivery to the filing office's e-mail address or the filing office's fax filing telephone number is, notwithstanding the time of delivery, at the earlier of the time the UCC record is first examined by a filing office for processing, even though the UCC record may not yet have been accepted for filing and may be subsequently rejected, or the next close of business following the time of delivery. A UCC record delivered after regular business hours or on a day the filing office is not open for business, if not examined

for processing sooner, will have a filing time of the close of business on the next day the filing office is open for business.

(e) UCC records, excluding information statements and filing office statements, may be sent electronically using the XML Format approved by the International Association of Commercial Administrators. At the request of an authorized XML remitter, the filing office shall identify which versions and releases of the XML format are acceptable to the filing office. The filing office publishes an implementation guide that prescribes the use of the XML format. A person shall contact the filing office to become an authorized XML remitter and to get the filing office's implementation guide. The file time for a UCC record delivered by this method is the time that the filing office's UCC information management system analyzes the relevant transmission and determines that any of the required elements of the transmission have been received in a required format and are machine-readable.

(f) UCC records may be delivered by online data entry using the filing office's website on the internet. The file time for a UCC record delivered by this method is the time the entry of all required elements of the UCC record in the proper format is acknowledged by the on-line entry system.

(3) Regardless of the method of delivery, information submitted to the UCC filing office must be communicated only in the form of characters that appear on the American standard keyboard, or the information will be modified, upon entry into the UCC information management system, as provided in Section R154-2-401. A financing statement or amendment form that does not designate separate fields for organization and individual names, and separate fields for the surname, first personal name, additional names or initials and suffixes for individual names is not an acceptable means of communication to the filing office.

(4) The only means to show to the filing office that an initial financing statement is being filed in connection with a manufactured-home or public-finance transaction, or that a financing statement is being or has been filed against a debtor that is a transmitting utility is to check the appropriate box on, or to send the indication in the proper field in, the related initial financing statement.

#### **R154-2-102. Search Request Delivery.**

UCC search requests may be delivered to the filing office by any of the means by which UCC records may be delivered to the filing office.

#### **R154-2-103. Forms.**

(1) The forms prescribed by UCC Section 9-521, Section 70A-9a-521, are accepted by the filing office.

(2) Paper-based forms approved by the International Association of Commercial Administrators from time to time and forms otherwise approved by the filing office from time to time shall be accepted.

(3) A list of forms approved by the filing office will be made available upon request.

#### **R154-2-104. Fees.**

The fee for filing a UCC record is established pursuant to Sections 70A-9a-525 and 63J-1-504.

#### **R154-2-105. Expedited Service.**

Expedited service is available to process filings within one business day upon request and payment of an additional filing fee established in accordance with Section R154-2-104.

#### **R154-2-106. Methods of Payment.**

Filing fees and fees for public records services may be paid by:

(1) Cash paid in person at the filing office's street address;

(2) Personal checks, cashier's checks and money orders made payable to the filing office are accepted if the drawer, or the issuer of a cashier's check or money order, is considered creditworthy by the filing office in its discretion; and

(3) Debit cards and credit cards of types approved by the filing office. Remitters shall provide the filing office with the card number, the expiration date of the card, the name of the card issuer, the name of the person or entity to whom the card was issued and the billing address for the card. Payment will not be considered tendered until the issuer or its agent has confirmed payment.

#### **R154-2-107. Overpayment and Underpayment Policies.**

(1) Overpayment shall be handled in accordance with the Utah Department of Commerce's refund policy.

(2) When there is an underpayment, the UCC record shall be returned to the remitter as provided in Section R154-2-203.

#### **R154-2-108. Public Records Services.**

(1) Public records services shall be provided by the filing office on a non-discriminatory basis to any member of the public.

(2) Copies of individual UCC records, bulk copies of records, and data elements from the filing office's UCC information management system are made available in the forms, at the requested time and for the fees the filing office may prescribe from time to time in accordance with Sections 70A-9a-523, 70A-9a-525, and R154-2-109; except that the filing office shall make the information as is then-currently available at least weekly in each medium then available to the filing office.

#### **R154-2-109. Fees for Public Records Services.**

The fee for public records services is established pursuant to Sections 70A-9a-525 and 63J-1-504.

#### **R154-2-200. Role of Filing Office.**

(1) Unless otherwise expressly provided for by statute, the duties and responsibilities of the filing office with respect to the administration of the UCC are ministerial.

(2) In accepting for filing or refusing to file a UCC record pursuant to these rules, the filing office does not determine the legal sufficiency or insufficiency of the UCC record, determine that information in the record is correct or incorrect, in whole or in part, or create a presumption that information in the UCC record is correct or incorrect, in whole or in part.

#### **R154-2-201. Time for Filing a Continuation Statement.**

(1) The first day on which a continuation statement may be filed is the date corresponding to the date upon which the related financing statement would lapse, six months preceding the month in which the financing statement would lapse.

(a) If there is no corresponding date, the first day on which a continuation may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse.

(b) The foregoing rule is subject to the ability of the filing office to take delivery of the continuation statement when tendered and to Section R154-2-101; and

(2) The last day on which a continuation statement may be filed is the date upon which the related financing statement lapses, subject to the ability of the filing office to take delivery of the

continuation statement when tendered and to Section R154-2-101. The time of filing of the continuation statement under Section R152-2-101 must be on or before this last day.

**R154-2-202. Grounds for Refusal.**

(1) The filing office shall refuse a record for each applicable ground as set forth in UCC Section 9-516, Section 70A-9a-516, and will not refuse a record for any other reason.

(2) A record that does not provide an address that meets the requirements set forth in Subsection R154-2-100(2) does not provide a mailing address as required by UCC Section 9-516, Section 70A-9a-516.

**R154-2-203. Procedure Upon Refusal.**

(1)(a) If the filing office finds grounds to refuse a UCC record, the filing office shall keep the fee for a period of 30 days from the date of the refusal pending resubmission of the record.

(b) After the 30-day period in Subsection (1)(a), the remitter must pay the applicable fee to resubmit the record.

(c) The fee is nonrefundable.

(2) Communication of the refusal, the reasons for the refusal, and other related information will be made to the remitter as soon as practicable and in any event within two business days after the refused UCC record was received by the filing office, by the same means as the means by which the UCC record was received by the filing office, or by mail or a more expeditious means as the filing office shall determine.

(3) Records of refusal, including a copy of the refused UCC record and the grounds for refusal, shall be managed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act and the filing office's applicable retention schedules.

**R154-2-205. Refusal Errors.**

(1) If a secured party or a remitter believes that a UCC record that the filing office refused to file should not have been refused under Section R154-2-202, the person may contact the filing office to request a review of the refusal decision.

(2) The person requesting review shall provide the filing office with a copy of the reasons for refusal, a copy of the refused record and a statement of the basis for the person's belief that the filing office wrongfully refused to file the record.

(3) Upon receipt of a request for review, the filing office director shall investigate the claim.

(4)(a) If the filing office director confirms that the record should have been refused, the filing office director shall provide a written explanation of the grounds for refusal.

(b) If it is determined that the filing office refused to accept the record in error, the filing office shall file the UCC record with the filing date and time that was assigned, based on the method of delivery, by the filing office after the record was originally delivered for filing.

(i) A filing office statement record relating to the relevant initial financing statement shall be placed in the UCC information management system on the date that the corrective action was taken.

(ii) The filing office statement must provide the date of the correction and explain the nature of the corrective action taken.

(iii) The record shall be kept for so long as the record of the initial financing statement is kept in the UCC information management system.

**R154-2-205. Notification of Defects.**

(1) Nothing in these rules prevents a filing office from communicating to a filer or a remitter that the filing office noticed apparent potential defects in a UCC record, whether or not it was filed or refused for filing. However, the filing office is under no obligation to do so.

(2) The responsibility for the legal effectiveness of filing rests with filers and remitters and the filing office bears no responsibility for the effectiveness.

**R154-2-300. UCC Information Management System Generally.**

The filing office uses the UCC information management system to store, index, and retrieve information relating to financing statements. The UCC information management system includes the searchable indexes. Sections R154-2-300 through R154-2-314, Sections R154-2-300 through R154-2-314, describe the UCC information management system.

**R154-2-301. Primary Data Elements.**

(1) The primary data elements used in the UCC information management system are:

(a) identification numbers;

(b) type of record;

(c) filing date and filing time;

(d) identification of parties;

(e) page count;

(f) lapse indicator; and

(g) indexes of names.

(2)(a) Each initial financing statement is identified by its file number:

(i) Identification of the initial financing statement is stamped on written UCC records or otherwise permanently associated with the record maintained for UCC records in the UCC information management system; and

(ii) A record is created in the UCC information management system for each initial financing statement and information comprising the record is maintained in the system.

(b) A UCC record other than an initial financing statement is identified by a unique file number assigned by the filing office. In the UCC information management system, records of UCC records other than initial financing statements are linked to the record of their related initial financing statement;

(3)(a) The type of UCC record from which data is transferred is identified in the UCC information management system from information supplied by the remitter; and

(b) Types of records include initial financing statement, amendment, assignment, continuation, termination, and collateral amendment.

(4)(a) The filing date and filing time of UCC records are stored in the UCC information management system; and

(b) Calculation of the lapse date of an initial financing statement is based upon the filing date.

(5) The names and addresses of debtors and secured parties are transferred from UCC records to the UCC information management system.

(6) The total number of pages in a UCC record is maintained in the UCC information management system.

(7)(a) An indicator is maintained by which the UCC information management system identifies whether or not a financing statement will lapse and, if it does, when it will lapse; and

(b) The lapse date is determined as provided in Sections R154-2-306 and R154-2-308.

(8)(a) The filing office maintains in the UCC information management system a searchable index of organization debtor names, and a searchable index of organization debtor names, and a searchable index of individual debtor names; and

(b) The filing office may also maintain a searchable index of names of secured parties of record. This index need not be a separate database but may be comprised of records in the UCC information management system identified to be included in the searchable index.

#### **R154-2-302. Individual Debtor Names.**

(1) For purposes of this rule, an "individual debtor name" is any name provided as a debtor name in a UCC record in a format that identifies the name as that of a debtor who is an individual, without regard to the nature or character of the name or to the nature or character of the actual debtor.

(2)(a) Individual debtor names are stored in data fields that include only the individual debtor names, and not organization debtor names.

(b) Separate data entry fields are established for surnames, such as last or family names, first personal names and given names, and additional names and initials of individuals.

(c) The name of a debtor with a single name, for example, "Cher," is treated as a surname and shall be entered in the individual surname field.

(d) The filing office assumes no responsibility for the accurate designation of the components of a name but shall accurately enter the data in accordance with the filer's designations.

(3)(a) Titles, prefixes, for example "Ms.," and suffixes or indications of status, for example, "M.D.," are not typically part of an individual debtor's name.

(b)(i) Suffixes used to distinguish between family members with identical names, for example, "JR.," should be provided in the Suffix field.

(ii) However, if the suffix appears on an unexpired driver license or unexpired identification card the state Driver License Division of the Department of Public Safety has issued to the debtor and that is used as the source of an individual name, then the filer should consider also providing the name as a separate individual debtor with the suffix included in the Surname field.

(c) Regardless of how provided, when entering a "name" into the UCC information management system, the filing office shall enter the data exactly as they appear.

(4) The filing office shall not refuse to accept an initial financing statement that lacks debtor information in item one or item two if the record includes an addendum that provides debtor information in item ten.

(5)(a) Personal name fields in the UCC information management system are fixed in length.

(b) Although filers should continue to provide full names on their UCC records, a name that exceeds the fixed length is entered as presented to the filing office, up to the maximum length of the data entry field.

(c) The lengths of data entry name fields are as follows:

(i) Surname: 50 characters;

(ii) First personal name: 50 characters;

(iii) Additional names or initials: 50 characters; and

(iv) Suffix: five characters.

#### **R154-2-303. Organization Debtor Names.**

(1) For purposes of these rules, an "organization debtor name" is any name provided as a debtor name in a UCC record in a format that identifies the name as that of a debtor who is an organization, without regard to the nature or character of the name or to the nature or character of the actual debtor.

(2) Organization debtor names are stored in files that include only organization debtor names and not individual debtor names. A single field is used to store an organization debtor name.

(3)(a) The organization debtor name field in the UCC information management system is fixed in length.

(b) The maximum length is 500 characters.

(c) Although filers should continue to provide full names on their UCC records, a name that exceeds the fixed length is entered as presented to the filing office, up to the maximum length of the organization debtor name field.

#### **R154-2-304. Collateral Being Administered by a Decedent's Personal Representative.**

(1) The debtor name to be provided on a financing statement when the collateral is being administered by a decedent's personal representative is the name of the relevant decedent.

(2)(a) In order for the UCC information management system to function in accordance with the usual expectations of filers and searchers, the filer should provide the debtor name as an individual debtor name.

(b) However, the filing office shall enter data submitted by a filer in the fields designated by the filer exactly as it appears in those fields.

#### **R154-2-305. Collateral Held in a Trust.**

(1) The debtor name to be provided when the collateral is held in a trust that is not a registered organization is:

(a) the name of the trust as set forth in its organic records, if the trust has a name; or

(b) If the trust is not so named, the name of the trust's settlor or testator.

(2) In order for the UCC information management system to function in accordance with the usual expectations of filers and searchers, the name of a trust or the name of a settlor or testator that is an organization should be provided as an organization debtor name, and the name of a settlor or testator who is an individual should be provided as an individual debtor name, in each case without regard to the nature or character of the debtor.

(3) Notwithstanding the foregoing, the filing office shall enter data submitted by a filer in the fields designated by the filer exactly as it appears in those fields.

#### **R154-2-306. Initial Financing Statement.**

Upon the filing of an initial financing statement the status of the parties and the status of the financing statement shall be as follows:

(1) Each secured party named on an initial financing statement shall be a secured party of record, except that if the UCC record names an assignee, the assignor secured party shall not be a secured party of record and the assignee secured party shall be a secured party of record.

(2) Each debtor name provided by the initial financing statement shall be indexed in the UCC information management system and shall remain on the record in accordance with UCC Section 9-519(g), Subsection 70A-9a-519(7).

(3)(a) A lapse date shall be calculated, five years from the file date, unless:

(i) the initial financing statement states as provided in Subsection R154-2-101(4) that it is filed with respect to a public-financing transaction or a manufactured-home transaction, in which case the lapse date shall be 30 years from the file date; or

(ii) the initial financing statement states as provided in Subsection R154-2-101(4) that it is filed against a transmitting utility, in which case there shall be no lapse date.

(b) The lapse date for a financing statement filed on February 29 shall be the March 1 in the fifth year following the year of the filing date.

#### **R154-2-307. Amendments Generally.**

(1) Upon the filing of an amendment the status of the parties shall be unchanged, except that:

(a) When an amendment adds a debtor or a secured party, the new debtor or secured party shall be added to appropriate index and associated with the record of the financing statement in the UCC information management system; and

(b) An amendment that designates an assignee shall cause the assignee to be added as a secured party of record with respect to the affected financing statement in the UCC information management system.

(2)(a) Notwithstanding the filing of an amendment that deletes a debtor or a secured party from a financing statement, no debtor or secured party of record is deleted from the UCC information management system.

(b) A deleted secured party will still be treated by the filing office as a secured party of record as the filing office cannot verify the effectiveness of an amendment.

(3) Except when a continuation statement, the filing of an amendment does not affect the status of the financing statement.

#### **R154-2-308. Continuation Statement.**

(1)(a) Upon the timely filing of one or more continuation statements by any secured party or parties of record, the lapse date of the financing statement shall be postponed for five years.

(b) The lapse date is postponed once notwithstanding the fact that more than one continuation statement is filed within a given six-month period before a lapse date.

(c) Notwithstanding the immediate postponement of the lapse date with respect to one or more secured parties of record who file timely a continuation statement within a given six-month period before a lapse date, the lapse date remains effective solely for purposes of determining whether or not a subsequent continuation statement filed in the same six-month period is timely.

(2) The filing of a continuation statement shall have no effect upon the status of any party to the financing statement or upon the status of the financing statement.

#### **R154-2-309. Termination.**

The filing of a termination statement shall have no effect upon the status of any party to the financing statement or upon the status of the financing statement.

#### **R154-2-310. Information Statement.**

The filing of an information statement shall have no effect upon the status of any party to the financing statement, the status of the financing statement or the information maintained in the UCC information management system.

#### **R154-2-311. Filing Office Statement.**

A filing office statement affects the status of parties and of the relevant financing statement as provided in the corrective action described as having been taken in the filing office statement.

#### **R154-2-312. Procedure Upon Lapse.**

If there is no timely filing of a continuation with respect to a financing statement, the financing statement lapses on its lapse date but no action is then taken by the filing office.

#### **R154-2-313. Removal of Record.**

(1)(a) A financing statement must remain in the searchable index within the UCC information management system until at least one year after it lapses.

(b) On or after the first anniversary of a lapse, the financing statement and all related UCC records may be removed from the Searchable Indexes or from the UCC information management system.

(2)(a) A financing statement that states a debtor is a transmitting utility must remain in the searchable index within the UCC information management system until at least one year after it is terminated with respect to all secured parties of record.

(b) On or after the first anniversary of the termination date of the last remaining secured party of record, the financing statement may be removed from its searchable index or from the UCC information management system.

#### **R154-2-314. Archives Generally.**

UCC records and data are managed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act and the filing office's applicable retention schedules.

#### **R154-2-400. Errors of the Filing Office.**

(1) The filing office may correct data entry and indexing errors of filing office personnel in the UCC information management system at any time.

(2) If a correction is made to a record of a financing statement the filing office shall associate with the record of the financing statement in the UCC information management system a filing office statement on the date that the corrective action was taken providing the date and an explanation of the correction.

#### **R154-2-401. Filing and Data Entry Errors.**

(1) Data are entered into the UCC information management system exactly as provided in a UCC record, without regard to apparent errors, except that characters that do not appear on the American standard keyboard will be replaced with an asterisk or the closest reasonable equivalent found on the American standard keyboard. If no reasonably equivalent character appears on this keyboard, then the character will be replaced with an asterisk.

(2) Data provided in electronic form is transferred to the UCC information management system exactly as submitted by the Remitter.

#### **R154-2-402. Verification of Data Entry.**

(1) The filing office shall verify accuracy of the data from UCC records entered in accordance with Section R154-2-401 into the UCC information management system.

(2) Data entry performed by remitters with respect to electronically filed UCC records is the responsibility of the remitter and is not verified by the filing office.

**R154-2-403. Notice of Bankruptcy.**

The filing office shall take no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding involving a debtor named in the UCC information management system.

**R154-2-404. Redaction of Certain Information.**

The filing office shall redact certain information from the information it provides to searchers and bulk data buyers in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

**R154-2-405. Master Amendments.**

The filing office, within its discretion, may accept master amendments.

**R154-2-500. Search Requests and Reports Generally.**

(1) The filing office maintains records for public inspection in a searchable index within the UCC information management system for public inspection.

(2) Records will be retrievable by the name of the debtor or by the file number of the related initial financing statement, and each record related to an initial financing statement is retrieved with the initial financing statement using either retrieval method.

**R154-2-501. Search Requests -- Required Information.**

Search requests shall include:

- (1) Name searched;
  - (2) The name and address of the person to whom the search result is to be sent;
  - (3) The appropriate fee tendered by a method described in Section R154-2-106; and
  - (4) Search logic.
- (5)(a) A search request must set forth the name of the debtor to be searched using designated fields for organization name or individual surname, first personal name and additional names or initials; and
- (b) A search request will be processed using the data and designated fields exactly as submitted, including the submission of no data in a given field, without regard to the nature or character of the debtor that is subject of the search.
- (6)(a) The request shall specify whether a search methodology other than that described in Section R154-2-503, if an alternative search logic is available, is to be applied in conducting the search.
- (b) If no methodology is named, the one described in Section R154-2-503 shall be applied.

**R154-2-502. Search Requests -- Optional Information.**

Search requests may include:

- (1) The request may limit the copies of UCC records that would normally be provided with a search report by requesting that no copies be provided or that copies be limited to those UCC records that:
  - (a) include a particular debtor address;
  - (b) include a particular city in the debtor address;
  - (c) were filed on a particular date or within a particular range of dates; or
  - (d) include a particular secured party name.
- (2) A search request may ask for a search that reports all records or all unexpired records from the UCC information management system's searchable index.

(3) A search request may specify a mode of delivery for search results and that request will be honored if the requested mode is made available by the filing office, and all requisite fees are tendered.

**R154-2-503. Search Methodology.**

(1)(a) Search results are produced by the application of search logic to the name presented to the filing office.

(b) Human judgment does not play a role in determining the results of the search.

(2) Subsections (2)(a) through (2)(d) describe the filing office's standard search logic and apply to all searches except for those where the search request specifies that a non-standard search logic be used:

(a) There is no limit to the number of matches that may be returned in response to the search criteria.

(b) No distinction is made between upper and lower case letters.

(c)(i) Punctuation marks and accents are disregarded; and

(ii) Punctuation and accents include all characters other than:

(A) the numerals 0 through 9; and

(B) the letters A through Z, whether upper or lower case, of the English alphabet.

(d) To the extent practicable as determined by the filing office's programming of its UCC information management system, words and abbreviations at the end of an organization name that show the existence or nature of the organization are treated as follows:

(i) All spaces are disregarded.

(ii)(A) For first personal name and additional names and initials of individual debtor names:

(I) initials are treated as the logical equivalent of all names that begin with those initials; and

(II) first personal name and no additional names and initials is equated with all additional names and initials.

(B) For example, a search request for "John A. Smith" would cause the search to retrieve all filings against all individual debtors with:

(I) "John" or the initial "J" as the first personal name;

(II) "Smith" as the surname; and

(III) the initial "A" or any name beginning with "A" in the additional names and initials field.

(C) If the search request were for "John Smith," first personal name and surname with no designation in the additional names and initials field, the search would retrieve all filings against individual debtors with:

(I) "John" or the initial J as the first personal name;

(II) "Smith" as the surname; and

(III) any name, any initial, or no name or initial in the additional names and initials field.

(iii) If the name being searched is the surname of an individual debtor name without any first personal name or additional names and initials provided, the search will retrieve from the UCC information management system all financing statements with individual debtor names that consist of only the surname.

(3) After using Subsections (2)(a) through (2)(d) to change the name being searched, the search will retrieve from the UCC information management system all unexpired records that pertain to financing statements with debtor names that exactly match the modified name being searched.

(4)(a) A non-standard search logic, such as a "wild card" search can be applied to a non-certified search upon request; and

## NOTICES OF PROPOSED RULES

(b) The filing office makes no representations or warranties regarding the accuracy or completeness of data included in non-standard search results. Users rely on non-standard search results at their own risk.

### **R154-2-504. Changes in Standard Search Logic.**

If the filing office changes its standard search logic or the implementation of its standard search logic in a manner that could alter search results, the filing office shall provide earlier public notice of the change.

### **R154-2-505. Search Responses.**

Responses to a search request shall include:

(1)(a) Copies of all UCC records retrieved by the search unless only limited copies are requested by the searcher; and

(b) Copies will reflect any redaction of personal identifying information required by law;

(2) Introductory information;

(a) A filing office shall include with a UCC search response:

(i) Identification of the filing office providing the search response;

(ii) Unique number which identifies the search report;

(iii) The date and time the report was generated;

(iv) The date and time at or before which a UCC record must have been filed with the filing office in order for it to be reflected on the search;

(v) Certification language;

(vi) Scope of search;

(vii) Search logic used;

(viii) Name as provided by searcher;

(ix) Name as searched after application of Section R154-2-503;

(x) Lien type searched;

(xi) Description of copies provided, including:

(A) Certified;

(B) Copies not requested;

(C) Partial copies;

(D) Limited copies;

(E) Specified copies;

(F) City of filing;

(G) Date range;

(3) The search report, which shall contain:

(a) Identification of the filing office providing the search report;

(b) Unique number assigned under this section;

(c)(i) Identification of each initial financing statement, including a listing of all related amendments, information statements, or filing office notices, filed on or before the through date corresponding to the search criteria, including whether the searcher has requested all records or only unlapsed records from the searchable index;

(ii) Financing statement information shall include:

(A) The initial financing statement file number;

(B) The date and time it was filed;

(C) Provide lapse date;

(D) The debtor names that appear of record;

(E) The debtor addresses that appear of record;

(F) The secured party names that appear of record;

(G) The secured party addresses that appear of record;

(H) An indication of type of each amendment, if any;

(I) The date and time each amendment, if any, was filed;

(J) The amendment file number of each amendment, if any;

(K) The date and time an information statement, if any, was filed; and

(L) The date and time a filing office statement, if any, was filed.

### **R154-2-600. Agricultural Liens.**

Agricultural product lien rules are found in Rule R154-1 et seq.

**KEY: banking, equipment leasing, filing documents**

**Date of Last Change: 2022[April 21, 2014]**

**Notice of Continuation: December 9, 2020**

**Authorizing, and Implemented or Interpreted Law: 70A-9a et seq.**

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

**TYPE OF RULE:** Repeal and Reenact

<b>Rule or Section Number:</b>	<b>R154-100</b>	<b>Filing ID:</b>	<b>54777</b>
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#### **Agency Information**

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Corporations and Commercial Code	
<b>Building:</b>	Heber M Wells Building	
<b>Street address:</b>	160 E 300 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111-2316	
<b>Mailing address:</b>	PO Box 146705	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6705	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Leigh Veillette	801-530-6162	lveillette@utah.gov

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

#### **General Information**

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

R154-100. Utah Administrative Procedures Act Rules

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

This filing is made in accordance with Executive Order No. 2021-12 to update this rule and make changes consistent with the Utah Rulewriting Manual.

##### **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 R154-100 was due for a review and update to ensure that this rule is consistent with agency processes and the Utah Administrative Procedures Act (UAPA).

### Fiscal Information

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

##### A) State budget:

No costs or savings because the changes made through the repeal and reenactment merely clarify this rule and ensure it accurately reflects agency processes.

##### B) Local governments:

No costs or savings because the changes made through the repeal and reenactment merely clarify this rule and ensure it accurately reflects agency processes.

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

No costs or savings because the changes made through the repeal and reenactment merely clarify this rule and ensure it accurately reflects agency processes.

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

No costs or savings because the changes made through the repeal and reenactment merely clarify this rule and ensure it accurately reflects agency processes.

##### 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 costs or savings because the changes made through the repeal and reenactment merely clarify this rule and ensure it accurately reflects agency processes.

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

No costs or savings because the changes made through the repeal and reenactment merely clarify this rule and ensure it accurately reflects agency processes.

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

#### Regulatory Impact Table

Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

#### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Margaret Busse, has reviewed and approved this regulatory impact analysis.

### Citation Information

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

Section 63G-4-202	Section 13-1a-5	
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### Public Notice Information

#### 8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	09/14/2022
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#### 9. This rule change MAY become effective on:

09/21/2022  
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Leigh Veillette, Director	<b>Date:</b>	07/28/2022
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**R154. Commerce, Corporations and Commercial Code.****R154-100. Utah Administrative Procedures Act Rules.****R154-100-1. Purpose of Rules.**

The purpose of these rules is to designate those categories of adjudicative proceedings within the Division of Corporations and Commercial Code which will be conducted on an informal basis, in accordance with the Utah Administrative Procedures Act and the Rules of Procedure for Adjudicative Proceedings before the Department of Commerce.

**R154-100-2. Designation of Informal Adjudicative Proceedings.**

A. Any adjudicative proceedings as to the following matters shall be conducted on an informal basis:

1. The disapproval of any articles of incorporation, amendment, merger, consolidation, dissolution, or any other document required by Section 61-6-1 et seq. to be approved by the Division before filing.

2. The revocation of a certificate of authority of a foreign corporation to transact business in this state.

3. The disapproval of an application for an assumed name pursuant to Section 42-2-6.6(4).

4. The application for, and issuance of, registration of a trademark or service mark pursuant to Section 70-3-3.

5. The cancellation of registration of a trademark or service mark pursuant to Section 70-3-10.

B. All adjudicative proceedings as to any matters not specifically listed herein shall be conducted on an informal basis.

C. No hearing shall be held in any informal adjudicative proceeding which is initiated pursuant to these rules. However, any final order issued by the division is subject to agency review, consistent with the provisions of Section 63G-4-301 and the Rules of Procedure which govern Adjudicative Proceedings Before the Department of Commerce.]

**R154-100. Administrative Procedures Act Rule.****R154-100-1. Definitions.**

(1) Terms used in this rule that are defined in the Administrative Procedures Act, Title 63G, Chapter 4, and not otherwise defined in this section shall have the respective meanings given the terms in the Administrative Procedures Act, Title 63G, Chapter 4.

(2) "Division" means the Utah Division of Corporations and Commercial Code in the Utah Department of Commerce.

**R154-100-2. Designation of Adjudicative Proceedings.**

(1) Adjudicative proceedings in the division are designated as informal.

(2) Notwithstanding Subsection (1), a party may move to convert an adjudicative proceeding to a formal adjudicative proceeding in accordance with Subsection 63G-4-202(3).

**R154-100-3. Hearings.**

No hearing will be held unless specifically required under any laws administered by the division or by the Administrative Procedures Act, Title 63G, Chapter 4.

**R154-100-4. Designation of Presiding Officer.**

The presiding officer in any division adjudicative proceeding shall be the director of the division. The director may designate another person to act as presiding officer in any adjudicative proceeding or portion of any adjudicative proceeding.

**KEY:** administrative procedure, government hearing

**Date of Last Change:** 2022[1988]

**Notice of Continuation:** September 11, 2018

**Authorizing, and Implemented or Interpreted Law:** 13-1-10; 63G-4-202

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Rule or Section Number:</b>	<b>R156-71</b>	<b>Filing</b>	<b>ID:</b>
		<b>54769</b>	

**Agency Information**

Agency information		
<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Professional Licensing	
<b>Building:</b>	Heber M Wells Building	
<b>Street address:</b>	160 E 300 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111-2316	
<b>Mailing address:</b>	PO Box 146741	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6741	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Larry Marx	801-530-6628	lmarx@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>
R156-71. Naturopathic Physician Practice Act Rule
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This rule is amended in accordance with changes made by S.B. 154 passed in the 2022 General Session.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
Section R156-71-102 is amended to update citations and make minor formatting changes.

Section R156-71-202 is deleted in its entirety in accordance with S.B. 154 (2022) which removed the requirement for the Naturopathic Physician Formulary.

Section R156-71-203 is added under the authority of the new Section 58-71-203, to reserve a section in rule where new approved drug categories will be listed in a future table in accordance with newly enacted Section 58-71-203.

Section R156-71-502 is amended in accordance with newly enacted Section 58-71-203, to delete the reference to the obsolete formulary, and instead define the unprofessional conduct as failure to comply with the drug categories consistent with the practice of naturopathic medicine.

#### Hearing Information:

Heber M Wells Bldg, 160 E 300 S, Conference Room 402, Salt Lake City, UT, on 08/18/2022 at 9:30 AM.

Rule hearing can also be accessed via Google Meet info below:

Google Meet Meeting link  
meet.google.com/ovb-xevo-jrm

Join by phone at:  
(US) +1 402-752-0198  
PIN: 256207287

#### Fiscal Information

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

###### A) State budget:

The proposed amendments are expected to have no measurable impact on state government revenues or expenditures as none of the amendments will impact state government practices or procedures beyond the mandates of S.B. 154 (2022).

###### B) Local governments:

The proposed amendments are expected to have no measurable impact on local governments' revenues or expenditures as none of the amendments will impact local governments' practices or procedures beyond the mandates of S.B. 154 (2022).

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

There are currently 69 Naturopathic Physician licensees in Utah, and it is estimated that most operate private or small group practices in their own offices, and that several operate in the facilities of others, such as hospitals or HMO medical centers (NAICS 621399). However, the amendments are expected to have no measurable impact on small businesses' revenues or expenditures as they only conform this rule to the statutory changes enacted by

S.B. 154 (2022), with no fiscal impact to small business beyond those identified in the fiscal note available at <https://le.utah.gov/~2022/bills/static/SB0154.html>.

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

There are currently several Naturopathic Physicians who operate in larger facilities such as hospitals or HMO medical centers (NAICS 621399). However, the amendments are expected to have no measurable impact on non-small businesses' revenues or expenditures as they only conform this rule to the statutory changes enacted by S.B. 154 (2022), with no fiscal impact to non-small businesses beyond those identified in the fiscal note available at <https://le.utah.gov/~2022/bills/static/SB0154.html>.

###### 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**):

These proposed amendments will affect the 69 licensed Naturopathic Physicians in Utah, the health care providers who collaborate with Naturopathic Physicians, and the staff employed by or supervised by Naturopathic Physicians. However, the amendments are not expected to result in a fiscal impact to these persons beyond those identified in the fiscal note for S.B. 154 (2022), as the amendments only conform this rule to and implement the statutory changes enacted by S.B. 154 (2022).

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

As described above, no compliance costs are expected for any affected persons.

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

###### Regulatory Impact Table

Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

## NOTICES OF PROPOSED RULES

<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

#### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

The Division of Professional Licensing (Division) proposes amendments to Rule R156-71, the Naturopathic Physician Practice Act Rule. Changes have been made to conform to S.B. 154 (2022). Among the changes, Section R156-71-202 is deleted due to no longer needing a naturopathic physician formulary. Section R156-71-203 is created to list approve drug categories. Also, the Division has made formatting changes throughout this rule to conform this rule to the Administrative Rules' Rulewriting Manual in accordance with Executive Orders No. 2021-1 and 2021-12.

Small Businesses (less than 50 employees): The Division does not foresee any foreseeable impact on small businesses since these amendments are made to align to S.B. 154 (2022) and to make this rule comport to the Utah Rulewriting Manual. There are no substantial changes but merely conforming to statutory requirements and executive orders.

Non-Small Businesses (50 or more employees): These amendments will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses. These costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

#### Citation Information

**6. 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 58-71-101	Subsection	Subsection
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	58-1-106(1)(a)	58-1-202(1)(a)
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#### Public Notice Information

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 09/14/2022

**B) A public hearing (optional) will be held:**

<b>On:</b>	<b>At:</b>	<b>At:</b>
08/18/2022	9:30 AM	See information in Box 4 above

**9. This rule change MAY become effective on:** 09/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Mark B. Steinagel, Division Director	<b>Date:</b>	07/26/2022
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**R156. Commerce, [Occupational and Professional Licensing. R156-71. Naturopathic Physician Practice Act Rule.**

**R156-71-102. Definitions.**

[In addition to the]The following definitions supplement the definitions in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and Title 58, Chapter 71, Naturopathic Physician Practice Act, the following rule definitions supplement the statutory definitions]:

(1) "Approved clinical experience program" or "residency program" as used in Subsections 58-71-302(1)(d) and 58-71-304.2(1)(b), mean a residency program that is:

(a) at least one year in length; and

(b) approved by the Council of Naturopathic Medical Education (CNME), meaning it is under the auspices of a CNME-accredited or CNME candidate Naturopathic Doctor program that is recognized by the CNME as a residency program sponsor.

(2) "Direct supervision" as used in Subsection 58-71-304.2(1)(b), means the supervising naturopathic physician, physician and surgeon, or osteopathic physician is:

(a) responsible for the naturopathic activities and services performed by the naturopathic physician intern; and

(b) normally present in the facility, and when not present in the facility is available by voice communication to direct and control the naturopathic activities and services performed by the naturopathic physician intern.

(3) "Direct and immediate supervision" of a medical naturopathic assistant as used in Subsections 58-71-102([6]7) and 58-71-305(7), means that the licensed naturopathic physician is:

(a) responsible for the activities and services performed by the medical naturopathic assistant; and

(b) present in the facility and immediately available for advice, direction, and consultation.

(4) "Distance learning" means the acquisition of knowledge and skills through information and instruction encompassing technologies and other forms of learning at a distance, including internet, audio-visual recordings, mail, or other correspondence.

(5) "Naturopathic physician intern" or "intern" means an individual who qualifies for a temporary license under Section 58-71-304.2 to engage in a naturopathic physician residency program recognized by the Division, under the direct supervision of an approved naturopathic physician, physician and surgeon, or osteopathic physician.

(6) "NPLEX" means the Naturopathic Physicians Licensing Examinations.

(7) "Primary health care" as referenced in Subsection 58-71-102([42]13), means basic or general health care provided at the patient's first contact with the naturopathic physician.

(8) "Qualified continuing education" means continuing education that meets the standards in Section R156-71-304.

(9) "Unprofessional conduct" as defined in [Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and Chapter 71, Naturopathic Physician Practice Act, is further defined under Subsection 58-1-203(1)(e) and] Subsection 58-71-102([47]18), is further defined in Section R156-71-502.

**[R156-71-202. Naturopathic Physician Formulary.**

(1)(a) Under Subsections 58-71-102(8)(d) and 58-71-102(12)(a), the naturopathic physician formulary noncontrolled substance legend medications appropriate for the primary health care of patients within the scope of practice of naturopathic physicians, the prescription of which is approved by the Division in collaboration with the Naturopathic Formulary Advisory Peer Committee under Section 58-71-202, are identified in Subsection (1)(b).

(b) The following noncontrolled substance legend medications are listed by category, with reference numbers identified in the American Hospital Formulary Service (AHFS) Drug Information, 2021 edition, published by the American Society of Hospital Pharmacists, available at <http://www.ahfsdruginformation.com>:

4:00 Antihistamines  
8:08 Anthelmintics  
8:12 Antibacterials, limited to oral, topical and intramuscular administration  
8:14 Antifungals, oral and topical forms  
8:16.92 Miscellaneous Antimycobacterials  
8:18 Antivirals limited to oral and topical dosage forms, excluding:  
8:18:08 Antiretrovirals  
8:18:20 Interferons  
8:18:24 Monoclonal Antibodies  
8:18:32 Nucleosides and Nucleotides  
8:30.04 Amebicides  
8:30.92 Miscellaneous Antiprotozoals excluding those whose primary indication is the treatment of infection in immunosuppressed patients, such as Pentamidine and Trimetrexate  
8:36 Urinary anti-infectives  
12:12.08.12 Selective Beta 2 Adrenergic Agonists  
12:12.12 Alpha and Beta Adrenergic Agonists  
12:16 Sympatholytic Adrenergic Blocking AB Agents, limited to ergot derivatives  
12:20 Skeletal Muscle Relaxants, excluding scheduled medications  
20:12.04.16 Heparins

20:24 Hemorrhologic Agents  
24:04.08 Cardiotonic Agents limited to Digoxin  
24:06 Antilipemic Agents  
24:08 Hypotensive Agents limited to oral dosage forms  
24:20 Alpha Adrenergic Blocking Agents  
24:24 Beta Adrenergic Blocking Agents limited to oral dosage forms  
24:28 Calcium Channel Blocking Agents limited to oral dosage forms  
24:32 Renin-Angiotensin-Aldosterone System Inhibitors limited to oral dosage forms  
28:08 Analgesics and Antipyretics, excluding scheduled medications  
28:10 Opiate Antagonists  
28:16.04.16 Selective Serotonin and Norepinephrine Reuptake Inhibitors  
28:16.04.20 Selective Serotonin Reuptake Inhibitors  
28:16.04.24 Serotonin Modulators  
28:16.04.28 Trielicyclines and Other Norepinephrine Reuptake Inhibitors  
28:16.04.92 Antidepressants, Miscellaneous  
28:32.28 Selective Serotonin Agonists  
40:00 Electrolytic, Caloric, and Water Balance  
40:18.92 Other Ion-removing Agents  
40:28 Diuretics  
44:00 Enzymes, limited to digestive and proteolytic  
48:10.24 Leukotriene Modifiers  
48:10.32 Mast Cell Stabilizers  
48:16 Expecterants  
52:08 Corticosteroids (oral, topical, and injectable), Anti-Inflammatory Agents and DMARDS  
52:24 Mydriatics  
56:22 Antiemetics  
56:28 H<sub>2</sub> Blockers, Anti-ulcer Agents and Acid Suppressants  
56:36 Anti-inflammatory Agents  
64:00 Heavy Metal Antagonists, in addition to DMPS (2,3-Dimercapto-1-propanesulfonic acid)  
68:04 Adrenals  
68:12 Contraceptives, except implants and injections  
68:16.04 Estrogens  
68:16.08 Antiestrogens, limited to Anastrozole for use in the setting of hormone replacement therapy  
68:16.12 Estrogen Agonists/Antagonists, limited to Raloxifene  
68:18 Gonadotropins; limited to Gonadotropin, Chorionic  
68:20.02 Alpha-Glucosidase Inhibitors  
68:20.04 Biguanides  
68:20.08 Insulins  
68:20.20 Sulfonylureas  
68:24 Parathyroid  
68:32 Progestins  
68:36 Thyroid and Antithyroid Agents, including Thyroid of glandular extract  
72:00 Local Anesthetics  
76:00 Oxytocics, limited to Oxytocin  
80:00 Serums, Toxoids, Vaccines  
84:00 Skin and Mucous Membrane Agents, excluding Depigmenting and Pigmenting Agents (reference number 84:50)  
84:92 Skin and Mucous Membrane Agents, Miscellaneous, excluding Isotretinoin  
88:00 Vitamins

# NOTICES OF PROPOSED RULES

~~92:00 Miscellaneous Therapeutic Agents, limited to Botulinum Toxin type A, and limited to superficial injections~~  
~~92:08 5 Alpha-Reductase Inhibitors~~  
~~92:16 Antigout Agents~~  
~~(2) Under Subsections 58-71-102(8) and 58-71-102(12)(a), the naturopathic physician formulary includes the following items or substances, for the primary health care of patients within the scope of practice of naturopathic physicians:~~  
~~(a) Amino Acids;~~  
~~(b) Minerals;~~  
~~(c) Oxygen;~~  
~~(d) Silver Nitrate;~~  
~~(e) DHEA (dihydroepiandrosterone);~~  
~~(f) Pregnenolone; and~~  
~~(g) Allergy Testing Agents.~~  
~~(3) Under Subsections 58-71-102(8)(c) and 58-71-102(12)(a) and Section 58-71-202, the naturopathic physician formulary includes the following controlled substance with the reference number identified in the AHFS Drug Information, 2021 edition, published by the American Society of Hospital Pharmacists, available at <http://www.ahfsdruginformation.com>:~~  
~~68:08 Testosterone.~~  
~~(4) A licensed naturopathic physician may not prescribe or administer a new category or class of drugs until the category or class is approved as part of the naturopathic physician formulary.~~  
~~(5) A licensed naturopathic physician shall be knowledgeable about the medications and natural medicine being prescribed or administered.]~~

## **R156-71-203. Drug Category Review.**

Reserved.

## **R156-71-502. Unprofessional Conduct.**

"Unprofessional conduct" includes failure to comply with the [approved naturopathic physician formulary in drug categories consistent with the practice of naturopathic medicine, under Subsection 58-71-102(9) and Section R156-71-202]~~203~~.

**KEY:** licensing, naturopaths, naturopathic physician

Date of Last Change: ~~[November 23, 2021]~~2022

Notice of Continuation: August 12, 2021

Authorizing, and Implemented or Interpreted Law: 58-71-101; 58-1-106(1)(a); 58-1-202(1)(a)

## **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal and Reenact

<b>Rule or Section Number:</b>	<b>R414-14A</b>	<b>Filing ID:</b> <b>54768</b>
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## **Agency Information**

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 143102

<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

## **General Information**

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

R414-14A. Hospice Care

### **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 update and clarify current Medicaid policy for hospice care services.

### **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):**

All requirements of the repealed rule are reenacted in the proposed rule. In contrast to the repealed rule, this new rule streamlines hospice care policies by restructuring sections of the rule and removing operational details that belong in the hospice care provider manual.

## **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 this change simply updates and clarifies current requirements for the hospice care program.

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

There is no impact on local governments because they neither fund nor determine eligibility for the hospice care program.

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

There is no impact on small businesses as this change simply updates and clarifies current requirements for the hospice care program.

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

There is no impact on non-small businesses as this change simply updates and clarifies current requirements for the hospice care program.

**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 this change simply updates and clarifies current requirements for the hospice care 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 as this change simply updates and clarifies current requirements for the hospice care program.

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

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>Net Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

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

**Citation Information**

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

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

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 09/14/2022

**9. This rule change MAY become effective on:** 09/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	07/26/2022
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-14A. Hospice Care.**

**~~R414-14A-1. Introduction and Authority.~~**

~~This rule is authorized by Sections 26-1-5 and 26-18-3, and Pub L. No. 111-148 of the Affordable Care Act. It implements Medicaid hospice care services as found in 42 U.S.C. 1396d(o).~~

**~~R414-14A-2. Definitions.~~**

~~The definitions in Rule R414-1 apply to this rule. In addition:~~

- ~~(1) "Attending physician" means a physician who:~~
  - ~~(a) is a doctor of medicine or osteopathy; and~~
  - ~~(b) is identified by the client at the time he or she elects to receive hospice care as having the most significant role in the determination and delivery of the client's medical care.~~
- ~~(2) "Cap period" means the 12 month period ending October 31 used in the application of the cap on reimbursement for inpatient hospice care as described in Subsection R414-14A-23(5).~~
- ~~(3) "Employee" means an employee of the hospice provider or, if the hospice provider is a subdivision of an agency or organization, an employee of the agency or organization who is~~

appropriately trained and assigned to the hospice unit. "Employee" includes a volunteer under the direction of the hospice provider.

(4) "Hospice care" means care provided to terminally ill clients by a hospice provider.

(5) "Hospice provider" means a provider that is licensed under the provisions of Rule R432-750 and is primarily engaged in providing care to terminally ill individuals.

(6) "Physician" means a doctor of medicine or osteopathy who is licensed by the state of Utah.

(7) "Representative" means an individual who has been authorized under state law to make health care decisions, including initiating, continuing, refusing, or terminating medical treatments for a client who cannot make health care decisions.

(8) "Terminally ill" means the client has a medical prognosis to live no more than six months if the illness runs its normal course.

(9) "Adult" means a hospice client who is at least 21 years of age.

### **R414-14A-3. Client Eligibility Requirements.**

(1) A client who is terminally ill may obtain hospice care pursuant to this rule.

(2) A client's certification of a terminal condition required for hospice eligibility must be based on a face-to-face assessment by a physician conducted no more than 90 days prior to the date of enrollment.

(3) A client dually enrolled in Medicare and Medicaid must elect the hospice benefit for both Medicare and Medicaid. The client must receive hospice coverage under Medicare. Election for the Medicaid hospice benefit provides the client coverage for Medicare co-insurance and coverage for room and board expenses while a resident of a Medicare-certified nursing facility, intermediate care facility for people with an intellectual disability (ICF/ID), or freestanding hospice facility.

(4) Primary diagnoses of "debility" and "adult failure to thrive" do not meet eligibility criteria for Medicaid hospice care if the patient does not have a least one other more definitive co-occurring principle terminal diagnosis.

### **R414-14A-4. Program Access Requirements.**

(1) Hospice care may be provided only by a hospice provider licensed by the Department, that is Medicare-certified in accordance with 42 CFR Part 418, and that is a Medicaid provider.

(2) A hospice provider must have a valid Medicaid provider agreement in place prior to initiating hospice care for Medicaid clients. The Medicaid provider agreement is effective on the date a Medicaid provider application is received in the Department and may not be made retroactive to an earlier date, including an earlier effective date of Medicare hospice certification.

(3) At the time of a change of ownership, the previous owner's provider agreement terminates as of the effective date of the change of ownership.

(4) The Department accepts all waivers granted to hospice agencies by the Centers for Medicare and Medicaid Services as part of the Medicare certification process.

(5) Hospice agencies participating in the Medicaid program shall provide hospice care in accordance with the requirements of 42 CFR Part 418.

### **R414-14A-5. Service Coverage.**

Hospice care categories eligible for Medicaid reimbursement are the following:

(1) "Routine home care day" is a day in which a client who has elected to receive hospice care is at home and is not receiving continuous home care as defined in Subsection R414-14A-5(2). For purposes of routine home care day, extended stay residents of nursing facilities are considered at home.

(2) "Continuous home care day" is a day in which a client who has elected to receive hospice care receives a minimum of eight aggregate hours of care from the hospice provider during a 24-hour day, which begins and ends at midnight. The eight aggregate hours of care must be predominately nursing care provided by either a registered nurse or licensed practical nurse. Continuous home care is only furnished during brief periods of crisis in which a patient requires continuous care that is primarily nursing care to achieve palliation or management of acute medical symptoms. Extended stay residents of nursing facilities are not eligible for continuous home care day.

(3) "Inpatient respite care day" is a day in which the client who has elected hospice care receives short-term inpatient care when necessary to relieve family members or other persons caring for the client at home.

(4) "General inpatient care day" is a day in which a client who has elected hospice care receives general inpatient care for pain control or acute or chronic symptom management that cannot be managed in a home or other outpatient setting. General inpatient care may be provided in a hospice inpatient unit, a hospital, or a nursing facility.

(5) "Room and Board" is medication administration, performance of personal care, social activities, routine and therapeutic dietary services, meal service including direct feeding assistance, maintaining the cleanliness of the client's room, assistance with activities of daily living, durable equipment, prescribed therapies, and all other services unrelated to care associated with the terminal illness that would be covered under the Medicaid State Plan nursing facility benefit.

### **R414-14A-6. Hospice Election.**

(1) A client who meets the eligibility requirement for Medicaid hospice must file an election statement with a particular hospice. If the client cannot cognitively make informed health care decisions or is under 18 years of age, the client's legally authorized representative may file the election statement.

(2) Each hospice provider designs and prints his own election statement. The election statement must include the following:

(a) identification of the particular hospice that will provide care to the client;

(b) the client's or representative's acknowledgment that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the client's terminal illness;

(c) for adult clients, acknowledgment that the client waives certain Medicaid services as set forth in Section R414-14A-9;

(d) acknowledgment that the client or representative may revoke the election of the hospice benefit at any time in the future and therefore become eligible for Medicaid services waived at the time of hospice election as set forth in Section R414-14A-8; and

(e) the signature of the client or representative.

(3) The effective date of the election may be the first day of hospice care or a later date, but may be no earlier than the date of the election statement.

~~(4) An election to receive hospice care remains effective through the initial election period and through the subsequent election periods without a break in care as long as the client:~~

- ~~(a) remains in the care of a hospice;~~
- ~~(b) does not revoke the election; and~~
- ~~(c) is not discharged from the hospice.~~

~~(5) The hospice provider must notify the Department at the time a Medicaid client selects the hospice benefit, including selecting the hospice provider under a change of designated hospice. The notification must include a copy of the hospice election statement and the physician's certification of terminal illness for hospice care. Authorization for reimbursement of hospice care begins no earlier than the date notification is received by the Department for an eligible Medicaid client, except as provided in Section R414-14A-20.~~

~~(6) Subject to the conditions set forth in this rule, a client may elect to receive hospice care during one or more of the following election periods:~~

- ~~(a) an initial 90-day period;~~
- ~~(b) a subsequent 90-day period; or~~
- ~~(c) an unlimited number of subsequent 60-day periods.~~

~~(7) The Department may only grant prior authorization for hospice care in alignment with the election periods defined in Subsection R414-14A-6(6).~~

#### **R414-14A-7. Change in Hospice Provider.**

~~(1) A client or representative may change, once in each election period, the designation of the particular hospice from which hospice care will be received.~~

~~(2) The change of the designated hospice is not a revocation of the election for the period in which it is made.~~

~~(3) To change the designation of hospice provider, the client must file, with the hospice provider from which care has been received and with the newly designated hospice provider, a statement that includes the following information:~~

- ~~(a) the name of the hospice provider from which the client has received care;~~
- ~~(b) the name of the hospice provider from which the client plans to receive care; and~~
- ~~(c) the date the change is to be effective.~~

~~(4) The client must file the change on or before the effective date.~~

#### **R414-14A-8. Revocation and Re-election of Hospice Services.**

~~(1) A client or legal representative may voluntarily revoke the client's election of hospice care at any time during an election period.~~

~~(2) To revoke the election of hospice care, the client or representative must file a statement with the hospice provider that includes the following information:~~

- ~~(a) a signed statement that the client or representative revokes the client's election for Medicaid coverage of hospice care.~~
- ~~(b) the date that the revocation is to be effective, which may not be earlier than the date that the revocation is made; and~~
- ~~(c) an acknowledgment signed by the patient or the patient's representative that the patient will forfeit Medicaid hospice coverage for any remaining days in that election period.~~

~~(3) Upon revocation of the election of Medicaid coverage of hospice care for a particular election period, a client:~~

- ~~(a) is no longer covered under Medicaid for hospice care;~~
- ~~(b) resumes Medicaid coverage for the benefits waived under Section R414-14A-9 (for adult clients); and~~

~~(c) may at any time elect to receive hospice coverage for any other hospice election periods that he or she is eligible to receive.~~

~~(4) If an election has been revoked, the client or his representative may at any time file an election in accordance with this rule for any other election period that is still available to the client.~~

~~(5) Hospice providers may not encourage adult clients to temporarily revoke hospice services solely for the purpose of avoiding financial responsibility for Medicaid services that have been waived at the time of hospice election as described in Section R414-14A-9.~~

~~(6) Hospice providers must send notification to the Department within ten calendar days that a client has revoked hospice benefits. Notification must include a copy of the revocation statement signed by the client or the client's legal representative.~~

#### **R414-14A-9. Rights Waived to Some Medicaid Services for Adult Clients.**

~~(1) For the duration of an election for hospice care, an adult client waives all rights to Medicaid for the following services:~~

~~(a) hospice care provided by a hospice other than the hospice designated by the client, unless provided under arrangements made by the designated hospice; and~~

~~(b) any Medicaid services that are related to the treatment of the terminal condition for which hospice care was elected or a related condition or are duplicative of hospice care except for services:~~

- ~~(i) provided by the designated hospice;~~
- ~~(ii) provided by another hospice under arrangements made by the designated hospice; and~~
- ~~(iii) provided by the client's attending physician if the services provided are not otherwise covered by the payment made for hospice care.~~

~~(2) Medicaid services for illnesses or conditions not related to the client's terminal illness are not covered through the hospice program but are covered when provided by the appropriate provider.~~

#### **R414-14A-10. Concurrent Care for Clients Under 21 Years of Age.**

~~(1) For the duration of the election of hospice care, clients under 21 years of age may only receive hospice care which is provided by the designated hospice, or that has been provided under arrangements made by the designated hospice.~~

~~(2) Clients under 21 years of age who elect to receive Medicaid hospice care may also receive concurrent Medicaid State Plan treatment for the terminal illness and other related conditions.~~

~~(3) For life prolonging treatment rendered to clients under 21 years of age, Medicaid shall reimburse the appropriate Medicaid enrolled medical care providers directly through the usual and customary Medicaid billing procedures. Hospice providers are not responsible to reimburse medical care providers for life prolonging treatment rendered to hospice clients who are under 21 years of age.~~

~~(4) Each pediatric hospice provider shall develop a training curriculum to ensure that the hospice's interdisciplinary team members, including volunteers, are adequately trained to provide hospice care to clients who are under 21 years of age. All staff members and volunteers who provide pediatric hospice care must receive the training before they provide hospice care services, and at least annually thereafter. The training shall include the following pediatric specific elements:~~

- ~~(a) Growth and development;~~
- ~~(b) Pediatric pain and symptom management;~~

~~\_\_\_\_\_ (c) Loss, grief and bereavement for pediatric families and the child;~~  
~~\_\_\_\_\_ (d) Communication with family, community and interdisciplinary team;~~  
~~\_\_\_\_\_ (e) Psycho-social and spiritual care of children;~~  
~~\_\_\_\_\_ (f) Coordination of care with the child's community.~~  
~~\_\_\_\_\_ (5) For pediatric care, the Hospice Program shall adopt the National Hospice and Palliative Care Organization's (NHPCO) Standards for Hospice Programs.~~

**R414-14A-11. Notice of Hospice Care in a Nursing Facility, ICF/ID, or Freestanding Inpatient Hospice Facility.**

~~\_\_\_\_\_ (1) The hospice provider must notify the Department at the time a Medicaid client residing in a Medicare-certified nursing facility, a Medicaid-certified ICF/ID, or a Medicare freestanding inpatient hospice facility elects the Medicaid hospice benefit or at the time a Medicaid client who has elected the Medicaid hospice benefit is admitted to a Medicare-certified nursing facility, a Medicaid-certified ICF/ID, or a Medicare freestanding inpatient hospice facility.~~  
~~\_\_\_\_\_ (2) The notification must include a prognosis of the time the client will require skilled nursing facility services under the hospice benefit.~~  
~~\_\_\_\_\_ (3) Except as provided in Section R414-14A-20, reimbursement for room and board begins no earlier than the date the hospice provider notifies the Department that the client has elected the Medicaid hospice benefit.~~

**R414-14A-12. Notice of Independent Attending Physician.**

~~\_\_\_\_\_ The hospice provider must notify the Department at the time a Medicaid client designates an attending physician who is not a hospice employee.~~

**R414-14A-13. Extended Hospice Care.**

~~\_\_\_\_\_ (1) Adult patients who accumulate 12 or more consecutive months of hospice benefits are subject to an independent utilization review by a physician who is not affiliated with the hospice agency. Independent reviews are subsequently required every 12 months thereafter if the patient continues to receive extended hospice care. 12 consecutive months means 12 months in a row wherein a hospice provides Medicaid hospice care during any portion of each month.~~  
~~\_\_\_\_\_ (2) If Medicare determines that a patient is no longer eligible for Medicare reimbursement for hospice services, the patient will no longer be eligible for Medicaid reimbursement for hospice services. Providers must immediately notify Medicaid upon learning of Medicare's determination. Medicaid reimbursement for hospice services will cease the day after Medicare notifies the hospice provider that the client is no longer eligible for hospice care.~~

**R414-14A-14. Provider Initiated Discharge from Hospice Care.**

~~\_\_\_\_\_ (1) The hospice provider may not initiate discharge of a patient from hospice care except in the following circumstances:~~  
~~\_\_\_\_\_ (a) the patient moves out of the hospice provider's geographic service area or transfers to another hospice provider by choice;~~  
~~\_\_\_\_\_ (b) the hospice determines that the patient is no longer terminally ill; or~~  
~~\_\_\_\_\_ (c) the hospice provider determines, under a policy set by the hospice for the purpose of addressing discharge for cause, that the patient's behavior (or the behavior of other persons in the patient's home) is disruptive, abusive, or uncooperative to the extent that~~

~~delivery of care to the patient or the ability of the hospice to operate effectively is seriously impaired.~~

~~\_\_\_\_\_ (2) The hospice provider must carry out the following activities before it seeks to discharge a patient for cause:~~

~~\_\_\_\_\_ (a) advise the patient that a discharge for cause is being considered;~~

~~\_\_\_\_\_ (b) make a diligent effort to resolve the problem that the patient's behavior or situation presents;~~

~~\_\_\_\_\_ (c) ascertain that the discharge is not due to the patient's use of necessary hospice services; and~~

~~\_\_\_\_\_ (d) document the problem and efforts to resolve the problem in the patient's medical record.~~

~~\_\_\_\_\_ (3) Before discharging a patient for any reason listed in Subsection R414-14A-14(1), the hospice provider must obtain a physician's written discharge order from the hospice provider's medical director. If a patient also has an attending physician, the hospice provider must consult the physician before discharge and the attending physician must include the review and decision in the discharge documentation.~~

~~\_\_\_\_\_ (4) A client, upon discharge from the hospice during a particular election period, for reasons other than immediate transfer to another hospice:~~

~~\_\_\_\_\_ (a) is no longer covered under Medicaid for hospice care;~~

~~\_\_\_\_\_ (b) resumes Medicaid coverage of the benefits waived during the hospice coverage period; (for adult clients); and~~

~~\_\_\_\_\_ (c) may at any time elect to receive hospice care if the client is again eligible to receive the benefit in the future.~~

~~\_\_\_\_\_ (5) The hospice provider must have in place a discharge planning process that takes into account the prospect that a patient's condition might stabilize or otherwise change if that patient cannot continue to be certified as terminally ill. The discharge planning process must include planning for any necessary family counseling, patient education, or other services before the patient is discharged because the patient is no longer terminally ill.~~

**R414-14A-15. Hospice Room and Board Service.**

~~\_\_\_\_\_ If a client residing in a nursing facility, ICF/ID or a freestanding hospice inpatient unit elects hospice care, the hospice provider and the facility must have a written agreement under which the total care of the individual must be specified in a comprehensive service plan, the hospice provider is responsible for the professional management of the client's hospice care, and the facility agrees to provide room and board and services unrelated to the care of the terminal condition to the client. The agreement must include:~~

~~\_\_\_\_\_ (1) identification of the services to be provided by each party and the method of care coordination to assure that all services are consistent with the hospice approach to care and are organized to achieve the outcomes defined by the hospice plan of care;~~

~~\_\_\_\_\_ (2) a stipulation that Medicaid services may be provided only with the express authorization of the hospice;~~

~~\_\_\_\_\_ (3) the manner in which the contracted services are coordinated, supervised and evaluated by the hospice provider;~~

~~\_\_\_\_\_ (4) the delineation of the roles of the hospice provider and the facility in the admission process; needs assessment process; and the interdisciplinary team care conference and service planning process;~~

~~\_\_\_\_\_ (5) requirements for documenting that services are furnished in accordance with the agreement;~~

~~\_\_\_\_\_ (6) the qualifications of the personnel providing the services; and~~

~~(7) the billing and reimbursement process by which the nursing facility will bill the hospice provider for room and board and receive payment from the hospice provider.~~

~~(8) In cases in which nursing facility residents revoke their hospice benefits, it is the responsibility of the hospice provider to notify the nursing facility of the revocation. The notice must be in writing and the hospice provider must provide it to the nursing facility on or before the revocation date.~~

#### **R414-14A-16. In Home Physician Services.**

~~In home physician visits by the attending physician are authorized for hospice clients if the attending physician determines that direct management of the client in the home setting is necessary to achieve the goals associated with a hospice approach to care.~~

#### **R414-14A-17. Continuous Home Care.**

~~When the hospice provider determines that a patient requires at least eight hours of primarily nursing care in order to manage an acute medical crisis, the hospice provider will maintain documentation to support the requirement that the services provided were reasonable and necessary and were in compliance with an established plan of care in order to meet a particular crisis situation. Continuous home care is a covered benefit only as necessary to maintain the terminally ill client at home.~~

#### **R414-14A-18. General Inpatient Care.**

~~(1) General inpatient care is authorized without prior authorization for an initial ten calendar day length of stay. Prior authorization is required for any additional general inpatient care days during the same stay to verify that the client's needs meet the requirements for general inpatient care. If a hospice provider requests additional days, the subsequent requests are subject to clinical review and approval by qualified Department staff.~~

~~(2) General inpatient care days may not be used due to the breakdown of the primary care giving living arrangements or the collapse of other sources of support for the recipient.~~

~~(3) Prior authorization for additional days beyond the initial ten calendar day stay must be obtained before the hospice care is provided, except as allowed in Section R414-14A-20.~~

#### **R414-14A-19. Inpatient Respite Care.**

~~When the hospice provider determines that a patient requires a short term inpatient respite stay in order to relieve the family members or other persons caring for the client at home, the hospice provider will maintain documentation to support the requirement that the services provided were reasonable and necessary to relieve a particular caregiver situation. Inpatient respite care may not be reimbursed for more than five consecutive days at a time. Inpatient respite care may not be reimbursed for a patient residing in a nursing facility, ICF/ID, or freestanding hospice inpatient unit.~~

#### **R414-14A-20. Notification and Prior Authorization Grace Periods.**

~~(1) If a new patient is already Medicaid eligible upon admission to hospice care, the hospice provider must submit a prior authorization request form to the Department in order to receive reimbursement for hospice services it renders, except in the following circumstances:~~

~~(a) During weekend, holidays, and after regular Department business hours, a hospice provider may begin service to a new Medicaid hospice enrollee, including covering room and board, or initiate a different hospice care requiring prior authorization~~

~~for a grace period up to ten calendar days before notifying the Department;~~

~~(b) Before the end of the ten calendar day grace period, the hospice provider must complete and submit the prior authorization request form to the Department in order to receive reimbursement for hospice services it renders;~~

~~(c) If the hospice provider does not submit the prior authorization request form timely, the Department will not reimburse the provider for the care that it renders before the date that the form is received.~~

~~(d) The hospice provider must complete and submit with the prior authorization request, the form for independent physician review when an adult patient reaches 12 consecutive months in hospice care. The Department shall deny the prior authorization request if the provider does not include this form with the other required documents, or if this form does not indicate the patient meets ongoing eligibility criteria for Medicaid hospice care.~~

#### **R414-14A-21. Post-Payment for Services Provided While in Medicaid Pending Status.**

~~(1) If a new client is not Medicaid eligible upon admission to hospice services but becomes Medicaid eligible at a later date, the Department will reimburse a hospice provider retroactively to allow the hospice eligibility date to coincide with the client's Medicaid eligibility date if:~~

~~(a) the Department determines that the client met Medicaid eligibility requirements at the time the service was provided;~~

~~(b) the hospice care met the prior authorization criteria at the time of delivery; and~~

~~(c) the hospice provider reimburses the Department for care related to the client's terminal illness delivered by other Medicaid providers during the retroactive period.~~

~~(2) The hospice provider must provide a copy of the initial care plan and any other documentation to the Department adequate to demonstrate the hospice care met prior authorization criteria at the time of delivery.~~

#### **R414-14A-22. Hospice Care Reimbursement.**

~~(1) The Department shall provide payment for hospice care in accordance with the methodology set forth in the Utah Medicaid State Plan.~~

~~(2) A hospice provider may not charge a Medicaid client for a service that the client is entitled to receive under Medicaid.~~

~~(3) Medicaid reimbursement to a hospice provider for services provided during a cap period is limited to the cap amount specified in Subsection R414-14A-23(5).~~

~~(4) Medicaid does not apply the aggregate caps used by Medicare.~~

~~(5) The Department provides payment for hospice care on the basis of the geographic location where the service is provided as described in the Medicaid State Plan.~~

~~(6) Routine home care, continuous home care, general inpatient care, inpatient respite care services, and hospice room and board, are reimbursable to the hospice provider only.~~

~~(7) Hospice general inpatient care and inpatient respite care are not reimbursed by Medicaid for services provided in a Veterans Administration hospital or military hospital.~~

#### **R414-14A-23. Payment for Hospice Care Categories.**

~~(1) The Department establishes payment amounts for the following categories:~~

~~(a) Routine home care.~~

## NOTICES OF PROPOSED RULES

~~(b) Continuous home care.~~  
~~(c) Inpatient respite care.~~  
~~(d) General inpatient care.~~  
~~(e) Room and Board service.~~  
~~(2) The Department reimburses the hospice provider at the appropriate payment amount for each day for which an eligible Medicaid recipient is under the hospice's care.~~  
~~(3) The Medicaid reimbursement covers the same services and amounts covered by the equivalent Medicare reimbursement rate for comparable service categories.~~  
~~(4) The Department makes payment according to the following procedures:~~  
~~(a) Payment is made to the hospice for each day during which the client is eligible and under the care of the hospice, regardless of the amount of services furnished on any given day.~~  
~~(b) Payment is made for only one of the categories of hospice care described in Subsection R414-14A-23(1) for any particular day.~~  
~~(c) On any day in which the client is not an inpatient, the Department pays the hospice provider the routine home care rate, unless the client receives continuous home care as provided in Subsection R414-14A-5(2) for a period of at least eight hours. In that case, the Department pays a portion of the continuous home care day rate in accordance with Subsection R414-14A-23(4)(d).~~  
~~(d) The hospice payment on a continuous care day varies depending on the number of hours of continuous services provided. The number of hours of continuous care provided during a continuous home care day is multiplied by the hourly rate to yield the continuous home care payment for that day. A minimum of eight hours of licensed nursing care must be furnished on a particular day to qualify for the continuous home care rate.~~  
~~(e) Subject to the limitations described in Subsection R414-14A-23(5), on any day on which the client is an inpatient in an approved facility for inpatient care, the appropriate inpatient rate (general or respite) is paid depending on the category of care furnished. The inpatient rate (general or respite) is paid for the date of admission and all subsequent inpatient days, except the day on which the client is discharged. For the day of discharge, the appropriate home care rate is paid unless the client dies as an inpatient. In the case where the client dies as an inpatient, the inpatient rate (general or respite) is paid for the discharge day. Payment for inpatient respite care is subject to the requirement that it may not be provided consecutively for more than five days at a time.~~  
~~(5) Payment for inpatient care is limited as follows:~~  
~~(a) The total payment to the hospice for inpatient care (general or respite) is subject to a limitation that total inpatient care days for Medicaid clients not exceed 20 % of the total days for which these clients had elected hospice care. Clients afflicted with AIDS are excluded when calculating inpatient days. For a client who is under 21 years of age, an inpatient stay in a hospital for the purpose of receiving life prolonging treatment for the terminal illness is not counted toward the cap on reimbursement for inpatient hospice care.~~  
~~(b) At the end of a cap period, the Department calculates a limitation on payment for inpatient care for each hospice to ensure that Medicaid payment is not made for days of inpatient care in excess of 20 percent of the total number of days of hospice care furnished to Medicaid clients by the hospice.~~  
~~(c) If the number of days of inpatient care furnished to Medicaid clients is equal to or less than 20% of the total days of hospice care to Medicaid clients, no adjustment is necessary.~~  
~~(d) If the number of days of inpatient care furnished to Medicaid clients exceeds 20% of the total days of hospice care to~~

Medicaid clients, the total payment for inpatient care is determined in accordance with the procedures specified in Subsection R414-14A-23(5)(e). That amount is compared to actual payments for inpatient care, and any excess reimbursement must be refunded by the hospice.

~~(e) If a hospice exceeds the number of inpatient care days described in Subsection R414-14A-23(5)(d), the total payment for inpatient care is determined as follows:~~

~~(i) Calculate the ratio of the maximum number of allowable inpatient days to the actual number of inpatient care days furnished by the hospice to Medicaid clients.~~

~~(ii) Multiply this ratio by the total reimbursement for inpatient care made by the Department.~~

~~(iii) Multiply the number of actual inpatient days in excess of the limitation by the routine home care rate.~~

~~(iv) Sum the amounts calculated in Subsection R414-14A-23(5)(e)(ii) and (iii).~~

~~(6) The hospice provider may request an exception to the inpatient care payment limitation if the hospice provider demonstrates the volume of Medicaid enrollees during the cap period was insufficient to reasonably achieve the required 20% ratio.~~

### **R414-14A-24. Payment for Physician Services.**

~~(1) The following services performed by hospice physicians are included in the rates described in Sections R414-14A-22 and 23:~~

~~(a) General supervisory services of the medical director.~~

~~(b) Participation in the establishment of plans of care, supervision of care and services, periodic review and updating of plans of care, and establishment of governing policies by the physician member of the interdisciplinary group.~~

~~(2) For services not described in Subsection R414-14A-24(1), direct care services related to the terminal illness or a related condition provided by hospice physicians are reimbursed according to the Medicaid reimbursement fee schedule for physician services. Services furnished voluntarily by physicians are not reimbursable.~~

~~(3) Services of the client's attending physician, including in home services, are reimbursed according to the Medicaid fee schedule for State Plan physician services. Services furnished voluntarily by physicians are not reimbursable.~~

### **R414-14A-25. Hospice Payment Covers Special Modalities.**

~~No additional Medicaid payment will be made for chemotherapy, radiation therapy, and other special modalities of care for palliative purposes regardless of the cost of the services.~~

### **R414-14A-26. Payment for Nursing Facility, ICF/ID, and Freestanding Inpatient Hospice Unit Room and Board.**

~~(1) For clients in a nursing facility, ICF/ID, or a freestanding hospice inpatient unit who elect to receive hospice care from a Medicaid-enrolled hospice provider, Medicaid will pay the hospice provider an additional per diem for routine home care services to cover the cost of room and board in the facility. For nursing facilities and ICFs/ID, the room and board rate is 95 % of the amount that the Department would have paid to the nursing facility or ICF/ID provider for that client if the client had not elected to receive hospice care. For freestanding hospice inpatient facilities, the room and board rate is 95% of the statewide average paid by Medicaid for nursing facility services.~~

~~(a) For clients under 21 years of age, the room and board rate is 100% of the amount that the Department would have paid to~~

the nursing facility or ICF/ID for that client if the client had not elected to receive hospice care.

(2) The Department shall reimburse the hospice provider for room and board. Upon receiving payment for room and board, the hospice provider shall reimburse the nursing facility. The reimbursement is payment in full for the services described in Section R414-14A-15. The facility cannot bill Medicaid separately.

(3) If a hospice enrollee in a nursing facility, ICF/ID, or a freestanding hospice inpatient unit has a monetary obligation to contribute to his cost of care in the facility, the facility must collect and retain the contribution. The hospice must reimburse the facility the reduced amount received from Medicaid directly or from a Medicaid Health Plan.

#### **R414-14A-27. Limitation on Liability for Certain Hospice Coverage Denials.**

If the hospice provider or the Department determines that a client is not terminally ill while receiving hospice care under this rule, the client is not responsible to reimburse the Department. If the Department denies reimbursement to the hospice provider, the hospice provider may not seek reimbursement from the client.

#### **R414-14A-28. Medicaid Health Plans and Hospice.**

(1) If a Medicaid-only client is enrolled in a Medicaid health plan, the hospice selected by the client must have a contract with the health plan. The health plan is responsible to reimburse the hospice for hospice care. The Department will not directly reimburse a hospice provider for a Medicaid-only client covered by a health plan.

(2) If a Medicaid-only client enrolled in a health plan elects hospice care before being admitted to a nursing facility, ICF/ID, or a freestanding hospice inpatient unit, the health plan is responsible to reimburse the hospice provider for both the hospice care and the room and board until the client is disenrolled from the health plan by the Department. At the point the health plan determines that the enrollee will require care in the nursing facility for greater than 30 days, the health plan will notify the Department of the prognosis of extended nursing facility services. The Department will schedule disenrollment from the health plan to occur in accordance with the terms of the health plan contract for care provided in skilled nursing facilities.

(3) If a hospice enrollee is covered by Medicare for hospice care, the Medicaid health plan is responsible for the health plan's payment rate less any amount paid by Medicare and other payors. The health plan is responsible for payment even if the Medicare covered service is rendered by an out-of-plan provider or was not authorized by the health plan.

(4) The health plan is responsible for room and board expenses of a hospice enrollee receiving Medicare hospice care while the client is a resident of a Medicare-certified nursing facility, ICF/ID, or freestanding hospice facility until the client is disenrolled from the health plan by the Department. On the 31st day, the client is disenrolled from the health plan and enrolled in the Medicaid fee-for-service hospice program. At the point the Department determines that the enrollee will require care in the nursing facility for greater than 30 days, the Department will schedule disenrollment from the health plan to occur in accordance with the terms of the health plan contract for care provided in skilled nursing facilities. The room and board expenses will be set in accordance with Section R414-14A-26.

(5) The hospice provider is responsible for determining if an applicant for hospice care is covered by a Medicaid health plan prior to enrolling the client, for coordinating services and

reimbursement with the health plan during the period the client is receiving the hospice benefit, and for notifying the health plan when the client disenrolls from the hospice benefit.

#### **R414-14A-29. Marketing by Hospice Providers.**

Hospice providers may not engage in unsolicited direct marketing to prospective clients. Marketing strategies shall remain limited to mass outreach and advertisements, except when a prospective client or legal representative explicitly requests information from a particular hospice provider. Hospice providers shall refrain from offering incentives or other enticements to persuade a prospective client to choose that provider for hospice care.

#### **R414-14A-30. Medicaid 1915c HCBS Waivers and Hospice.**

(1) For hospice enrollees covered by a Medicaid 1915c Home and Community Based Services Waiver, hospice providers shall provide medically necessary care that is directly related to the patient's terminal illness.

(2) The waiver program may continue to provide services that are:

(a) unrelated to the client's terminal illness and;

(b) assessed by the waiver program as necessary to maintain safe residence in a home or community based setting in accordance with waiver requirements.

(3) The waiver case management agency and the hospice case management agency shall meet together upon commencement of hospice services to develop a coordinated plan of care that clearly defines the roles and responsibilities of each program.]

#### **R414-14A-1. Introduction and Authority.**

This rule defines the scope of hospice care services available to Medicaid members. Authorization of this rule is in accordance with Sections 26-1-5 and 26-18-3, 42 CFR 418, Section 1861(dd) and Section 1905(o) of the Social Security Act, 42 U.S.C. 1396d, and Pub L. No. 111 148 of the Affordable Care Act.

#### **R414-14A-2. Definitions.**

In addition to the definitions in Rule R414-1, the following definitions apply to this rule.

(1) "Adult" means a member who is 21 years of age or older.

(2) "Attending physician" means:

(a) an individual identified by the member when the member elects to receive hospice care as having the most significant role in determining and delivering the member's medical care; and

(b) a healthcare practitioner who is:

(i) a physician who is a doctor of medicine or osteopathy;

or

(ii) a nurse practitioner or physician assistant who meets proper training, education, and experience requirements within their scope of licensing.

(3) "Cap period" means the 12-month period ending September 30 used in the application of the cap on overall hospice reimbursement specified in 42 CFR 418.309.

(4) "Consecutive months" means any number of months in a row wherein a hospice agency provides hospice care under the Medicaid benefit, including any portion of a month.

(5) "Continuous home care day" means a day in which a member, who has elected to receive hospice care at home, receives a minimum of eight aggregate hours of care from the hospice provider during a 24-hour day, which begins and ends at midnight. The eight aggregate hours of care must be predominantly nursing care provided by either a registered nurse or licensed practical nurse.

## NOTICES OF PROPOSED RULES

(6) "General inpatient care day" means a day when a member with elected hospice care receives general inpatient care for pain control or acute or chronic symptom management that is not manageable in the member's place of residence or another outpatient setting.

(7) "Hospice agency" means an agency licensed under Rule R432-750 and is primarily engaged in providing hospice care to terminally ill individuals.

(8) "Inpatient respite care day" means a day when a member with elected hospice care receives short-term inpatient care necessary to relieve family members or other persons caring for the member at their place of residence.

(9) "Palliative care" means patient and family-centered care that optimizes quality of life by anticipating, preventing, and treating suffering. Palliative care addresses physical, intellectual, emotional, social, and spiritual needs while facilitating patient autonomy, access to information, and choice.

(10) "Pediatric" means a member who is under 21 years of age.

(11) "Pediatric hospice agency" means an enrolled hospice agency that has trained employees in providing hospice care to patients who are younger than 21 years of age.

(12) "Representative" means an individual who is authorized under state law to make health care decisions on behalf of a member, including initiating, continuing, refusing, or terminating medical treatments for a member who cannot make these decisions.

(13) "Terminally ill" means a medical prognosis to live no more than six months if the illness runs its ordinary course.

### **R414-14A-3. Member Eligibility Requirements.**

(1) Hospice benefits are available to categorically and medically needy Medicaid-eligible individuals.

(2) A member, or representative if the member is incapacitated, must file an election statement with a hospice agency when choosing to use the hospice benefit.

(3) A member who has been assessed and provided with a written certification of terminal illness from a physician may obtain hospice services in accordance with 42 CFR 418.22.

(4) A member dually enrolled in Medicare and Medicaid must elect the hospice benefit for both Medicare and Medicaid in accordance with 42 CFR 418.21 and 418.24. The member must receive hospice coverage under Medicare primarily. Election for the Medicaid hospice benefit provides the member coverage for Medicare coinsurance and room and board expenses while admitted to a Medicare-certified nursing facility, intermediate care facility for people with an intellectual disability ICF/ID, or freestanding hospice facility.

(5) A primary diagnosis of debility or failure to thrive in adults does not meet eligibility criteria for the coverage of hospice services.

### **R414-14A-4. Program Access Requirements.**

(1) The hospice agency must operate and furnish services in compliance with applicable federal, state, and local laws and regulations related to the health and safety of patients.

(2) The hospice agency must be licensed with the state, Medicare-certified in accordance with 42 CFR 418, and an enrolled Medicaid provider before initiating hospice services. At the time of a change of ownership, the previous owner's provider agreement terminates as of the effective date of the change of ownership.

(3) Medicaid accepts waivers granted to hospice agencies by the Centers for Medicare and Medicaid Services (CMS) as part of the Medicare certification process.

(4) If a member who resides in a nursing facility, ICF/ID, or a freestanding hospice inpatient facility elects to receive hospice benefits, the hospice agency and the facility must have a written agreement in which a comprehensive service plan specifies the total care of the member.

(a) The agreement must outline that the hospice agency is responsible for the professional management of the member's hospice care.

(b) The facility agrees to provide room and board and services unrelated to the care of the terminal condition of the member.

(5) The agreement must include the following:

(a) identification of the services to be provided by the hospice agency and the facility as well as the method of care coordination to ensure services are consistent with the hospice approach to care and are organized to achieve the outcomes defined by the hospice plan of care;

(b) a stipulation that services may be provided only with the express authorization of the hospice agency;

(c) how the contracted services are coordinated, supervised, and evaluated by the hospice agency;

(d) the delineation of the roles of the hospice agency and the facility in the admission process that includes an assessment process, an interdisciplinary team care conference, and a service planning process;

(e) requirements for documenting that services are furnished following the agreement;

(f) the qualifications of the personnel providing the services; and

(g) the billing and reimbursement process by which the facility will bill the hospice agency for room and board to receive reimbursement from the hospice agency.

### **R414-14A-5. Service Coverage.**

(1) Hospice service coverage includes medically necessary services as outlined in Subsection R414-1-2(18).

(2) Continuous home care is limited to alleviate or manage acute medical symptoms.

(a) Extended stay residents of nursing facilities are not eligible for continuous home care days.

(b) Continuous home care is covered only as required to maintain the terminally ill member at the member's place of residence.

(c) The hospice agency shall maintain documentation to support the requirement that the service was medically necessary and complied with an established plan of care.

(3) Medicaid covers hospice room and board in a nursing facility, ICF/ID, or a freestanding hospice inpatient facility and includes:

(a) medication administration;

(b) personal care;

(c) social activities;

(d) routine and therapeutic dietary services, including direct feeding assistance;

(e) maintaining the cleanliness of the member's room;

(f) assistance with activities of daily living (ADLs);

(g) durable medical equipment;

(h) medical supplies; and

(i) prescribed therapies.

(4) Other services unrelated to care associated with the terminal illness are covered under the Utah Medicaid State Plan nursing facility benefit.

(5) If a member who resides in a nursing facility revokes one's hospice benefits, the hospice agency shall notify the facility of the revocation. The following notification requirements apply:

(a) the notice must be in writing; and

(b) the hospice agency must provide the notification to the facility on or before the revocation date.

(6) A member may receive general inpatient care provided in a hospice inpatient unit, a hospital, or a nursing facility. General inpatient care days may not be used due to the breakdown of the primary caregiving living arrangements or the collapse of other sources of support for the member.

(7) Any change in hospice agencies must adhere to the requirements of 42 CFR 418.30. The member or the member's legal representative shall file the change with both the hospice agency from which care has been received and with the newly designated hospice agency on or before the effective date.

(8) A member or legal representative may voluntarily revoke the member's election of hospice benefits. The member or the member's representative must sign an acknowledgement that the member will forfeit hospice service coverage for any remaining days in the election period.

(9) Medicaid does not separately cover modalities for palliative purposes as this is the responsibility of the hospice agency. For the duration of an election for hospice care services, an individual waives rights to Medicaid payments for the following services.

(a) Hospice care provided by a hospice agency other than the hospice agency designated by the individual, unless provided under arrangements made by the designated hospice agency.

(b) Services for illnesses or conditions unrelated to the member's terminal illness, as these services are covered ancillary to hospice benefits when provided by an appropriate provider or facility.

(c) Any Medicaid services related to the treatment of the terminal condition for which hospice care was elected, or a related condition, or that are equivalent to hospice care except for services provided by:

(i) the designated hospice agency;

(ii) another hospice agency under arrangements made by the designated hospice agency; and

(iii) the individual's attending physician if that physician is not an employee of the designated hospice agency or receiving compensation from the hospice agency for those services.

(10) The following applies for concurrent care for members under 21 years of age.

(a) For the duration of the election of hospice care, pediatric members may only receive hospice care that is:

(i) provided by the designated hospice agency; or

(ii) provided under arrangements made by the designated hospice agency.

(b) Pediatric members who elect to receive hospice care services may also receive concurrent Medicaid State Plan services for the terminal illness and other related conditions.

(c) Medicaid does not separately cover any modalities for palliative purposes as this is the responsibility of the hospice agency.

(i) Hospice agencies that provide services outside of the hospice benefit shall report directly to Medicaid for coverage.

(ii) Hospice agencies are not responsible for reimbursing other providers or facilities for life-prolonging services given to pediatric members.

(d) Hospice agencies that perform pediatric care shall develop a training curriculum to ensure that the hospice's interdisciplinary team members, including volunteers, are adequately trained to provide hospice care services. Staff members and volunteers who provide pediatric hospice care services must receive training before providing hospice services and at least annually thereafter.

(11) The training shall include the following pediatric-specific elements:

(a) growth and development;

(b) pediatric pain and symptom management;

(c) loss, grief, and bereavement for pediatric families and the child;

(d) communication with family, community, and interdisciplinary team;

(e) psychosocial and spiritual care of children; and

(f) coordination of care with the child's community.

(g) Medicaid incorporates by reference standards for pediatric hospice care services set forth by the National Hospice and Palliative Care Organization, 2022.

(12) The hospice agency is responsible for notifying Medicaid when a member is enrolled in hospice care, when a member is discharged from hospice care, when a member moves into a long-term care facility, ICF/ID, or freestanding inpatient hospice facility, or when there has been a change in hospice agencies.

(13) If Medicare determines that a member is no longer eligible for Medicare coverage of hospice care services, then the member no longer qualifies for Medicaid coverage of hospice services. Subsequently, hospice agencies shall immediately notify Medicaid of the members change in eligibility upon learning of Medicare's determination. Medicaid coverage for hospice care services ends the day after Medicare notifies the hospice agency that the member is no longer eligible for hospice care.

(14) Hospice agencies may not initiate the discharge of a member from hospice unless the member meets the circumstances outlined in 42 CFR 418.26.

(15) Inpatient respite care follows special coverage requirements, which are outlined in 42 CFR 418.204 (b)(2).

(a) Medicaid does not cover inpatient respite care for members who reside in nursing facilities, ICF/IDs, or freestanding hospice inpatient units.

(b) Medicaid may not provide consecutive coverage for inpatient respite care for more than five days at a time.

#### **R414-14A-6. Reimbursement.**

(1) Hospice agency and provider reimbursement for hospice services are made in accordance with the methodologies outlined in the Utah Medicaid State Plan.

(2) Reimbursement for services provided during a capped period is limited to the cap amount and Medicaid does not apply the aggregate caps used by Medicare.

(3) Services provided in a veteran's administration hospital or military hospital are not reimbursable.

(4) The hospice provider may request an exception to the inpatient care reimbursement limitation if the hospice provider demonstrates the volume of Medicaid enrollees during the cap period was insufficient to reasonably achieve the required 20% ratio.

(5) Direct care provided by a hospice physician, related to the terminal illness or a related condition, are separately reimbursable.

## NOTICES OF PROPOSED RULES

(6) Service provided by members' attending physicians are separately reimbursable.

(7) Medicaid reimbursement covers the same services and amounts covered by the equivalent Medicare reimbursement rate for comparable service categories.

**KEY: Medicaid**

**Date of Last Change:** ~~2022~~~~April 7, 2015~~

**Notice of Continuation:** April 8, 2019

**Authorizing, and Implemented or Interpreted Law:** ~~[26-1-4.1; 26B-1-5]~~~~204~~; 26-18-3

### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R651-608</b>	<b>Filing ID:</b>	<b>54773</b>
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### Agency Information

<b>1. Department:</b>	Natural Resources		
<b>Agency:</b>	State Parks		
<b>Street address:</b>	1594 W North Temple		
<b>City, state and zip:</b>	Salt Lake City, UT 84116		
<b>Mailing address:</b>	PO Box 146001		
<b>City, state and zip:</b>	Salt Lake City, UT 84114		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov	
<b>Please address questions regarding information on this notice to the agency.</b>			

### General Information

<b>2. Rule or section catchline:</b>
R651-608. Events of Special Uses
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The permitting rules have been spread throughout the parks rules and needed updates to reflect current processes. These changes will make the combined rules accurate with current day processes, as well as increase public and agency efficiency when looking for specific subjects relating to the parks permitting process.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
The commercial use and special use permitting rules have been brought together under Rule R651-635, as well as uses within the parks that require permits have been

combined into this rule. The proposed rule amendment combines Rules R651-635 and R651-608 and therefore, eliminates Rule R651-608 in its entirety.

(EDITOR'S NOTE: The proposed amendment to Rule R651-635 is under ID 54772 in this issue, August 15, 2022, of the Bulletin.)

### Fiscal Information

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

#### A) State budget:

The proposed rule amendment will have no budgetary impact to the state for administrative processing or enforcement of this rule. There is no reasonable estimation of cost to businesses of any type.

#### B) Local governments:

The proposed rule amendment will have no budgetary impact to the local governments for administrative processing or enforcement of this rule. There is no reasonable estimation of cost to businesses of any type.

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

The proposed rule amendment will have no budgetary impact to small businesses for administrative processing or enforcement of this rule. There is no reasonable estimation of cost to businesses of any type.

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

The proposed rule amendment will have no budgetary impact to non-small businesses for administrative processing or enforcement of this rule. There is no reasonable estimation of cost to businesses of any type.

#### 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 proposed rule amendment will have no budgetary impact to persons other than small businesses, non-small businesses, state or local government entities for administrative processing or enforcement of this rule. There is no reasonable estimation of cost to businesses of any type.

#### 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 associated costs for affected persons as outlined in this proposed rule for administrative processing or enforcement of this rule. There is no reasonable estimation of cost to businesses of any type.

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

**Regulatory Impact Table**

Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and 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**

**6. 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 79-4-501

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 09/14/2022

**9. This rule change MAY become effective on:** 09/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	06/21/2022
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**R651. Natural Resources, Parks and Recreation.**

**[R651-608. Events of Special Uses.**

**R651-608-1. Permit Requirements.**

~~A special assembly, exhibit, public speech, public demonstration, or special activity or use (in this Rule collectively called "event") shall be by special use permit ("permit").~~

~~(1) REQUESTS. The person or group desiring to conduct an event shall request a permit from the local park manager, region or the Division's main office at least 30 business days before the proposed event. Late requests may be accepted subject to the terms of subsection (4) below.~~

~~(2) REQUIREMENTS. The Division director or his designee shall have the discretion to grant or deny the request for permit. A permit may be granted only on the following requirements: (a) No event may substantially interrupt the safe and orderly operation of the park or facility; (b) No event may unduly interfere with proper fire, police, ambulance or other life safety protection or service to areas where the activity will take place or areas contiguous thereto; (c) No event may be reasonably likely to cause injury to persons or property; (d) No event may involve pornographic or obscene materials or performances, or materials harmful to minors, as those terms are used in the Utah criminal code or in applicable local ordinances; and (f) liability insurance will be required, co-insuring the Division and meeting the minimum requirements set by the Utah Division of Risk Management.~~

~~(3) CONFLICTING REQUESTS.~~

~~(a) Considerations. When two or more persons, groups or organizations request to use a park or facility for events that conflict as to time, place, or purpose, the Division director or his designee shall evaluate: (i) the size, nature and purpose of each event; (ii) each event's historical or traditional use of the park or facility; (iii) the date and time each conflicting request was received by the Division; (iv) whether an event would require Division support services; (v) possible alternative places or times for the conflicting events; and (vi) other factors that would resolve the conflicts, protect the public safety, health, and welfare, or assist the Division in regulating the time, place, and manner of the events.~~

~~(b) Disposition. After obtaining the relevant information and weighing the relevant considerations stated in the immediately preceding paragraph, the Division director or his designee shall resolve the conflict (i) by the parties' agreement to modify the requests to avoid conflicts and accommodate the public interest; or (ii) if no voluntary agreement is reached, by ordering the time, place, and manner for each requested event; or (iii) by exercising his discretion to deny one or more or all of the requests.~~

## NOTICES OF PROPOSED RULES

~~(4) LATE REQUESTS. When a request for permit is not timely made under subsection (1), the request shall state the grounds for its untimeliness. If the Division director or his designee determines that the untimeliness should be excused because of exigency, unexpected circumstances, or other reasons, the request shall be processed.~~

~~(5) APPEALS. There shall be no right to administrative appeal of the decision granting or denying a request for permit.~~

### **~~R651-608 2. Events Prohibited without Permit.~~**

~~Any person, defined as "an individual, partnership, corporation, association, governmental entity or public or private organization of any character other than an agency", or agency shall not engage, conduct, or participate in a commercial activity or scheduled event on state park property without a Special Use Permit, Cooperative Agreement or Concession Contract.~~

**KEY:** parks

**Date of Last Change:** June 9, 2014

**Notice of Continuation:** June 7, 2018

**Authorizing, and Implemented or Interpreted Law:** 79-4-501

### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

<b>Rule or Section Number:</b>	<b>R651-635</b>	<b>Filing ID:</b> <b>54772</b>
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### Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov

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

### General Information

<b>2. Rule or section catchline:</b>
R651-635. Commercial Use of Division Managed Park Areas
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The permitting rules have been spread throughout the parks rules and needed updates to reflect current processes. These changes will make the combined rules

accurate with current day processes, as well as increase public and agency efficiency when looking for specific subjects relating to the parks permitting process.

**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 commercial use and special use permitting rules have been brought together under this one rule (R651-635), as well as uses within the parks that require permits have been combined into this rule. The proposed rule amendment combines Rules R651-635 and R651-608 and incorporates Sections R651-620-4, R651-620-6, R651-609-1, R651-606-1, R651-603-3, and Rule R651-622.

(EDITOR'S NOTE: The proposed repeal of Rule R651-608 is under ID 54773 in this issue, August 15, 2022, of the Bulletin.)

### Fiscal Information

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

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

There are no cost changes that will occur with the combination of these rules. The current fees and intent of this rule is not changed.

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

This proposed rule amendment does not affect local government in any way as the fees or intent of this rule does not change.

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

This proposed rule amendment does not affect small business in any way as the fees or intent of this rule does not change.

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

This proposed rule amendment does not affect non-small business in any way as the fees or intent of this rule does not change.

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

This proposed rule amendment does not affect persons in any way as the fees or intent of this rule does not change.

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

This proposed rule amendment does not change compliance cost for affected persons, because it does not create any changes to affected persons.

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

**Regulatory Impact Table**

Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and 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**

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

Subsection 79-2-402(4)	Subsection 79-2-402(5)	Section 79-4-304
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Subsection 79-2-402(6)	Subsection 79-2-402(7)	Subsection 79-2-402(8)
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**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 09/14/2022

**9. This rule change MAY become effective on:** 09/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	06/21/2022
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**R651. Natural Resources, ~~State Parks~~ and Recreation.**

**R651-635. Commercial, ~~Privileged, and Special~~ Uses of Division Managed Park Areas.**

**R651-635-1. ~~[No]~~Commercial Activity~~ies~~, ~~Privileged, or Special Uses in Park Areas~~ ~~[without]~~Require ~~[Specific Written Authorization]~~a Permit.**

(1) No ~~[e]~~Commercial ~~[a]~~Activity, privileged, or Special Use may be conducted on ~~[any park area]~~division managed areas or ~~property~~~~[owned by the division]~~ unless the division has provided~~[specific written authorization]~~ a permit for that activity.

(2) Additionally, the following activities are prohibited without a permit:

- (a) collecting or cutting of firewood;
- (b) metal detecting, magnet fishing, prospecting, digging, or excavating, or any other forms of treasure, paleontological, archaeological, or antiquities hunting;
- (c) the use or possession of explosives, fireworks or firecrackers;
- (d) operation or use of a public address or any other high-volume audio devices;
- (e) camping in an undeveloped location of a park area;
- (f) leaving an animal unattended; and
- (g) technical rock-climbing or the installation of new or the removal of existing permanently installed technical rock-climbing equipment or hardware.

**R651-635-2. ~~[Written Forms of Authorization]~~Types of Permits and Forms.**

(1) ~~[Written authorization]~~A permit may be in the form of a concession contract, ~~[a]~~Special ~~[a]~~Use ~~[p]~~Permit, lease, ~~[right of way]~~, or other negotiated agreement.

(2) The division shall provide forms and documents that serve as permits for Commercial Activity, Special Uses, and other privileged uses of park areas managed or owned by the division.

**R651-635-3. Requirements to Obtain a Permit.**

(1) The person or group desiring a permit shall make a request to the local park manager, region or the division's main office at least 30 business days before the proposed Commercial Activity, privileged, or Special Use. Late requests may be accepted subject to the terms of Subsection (6).

(2) The division director or the director's designee shall have the discretion to grant or deny the request for permit.

(3) No Commercial Activity, privileged, or Special Use:

(a) may substantially interrupt the safe and orderly operation of the park or facility;

(b) may interfere with fire, police, ambulance, or other life-safety protection or service to areas where the activity will take place or areas contiguous thereto;

(c) may be reasonably likely to cause injury to persons or property; or

(d) may involve pornographic or obscene materials or performances, or materials harmful to minors, as those terms are used in the Utah Criminal Code or in applicable local ordinances.

(4) Liability insurance may be required, co-insuring the division and meeting the minimum requirements set by the Utah Division of Risk Management.

(5) Conflicting Requests.

(a) Considerations. When two or more persons, groups or organizations request to use a park or facility for Commercial Activity, privileged, or Special Uses, and those requests conflict as to time, place, or purpose, the division director or the director's designee shall evaluate the conflicting Commercial Activity, privileged, or Special Uses as to:

(i) the size of the proposed Commercial Activity, privileged, or Special Use;

(ii) the nature and purpose of the proposed Commercial Activity, privileged, or Special Use, considered in light of the historical or traditional use of the park or facility;

(iii) the date and time each conflicting request was received by the division;

(iv) the division support services required for the proposed Commercial Activity, privileged, or Special Use;

(v) possible alternative places or times for the conflicting requests; and

(vi) other factors that would resolve the conflicts, protect the public safety, health, and welfare, or assist the division in regulating the time, place, and manner of the conflicting requests.

(b) Disposition. After obtaining the relevant information and weighing the relevant considerations stated in the Subsection (5)(vi), the division director or the director's designee shall resolve the conflict:

(i) by the parties' agreement to change the requests to avoid conflicts and accommodate the public interest; or

(ii) if no voluntary agreement is reached, by ordering the time, place, and manner for each requested event; or

(iii) by exercising discretion to deny requests.

(6) Late Requests. When a request for permit is not timely made under Subsection (1), the request shall state the grounds for its untimeliness. If the division director or the director's designee determines that the untimeliness should be excused because of exigency, unexpected circumstances, or other reasons, the request shall be processed.

**R651-635-~~3~~4. Signature Requirements~~—Division Documents~~.**

(1) Regardless of any preceding activities, no contract, ~~agreement~~, concession contract, lease, Special Use Lease, or other

~~[similar document]~~ negotiated agreement is binding on the division until signed by the division director or ~~[deputy]~~ the director's designee, ~~[the division contract officer]~~ and any other individual~~—as required by state law or regulation~~, whose signature is required by state law or regulation.

(2) No contract, concession contract, lease, Special Use Permit, or other negotiated agreement is binding on the division until signed by the park manager or program manager of the park area where the activity to be carried out under the permit will occur.

**~~[R651-635-4. Signature Requirements—Special Use Permits.~~**

No special use permit is binding on the division until signed by the park manager of the park where the activity to be carried out under the permit will occur and the region manager supervising the park.]

**~~[R651-635-5. Forms Provided by Division.~~**

The division shall provide forms and documents that provide authorization for commercial activity, special uses, and other privileged uses of park areas managed or owned by the division.]

**R651-635-5. Revocation or Suspension of Special Use Permit or Permit for Other Privileged Use.**

(1) A permit may be revoked or suspended for a time, from a minimum of seven days to a maximum of the duration of the permit by the division director or the director's designee if one or more of the following actions are found to have occurred, based on their severity:

(a) false or fictitious statements or qualifications were provided to obtain the permit;

(b) the terms or conditions of the permit were violated;

(c) the permit holder allowed the permit to be used by an unauthorized person; or

(d) the permit is found to be intentionally altered or changed.

**KEY: parks**

**Date of Last Change: 2022~~[June 11, 2001]~~**

**Notice of Continuation: December 11, 2019**

**Authorizing, and Implemented or Interpreted Law: 79-2-402(4) and (5); 79-4-304; 79-2-402(6), (7), and (8)**

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Rule or Section Number:</b>	<b>R986-700-771</b>	<b>Filing ID:</b> <b>54779</b>
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**Agency Information**

<b>1. Department:</b>	Workforce Services
<b>Agency:</b>	Employment Development
<b>Building:</b>	Olene Walker Building
<b>Street address:</b>	140 E 300 S
<b>City, state and zip:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	PO Box 45244
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0244

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amanda B. McPeck	801-526-9653	ampeck@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R986-700-771. Grants for Child Care Start-up Costs
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
In the 2022 General Session, the Legislature enacted H.B. 15, Child Care Amendments, which directed the Department of Workforce Services (Department) to establish a grant program for child care start-up costs.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Enacts new Section R786-700-771, governing the program to provide grants for child care start-up costs. The section defines terms, outlines the grant application process, and establishes an appeal process.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This amendment is not expected to have any fiscal impact on state government revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 15 (2022).
<b>B) Local governments:</b>
This amendment is not expected to have any fiscal impact on local government revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 15 (2022).
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
Any fiscal impact would have been addressed in the fiscal note of H.B. 15 (2022). The Department further notes that most, if not all, child care providers are small businesses who may be eligible to receive the start-up grants established by this amendment. The Department anticipates that up to \$5,000,000 will be awarded in grants. At this time, it is not possible to determine how many providers will be eligible for the grants, how many will

apply, or how much grant money will be awarded to each child care provider.

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

Any fiscal impact would have been addressed in the fiscal note of H.B. 15 (2022). The Department further notes that child care providers that are non-small businesses may be eligible to receive the start-up grants established by this amendment. The Department anticipates that up to \$5,000,000 will be awarded in grants. At this time, it is not possible to determine how many providers will be eligible for the grants, how many will apply, or how much grant money will be awarded to each child care provider. Since most providers are small businesses, the fiscal benefit is reflected in the small businesses above.

**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 requires no action or compliance by any persons.

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

This amendment is not expected to cause any compliance costs for affected persons because it does not create any new administrative fees.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0

## NOTICES OF PROPOSED RULES

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

#### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

As reflected in the fiscal note of H.B. 15 (2022), this grant program will provide a fiscal benefit to eligible grantees and expand the availability of child care. In addition, businesses will receive an indirect benefit because increased child care availability promotes greater employee availability and reliability. The Executive Director of the Department of Workforce Services, Casey Cameron, has reviewed and approved this regulatory impact analysis.

#### Citation Information

**6. 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 35A-3-212 | Section 35A-3-203 | Section 35A-3-310

#### Public Notice Information

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 09/14/2022

**9. This rule change MAY become effective on:** 10/01/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Casey Cameron, Executive Director	<b>Date:</b>	08/01/2022
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**R986. Workforce Services, Employment Development.**

**R986-700. Child Care Assistance.**

**R986-700-771. Grants for Child Care Start-up Costs.**

(1) In addition to the definitions found in Section 35A-3-212, the following definitions apply to this section:

(a) "Start-up Costs" means one-time expenses incurred to plan, organize, and launch a new eligible child care business or to expand an existing business, including initial acquisition of materials and supplies for the business, furnishings, minor renovations needed to comply with health and safety requirements, and licensing and inspection fees.

(b) "Start-up Costs" does not mean ongoing expenses for a provider, including property purchase or rent, office equipment and furnishings, vehicles, legal expenses, salaries, advertising, insurance, utilities, food, and other operating costs.

(2) OCC may contract with an organization to administer the grants.

(3)(a) OCC will announce the availability of the grants, and establish a due date for applications.

(b) OCC or the organization contracted to administer the grant shall develop grant application forms and make them available.

(4) To be considered for a grant an eligible child care provider shall submit the following information:

(a) the provider's name, address, phone, and email;

(b) the name and contact information for a responsible person;

(c) the facility address;

(d) licensed capacity, expected staffing levels, hours of operation, anticipated charges to parents, and the applicant's experience as a child care provider;

(e) a valid child care facility identification number from the Department of Health and Human Services, Division of Licensing and Background Checks;

(f) if applicable, proof the provider has a contract with an employer to provide child care services; and

(g) a detailed explanation of the requested amount for start-up costs, including:

(i) estimates from reliable sources showing the costs of the projects proposed to be funded with the grant, including materials, labor, or licensing and inspection fees;

(ii) a budget detailing how the requested funds would be used;

(iii) the need for the proposed project; and

(iv) other funding sources for the proposed child care provider.

(5) Each application will be evaluated based on availability of COVID-19 relief funds, viability of the proposed child care provider, and amount of requested grant funds.

(6) This grant program expires on September 30, 2024. All grant funds must be awarded before that date.

(7) The Office may provide start-up cost grants to existing child care providers, to expand physical capacity or open a new location.

(8)(a) An applicant whose application is denied may protest by submitting a written request to OCC.

(i) OCC shall review the decision to deny the application and may uphold, reverse, or modify the decision.

(ii) An applicant may protest the OCC review decision to the executive director or the director's designee.

(b) The executive director or designee shall determine if the information provided in the application justifies OCC's decision to deny the application. The executive director or designee may uphold, reverse, or modify the decision. The decision of the executive director or designee is final.

**KEY: child care, grant programs**

**Date of Last Change: [August 1,] 2022**

Notice of Continuation: August 28, 2020  
 Authorizing, and Implemented or Interpreted Law: 35A-3-203;  
 35A-3-310; ~~53F-5-210~~ 35A-3-312

### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R986-800</b>	<b>Filing ID:</b> <b>54778</b>
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### Agency Information

<b>1. Department:</b>	Workforce Services	
<b>Agency:</b>	Employment Development	
<b>Building:</b>	Olene Walker Building	
<b>Street address:</b>	140 E 300 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 45244	
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0244	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amanda B. McPeck	801-526-9653	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

### General Information

<b>2. Rule or section catchline:</b>
R986-800. Displaced Homemaker Program
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
This rule is no longer necessary. This rule was originally enacted pursuant to former Section 35A-3-114, which authorized the Department of Workforce Services (Department) to make rules to implement the Displaced Homemaker Program. Section 35A-3-114 was repealed effective 07/01/2012 by S.B.31, enacted by the 2007 General Session and by H.B.139, enacted by the 2021 General Session, so there is no longer authority for this rule.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This filing repeals Rule R986-800 in its entirety. Displaced homemakers may be eligible for assistance through other programs administered by the Department.

### Fiscal Information

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

##### A) State budget:

This rule repeal will not have any fiscal impact on state revenues or expenditures. The repeal requires no action or expenditure by state employees or resources. The Department's provision of assistance to displaced homemakers through other programs will not change with the repeal of this rule.

##### B) Local governments:

This rule repeal will not have any fiscal impact on local governments' revenues or expenditures. The repeal requires no action or expenditure by local governments.

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

There are no aggregate anticipated costs or savings to small businesses. The repeal of this rule requires no action or expenditure by small businesses.

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

There are no aggregate anticipated costs or savings to non-small businesses. The repeal of this rule requires no action or expenditure by 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 are no aggregate anticipated costs or savings to persons other than small businesses. The repeal of this rule requires no action or expenditure by any person.

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

This rule repeal is not expected to cause any compliance costs for affected persons because it does not create any new administrative fees.

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

#### Regulatory Impact Table

Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0

## NOTICES OF PROPOSED RULES

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Workforce Services, Casey Cameron, has reviewed and approved this regulatory impact analysis.			

## Citation Information

**6. 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 35A-3-114

## Public Notice Information

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 09/14/2022

**9. This rule change MAY become effective on:** 09/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Casey Cameron, Executive Director	<b>Date:</b>	07/29/2022
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**R986. Workforce Services, Employment Development.**

~~[R986-800. Displaced Homemaker Program.~~

~~R986-800-801. Authority for the Displaced Homemaker Program and Applicable Rules.~~

~~The Department provides services to displaced homemakers pursuant to Section 35A-3-114. The definitions, acronyms, residency, and safeguarding of information provisions of R986-100 apply to this program.~~

**R986-800-802. General Provisions.**

~~Services are available to a displaced homemaker who:~~

~~(1) has been a homemaker for a period of eight or more years without significant gainful employment in the labor market, and whose primary occupation during that period of time was the provision of unpaid household services for family members;~~

~~(2) has found it necessary to enter the job market but is not reasonably capable of obtaining employment sufficient to provide self support or necessary support for dependents, due to a lack of marketable job skills or other skills necessary for self sufficiency; and~~

~~(3) has depended on the income of a family member and lost that income or has depended on governmental assistance as the parent of dependent children, and is no longer eligible for that assistance.~~

**R986-800-803. Available Services.**

~~(1) The Department provides the following services to displaced homemakers either directly or through referral:~~

~~(a) employment and skills training, career counseling, and placement services specifically designed to address the needs of displaced homemakers;~~

~~(b) assistance in obtaining access to existing public and private employment training programs;~~

~~(c) educational services, including information on high school or college programs, or assistance in gaining access to existing educational programs;~~

~~(d) health education and counseling, or assistance in gaining access to existing health education and counseling services;~~

~~(e) financial management services which provide information on insurance, taxes, estate and probate matters, mortgages, loans, and other financial issues;~~

~~(f) prevocational self esteem and assertiveness training; and~~

~~(g) encouragement of placement in any displaced homemaker program established or offered by any local, state or federal agency.~~

~~(2) Some of these services are available through workshops conducted by the Department.~~

**KEY: displaced homemakers**

**Date of Last Change: August 1, 2006**

**Notice of Continuation: August 21, 2020**

**Authorizing, and Implemented or Interpreted Law: 35A-3-114]**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at [adminrules.utah.gov](http://adminrules.utah.gov). The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Rule Number:</b>	<b>R156-37f</b>	<b>Filing ID: 54001</b>
<b>Effective Date:</b>	<b>07/19/2022</b>	

### Agency Information

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Professional Licensing	
<b>Building:</b>	Heber M Wells Building	
<b>Street address:</b>	160 E 300 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111-2316	
<b>Mailing address:</b>	PO Box 146741	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6741	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeffrey Henrie	801-530-6628	jahenrie@utah.gov

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

### General Information

<b>2. Rule catchline:</b>
R156-37f. Controlled Substance Database Act Rule
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>

Title 58, Chapter 37f, provides for the creation, purpose, and existence of a Controlled Substance Database. Subsection 58-1-106(1) provides that the Division of Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Section 58-37f-301 provides that the Division shall make rules with respect to the Controlled Substance Database. This rule was enacted to clarify the provisions of Title 58, Chapter 37f.

### 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

Since this rule was last reviewed in December 2017, this rule has been amended three times; however, the Division has received no written comments with respect to this rule.

### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary as it provides information and clarification of requirements relating to the Controlled Substance Database. Therefore, this rule should be continued.

### Agency Authorization Information

<b>Agency head or designee and title:</b>	Mark B. Steinagel, Division Director	<b>Date:</b>	07/18/2022
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## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Rule Number:</b>	<b>R382-2</b>	<b>Filing ID: 54588</b>
<b>Effective Date:</b>	<b>07/26/2022</b>	

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Children's Health Insurance Program	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143101	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3101	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801 538-6641	cdevashrayee@utah.gov
Jonah Shaw	385 310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R382-2. Electronic Personal Medical Records for the Children's Health Insurance Program
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26-40-103 sets forth member rights and requirements in the electronic exchange of information under the Children's Health Insurance Program (CHIP). In addition, 42 CFR 457.348 requires CHIP to implement a secure, electronic interface with other medical assistance programs to make eligibility determinations.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department of Health and Human Services (Department) did not receive any written comments regarding this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The Department has determined that this rule is necessary because it implements the requirement to enroll a CHIP member in an electronic health information exchange and specifies the member's right to opt out. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	07/24/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R414-8</b>	<b>Filing ID:</b>	<b>50952</b>
<b>Effective Date:</b>	<b>07/26/2022</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143101	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3101	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801 538-6641	cdevashrayee@utah.gov
Jonah Shaw	385 310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R414-8. Electronic Personal Medical Records for the Medicaid Program
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26-18-3 sets forth member rights and requirements in the electronic exchange of information under the Medicaid program. In addition, 42 CFR 435.1200 requires Medicaid to implement a secure, electronic interface with other medical assistance programs to make eligibility determinations.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>

The Department of Health and Human Services (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 the requirement to enroll a Medicaid member in an electronic health information exchange and specifies the member's right to opt out. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	07/24/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R657-12</b>	<b>Filing ID:</b>	<b>52555</b>
<b>Effective Date:</b>	<b>07/18/2022</b>		

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Wildlife Resources	
<b>Room number:</b>	Suite 2110	
<b>Building:</b>	DNR – Salt Lake Complex	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146301	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6301	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R657-12. Hunting and Fishing Accommodations for People With Disabilities
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>

Under Sections 23-14-18, 23-14-19, 23-19-36, 23-20-12, and 63G-3-201, the Wildlife Board is authorized and required to provide the standards and procedures for a person with disabilities to hunt from a vehicle; obtain a reduce rate fishing license; participate in companion hunting; obtain season extensions; and use a crossbow or draw-lock or additional sights on a weapon. This rule provides those standards and procedures.

**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 Wildlife Resources (Division) has not received any written comments regarding this rule. Any comments received in opposition to this rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes, and the administrative record for this rule at the Division.

**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 purpose of this rule is to allow the Division to set the standards and procedures for a person with disabilities to receive additional accommodations. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J Shirley, Division Director	<b>Date:</b>	07/18/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R746-101</b>	<b>Filing ID:</b>	<b>51948</b>
<b>Effective Date:</b>	<b>07/22/2022</b>		

**Agency Information**

<b>1. Department:</b>	Public Service Commission		
<b>Agency:</b>	Administration		
<b>Building:</b>	Heber M Wells Building		
<b>Street address:</b>	160 E 300 S, 4th Floor		
<b>City, state and zip:</b>	Salt Lake City, UT 84111		
<b>Mailing address:</b>	PO Box 4558		
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4558		

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Contact persons:		
Name:	Phone:	Email:
Michael Hammer	801-530-6729	michaelhammer@utah.gov
Please address questions regarding information on this notice to the agency.		

## General Information

2. Rule catchline:
R746-101. Statement of Rule for the Filing and Disposition of Petitions for Declaratory Rulings
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The Administrative Procedures Act (APA) entitles any person to file a request for agency action with an agency seeking a declaratory order that determines the applicability of a statute, rule, or order within the primary jurisdiction of the agency, Section 63G-4-503. The APA further requires each agency to issue rules that facilitate the filing, adjudication, and resolution of such requests, Subsection 63G-4-503(2). The APA makes clear the process for adjudicating a request for declaratory order is to be governed by each agency's rules as opposed to procedures detailed in the APA, Subsection 63-4-102(5).

("A declaratory proceeding ... is not governed by this chapter, except as explicitly provided ....").

Rule R746-101 is the rule the Public Service Commission issued to comply with its statutory requirement to accept, adjudicate, and resolve requests for 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:

The Public Service Commission has received no written comments from any interested person supporting or opposing this rule since the last five-year review.

## 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Public Service Commission is statutorily obliged to continue this rule pursuant to Subsection 54-4-503(2). Therefore, this rule should be continued.

## Agency Authorization Information

Agency head or designee and title:	Thad LeVar, PSC Chair	Date:	07/22/2022
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**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

**EXTENSIONS** are governed by Subsection 63G-3-305(6).

NOTICE OF FIVE-YEAR REVIEW EXTENSION		
<b>Rule Number:</b>	<b>R277-108</b>	<b>Filing ID: 53412</b>
<b>New Date:</b>	<b>Deadline</b>	<b>01/11/2023</b>

### Agency Information

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

### General Information

<b>2. Rule catchline:</b>
R277-108. Annual Assurance of Compliance by Local School Boards
<b>3. Reason for requesting the extension:</b>
The five-year review for this rule is currently due on 09/13/2022. The Utah State Board of Education (USBE) will not be able to present this rule for review and approval for the next two months. An extension is therefore needed in order to have adequate time to prepare and then file possible amendments in the near future that may be approved by the Board, before this rule is due to expire.

### Agency Authorization Information

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	07/21/2022
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**End of the Notices of Five-Year Review Extensions Section**



## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Agriculture and Food

#### Animal Industry

No. 54641 (Amendment) R58-7: Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons  
Published: 06/01/2022  
Effective: 07/19/2022

#### Marketing and Development

No. 54637 (Repeal) R65-12: Utah Small Grains and Oilseeds Marketing Order  
Published: 06/15/2022  
Effective: 08/01/2022

#### Plant Industry

No. 54596 (Amendment) R68-4: Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products  
Published: 06/01/2022  
Effective: 08/01/2022

No. 54609 (Amendment) R68-23: Utah Firewood Quarantine  
Published: 06/01/2022  
Effective: 08/01/2022

#### Regulatory Services

No. 54640 (Amendment) R70-201: Compliance Procedures  
Published: 06/15/2022  
Effective: 08/01/2022

No. 54646 (Amendment) R70-310: Grade A Pasteurized Milk  
Published: 06/15/2022  
Effective: 08/01/2022

No. 54676 (Amendment) R70-320: Minimum Standards for Milk for Manufacturing Purposes, its Production and Processing  
Published: 07/01/2022  
Effective: 08/08/2022

No. 54677 (Amendment) R70-410: Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes  
Published: 07/01/2022  
Effective: 08/08/2022

No. 54614 (Repeal) R70-440: Egg Products Inspection  
Published: 06/01/2022  
Effective: 07/15/2022

### Corrections

#### Administration

No. 54594 (New Rule) R251-714: Offender Sexual Assault Prevention  
Published: 06/01/2022  
Effective: 07/18/2022

### Education

#### Administration

No. 54623 (Amendment) R277-122: Board of Education Procurement  
Published: 06/15/2022  
Effective: 07/22/2022

No. 54624 (Amendment) R277-302: Educator Licensing Renewal  
Published: 06/15/2022  
Effective: 07/22/2022

No. 54628 (Amendment) R277-404: Requirements for Assessments of Student Achievement  
Published: 06/15/2022  
Effective: 07/22/2022

No. 54634 (Amendment) R277-406: Early Learning Program and Benchmark Assessments  
Published: 06/15/2022  
Effective: 07/22/2022

No. 54622 (Amendment) R277-410: Accreditation of Schools  
Published: 06/15/2022  
Effective: 07/22/2022

No. 54629 (New Rule) R277-465: CPR in Schools  
Published: 06/15/2022  
Effective: 07/22/2022

No. 54630 (Amendment) R277-476: Local Innovations Civics Education Pilot Program  
Published: 06/15/2022  
Effective: 07/22/2022

No. 54625 (Amendment) R277-477: Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program  
Published: 06/15/2022  
Effective: 07/22/2022

No. 54626 (Amendment) R277-491: School Community Councils  
Published: 06/15/2022  
Effective: 07/22/2022

No. 54627 (Amendment) R277-605: Coaching Standards and Athletic Clinics  
Published: 06/15/2022  
Effective: 07/22/2022

No. 54631 (Amendment) R277-606: Dropout Prevention and Recovery Program  
Published: 06/15/2022  
Effective: 07/22/2022

No. 54632 (Amendment) R277-622: School-based Mental Health Qualifying Grant Program  
Published: 06/15/2022  
Effective: 07/22/2022

No. 54633 (Amendment) R277-701: Early College Programs  
Published: 06/15/2022  
Effective: 07/22/2022

#### Environmental Quality

Environmental Response and Remediation

No. 54597 (Amendment) R311-200: Underground Storage Tanks: Definitions.  
Published: 06/01/2022  
Effective: 07/15/2022

No. 54598 (Amendment) R311-201: Underground Storage Tanks: Certification Programs and UST Operator Training.  
Published: 06/01/2022  
Effective: 07/15/2022

No. 54599 (Amendment) R311-203: Petroleum Storage Tanks: Technical Standards  
Published: 06/01/2022  
Effective: 07/15/2022

No. 54601 (Amendment) R311-204: Underground Storage Tanks: Closure and Remediation  
Published: 06/01/2022  
Effective: 07/15/2022

No. 54602 (Amendment) R311-205: Petroleum Storage Tanks: Site Assessment Protocol and Release Reporting  
Published: 06/01/2022  
Effective: 07/15/2022

No. 54603 (Amendment) R311-206: Underground Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms  
Published: 06/01/2022  
Effective: 07/15/2022

No. 54604 (Amendment) R311-207: Accessing the Petroleum Storage Tank Fund for Leaking Petroleum Storage Tanks  
Published: 06/01/2022  
Effective: 07/15/2022

No. 54605 (Amendment) R311-208: Underground Storage Tanks Penalty Guidance  
Published: 06/01/2022  
Effective: 07/15/2022

No. 54606 (Amendment) R311-211: Corrective Action Cleanup Standards Policy - PST and CERCLA Sites  
Published: 06/01/2022  
Effective: 07/15/2022

No. 54607 (Amendment) R311-212: Administration of the Petroleum Storage Tank Fund Loan Program  
Published: 06/01/2022  
Effective: 07/15/2022

#### Governor

Economic Opportunity

No. 54617 (Amendment) R357-5: Motion Picture Incentive Rule  
Published: 06/01/2022  
Effective: 07/15/2022

Health and Human ServicesChildren's Health Insurance Program

No. 54589 (Amendment) R382-3: Managed Care  
Organization Incentives to Appropriately Use Emergency  
Room Services in the Children's Health Insurance Program  
Published: 5/15/2022  
Effective: 07/26/2022

InsuranceAdministration

No. 54692 (Repeal and Reenact) R590-93: Replacement  
of Life Insurance and Annuities  
Published: 07/01/2022  
Effective: 08/08/2022

No. 54693 (Amendment) R590-162: Actuarial Opinion and  
Memorandum Rule  
Published: 07/01/2022  
Effective: 08/08/2022

No. 54694 (Amendment) R590-178: Securities Custody  
Published: 07/01/2022  
Effective: 08/08/2022

No. 54695 (Amendment) R590-207: Health Producer  
Commissions for Small Employer Groups  
Published: 07/01/2022  
Effective: 08/08/2022

No. 54611 (Amendment) R590-215: Permissible Arbitration  
Provisions for Individual and Group Health Insurance  
Published: 06/01/2022  
Effective: 07/27/2022

No. 54696 (Amendment) R590-247: Universal Health  
Insurance Application Rule  
Published: 07/01/2022  
Effective: 08/08/2022

Natural ResourcesWater Rights

No. 54644 (Repeal and Reenact) R655-4: Water Wells  
Published: 06/15/2022  
Effective: 07/26/2022

Wildlife Resources

No. 54689 (Amendment) R657-54: Season Dates, Bag and  
Possession Limits, and Areas Open  
Published: 07/01/2022  
Effective: 08/08/2022

Public Service CommissionAdministration

No. 54621 (Amendment) R746-409-1: General Provisions  
Published: 06/15/2022  
Effective: 07/22/2022

School and Institutional Trust LandsAdministration

No. 54687 (Amendment) R850-3: Applicant Qualifications,  
Application Forms, and Application Processing  
Published: 07/01/2022  
Effective: 08/08/2022

No. 54686 (Amendment) R850-5: Payments, Royalties,  
Audits, and Reinstatements  
Published: 07/01/2022  
Effective: 08/08/2022

No. 54685 (Repeal) R850-27: Geothermal Steam  
Published: 07/01/2022  
Effective: 08/08/2022

No. 54683 (Repeal and Reenact) R850-30: Special Use  
Leases  
Published: 07/01/2022  
Effective: 08/08/2022

No. 54684 (New Rule) R850-170: Renewable Energy  
Lease Agreements  
Published: 07/01/2022  
Effective: 08/08/2022

Tax CommissionMotor Vehicle Enforcement

No. 54573 (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: 06/01/2022  
Effective: 07/16/2022

No. 54574 (Amendment) R877-23V-16: Replacement or  
Renewal of Lost or Stolen Special Plates Pursuant to Utah  
Code Ann. Section 41-3-507  
Published: 05/15/2022  
Effective: 07/16/2022

Property Tax

No. 54575 (Amendment) R884-24P-66: County Board of  
Equalization Procedures and Appeals Pursuant to Utah Code  
Ann. Sections 59-2-1001 and 59-2-1004  
Published: 05/15/2022  
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Workforce ServicesEmployment Development

No. 54665 (Amendment) R986-700-707.1: Initial  
Registration Fee Assistance  
Published: 06/15/2022  
Effective: 08/01/2022

**End of the Notices of Rule Effective Dates Section**

