

UTAH STATE BULLETIN

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between August 16, 2022, 12:00 a.m., and September 01, 2022, 11:59 p.m. are included in this, the September 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 Rules being repealed are completely struck out.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 October 17, 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 January 13, 2023, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R58-18	Filing ID: 54816

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	4315 S 2700 W, TSOB, South Bldg, Floor 2	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Dean Taylor	385-290-9462	djtaylor@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R58-18. Elk Farming
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Changes are needed to clarify this rule and make it more consistent with the requirements of 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):
The text has been updated to improve clarity and consistency and make the rule text more consistent with the requirements of the Utah Rulewriting Manual. Additionally, the definition of "CWD exposed herd" has been expanded to include herds exposed to infected herds. The definition of "Epidemiologically linked herd" has been added. Both of these definitions will help elk producers understand the department's responsibilities under the rule and when elk may be subject to department regulation.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:			
A) State budget:			
These changes are clarifying in nature and do not change Department of Agriculture and Food (Department) practices under the rule or regulation of elk in Utah. There should be no impact on the state budget.			
B) Local governments:			
Local governments are not impacted by this rule and will not be impacted by the rule changes.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
These changes are clarifying in nature and do not change Department practices under the rule or regulation of elk in Utah. There should be no impact on small businesses.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
These changes are clarifying in nature and do not change Department practices under the rule or regulation of elk in Utah. There should be no impact on non-small businesses.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):			
Other persons will not be impacted by the rule changes because they are clarifying Utah and will not change the elk program.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
Compliance costs for affected persons will not change. Administrative burden or fees charged by the Department will not change.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Utah Department of Agriculture and Food, Craig W. Butters 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 4-39-106		

Incorporations by Reference Information

7. Incorporations by Reference :	
A) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Bovine Tuberculosis Eradication Uniform Methods and Rules
Publisher	University of Nebraska at Lincoln
Issue Date	January 22, 1999
Issue or Version	1999 version

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:	10/17/2022

9. This rule change MAY become effective on:	10/24/2022
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

Agency head or designee and title:	Craig W. Butters, Commissioner	Date:	08/24/2022
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R58. Agriculture and Food, Animal Industry.

R58-18. Elk Farming.

R58-18-1. Purpose and Authority.

(1) ~~[Regulations governing elk farming p]~~ Promulgated under the authority of Section 4-39-106.

(2) This rule establishes procedures for the application and renewal of licenses, standards and requirements, and health requirements and standards for operating a domesticated elk facility.

R58-18-2. Definitions.

In addition to the definitions found in Sections 4-1-109, 4-7-103, 4-24-102, 4-32-105, and 4-39-102, the following terms are defined for ~~[purposes of]~~ this rule:

(1) "Adjacent Herd" means a herd of Cervidae occupying premises that border an affected herd, including herds separated by fences, roads, or streams, herds occupying a premises where Chronic Wasting Disease (CWD) was previously diagnosed, and herds that share the same license as the affected or source herd, even if separate records are maintained and no commingling has taken place.

(2) "Affected herd" means a herd of Cervidae ~~[where]~~ that includes an animal that has been diagnosed with CWD ~~[and]~~ confirmed by ~~[means of]~~ an approved test, within the previous five years.

(3) "Animal identification" means a device or means of individual animal identification.

(4) "Approved test" means approved tests for CWD surveillance ~~[which]~~ that shall be those laboratory or diagnostic tests accepted nationally by the United States Department of Agriculture (USDA) and approved by the State Veterinarian.

(5) "Commingled"~~[s]~~ or "commingling" means ~~[that animals are commingled if they]~~ animals that have had any contact with a CWD-positive animal or contaminated premises within the last five years, and:

- _____ (a) have direct contact with each other~~[s]~~;
- _____ (b) have less than 10 feet of physical separation~~[s]~~; or
- _____ (c) share equipment, pasture, feed, ~~[or]~~ water sources~~[s]~~, or watershed. ~~[Animals are considered to have commingled if they have had any such contact with a CWD-positive animal or contaminated premises within the last five years.]~~

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

(~~[6]~~7) "CWD-exposed animal" means an animal that is part of a CWD-positive herd, or that has been exposed to a CWD-positive animal or contaminated premises within the previous five years.

([7]8) "CWD-exposed herd" means a herd in which a CWD-positive animal or a CWD-exposed animal has resided for any period ~~[of time]~~ within five years [prior to]before that animal's diagnosis as CWD-positive or exposure to CWD.

([8]9) "CWD Herd Certification Program" means the Chronic Wasting Disease Herd Certification Program.

([9]10) "CWD-positive animal" means an animal that has had a diagnosis of CWD confirmed by ~~[means of]~~ an official CWD test.

([10]11) "CWD-positive herd" means a herd in which a CWD-positive animal resided ~~[at the time]~~when it was diagnosed and which has not been released from quarantine.

([11]12) "CWD-suspect animal" means an animal for which it has been determined that laboratory evidence or clinical signs suggest a diagnosis of CWD.

([12]13) "CWD-suspect herd" means a herd in which a CWD-suspect animal resided ~~[and which]~~that has not been released from quarantine.

([13]14) "Destination Herd" means the intended herd of residence ~~[, which will]~~ that shall be occupied by the animal ~~[which]~~that is proposed for importation.

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

([14]16) "Domestic elk" as used in this chapter, in addition to the definition in Section 4-39-102, means any elk ~~[which]~~that has been born inside of, and has spent its entire life within captivity.

([15]17) "Elk" as used in this ~~[chapter]~~rule, means North American Wapiti or *Cervus Elaphus nelsoni*.

(18) "Epidemiologically-linked herd" means that an investigation has determined that CWD-exposed animals have resided with a CWD-positive animal within five years before the diagnosis of CWD in the positive herd or from the identified date of entry of CWD into the positive herd and have since moved to or through other herds. Those herds are then considered epidemiologically-linked. An epidemiologically-linked herd can be a Trace-back-Epi-linked Herd, Trace-forward-Epi-linked Herd or Pass-through Epi-linked Herd.

([16]19) "Herd of Origin" means the herd ~~[, which]~~ that an imported animal has resided in, or does reside in, ~~[prior to]~~before importation.

([17]20) "Official slaughter facility" means a place where the slaughter of livestock occurs that is under the authority of the state or federal government and receives state or federal inspection.

([18]21) "Quarantine Facility" means a confined area where selected elk can be secured, contained, and isolated from ~~[all]~~any other elk and livestock.

([19]22) "Raised" as used in ~~[the act]~~this rule, means any possession of domestic elk for any purpose other than hunting.

([20]23) "Secure Enclosure" means a perimeter fence or barrier that is so constructed as to prevent domestic elk from escaping into the wild or the ingress of native wildlife into the facility.

([21]24) "Separate location" in addition to the definition [as used] in Subsection 4-39-203(5), means any facility that may be separated by two distinct perimeter fences, not more than 10 miles apart, owned by the same person.

([22]25) "Trace Back Herd"~~[/]~~ or "Source Herd" means a herd of Cervidae where an animal affected with CWD has formerly resided.

([23]26) "Trace Forward Herd" means a herd of Cervidae ~~[which]~~that has received exposed animals that originated from a CWD-positive herd within five years [prior to]before the diagnosis

of CWD in the positive herd or from the identified date of entry of CWD into the positive herd.

R58-18-3. Application and Licensing Process.

(1) Each applicant for a license to operate a domesticated elk facility or elk farm shall submit a signed, complete, accurate, and legible application on a department issued form.

(2) In addition to the application, a general plot plan ~~[should]~~shall be submitted showing the location of the proposed farm in conjunction with roads, towns, ~~[etc.]~~and other points of interest in the immediate area.

(3) A facility number shall be assigned to an elk farm ~~[at the time]~~when a ~~[completed]~~finished application is received by the department.

(4) A complete facility inspection and approval shall be conducted ~~[prior to]~~before the issuing of a license or entry of elk to any facility.

(a) This inspection shall be made by an approved ~~[D]department [of Agriculture and Food]~~employee and Division of Wildlife Resources (DWR) employee.

(b) It shall be the responsibility of the applicant to request this inspection at least three working days in advance.

(5) Upon receipt of an application, inspection and approval of the facility, completion of the facility approval form, and receipt of the license fee, a license ~~[will]~~shall be issued.

(6) ~~[All]~~Each license[s] expires on July 1st in the year following the year of issuance.

(7) Elk may enter ~~[into]~~the facility only after a license is issued by the ~~[D]~~department and received by the applicant.

R58-18-4. License Renewal.

(1) Each elk farm ~~[must make renewal application]~~shall apply for license renewal to the ~~[D]~~department on the prescribed form no later than April 30th indicating its desire to continue as an elk farm. This application shall be accompanied by the required fee. Any license renewal application received after April 30th will have a late fee assessed.

(2) Any application received after July 1st is delinquent and any animals on the premises ~~[will]~~shall be quarantined until due process of law against the current owner has occurred. This may result in any ~~[or all]~~ of the following:

- (a) revocation of the license;
- (b) loss of the facility number;
- (c) closure of the facility; or
- (d) removal of the elk from the premises.

(3) ~~[Prior to]~~Before renewal of the license, the facility ~~[will]~~shall again be inspected by a ~~[Utah Department of Agriculture and Food]~~department employee.

(a) The employee ~~[will]~~shall document that ~~[all]~~each fencing and facility requirement[s] is met.

(b) The licensee shall provide a copy of the complete inventory sheet of live animals to the inspector ~~[at the time of inspection]~~when the elk farm is inspected.

(c) The employee ~~[will]~~shall perform a physical inventory count of ~~[all]~~each elk on the premises.

(i) The individual animal identification numbers shall match with the inventory records received from the owner or manager of the elk facility and those maintained by the department.

(d) The employee ~~[will]~~shall perform a visual general health check of ~~[all]~~each animal[s].

(e) ~~[Every]~~Each year, the employee ~~[will]~~shall perform an inventory of ~~[all]~~each elk by matching individual animal

identification with the inventory records received from the owner or manager of the elk facility.

(f) The physical inventory and bookkeeping inventory ~~[must]~~shall have at least a 95% match.

R58-18-5. Facilities.

(1) ~~[All]~~Each perimeter fence[s] and gate[s] shall meet the minimum standard ~~[as]~~defined in Section 4-39-201.

(a) The perimeter fences and gates shall be constructed to prevent the movement of cervids, both captive and wild, into or out of the facility.

(2) Internal handling facilities shall be capable of humanely restraining an individual animal for the applying or reading of any animal identification, the taking of blood or tissue samples, or conducting other required testing by an inspector or veterinarian.

(a) ~~[Any such]~~The restraint shall be properly constructed to protect inspection personnel while handling the animals.

(b) Minimum requirements include a working pen, an alley[-]way, and a restraining chute.

(3) The licensee shall provide an isolation or quarantine holding facility ~~[which]~~that is adequate to contain the animals and provide proper feed, water, and other care necessary for the physical well being of the animal for the period~~[of time]~~ necessary to separate the animal from other animals on the farm.

(4) Each location of a licensed facility with separate perimeter fences ~~[must]~~shall have its own separate loading facility.

R58-18-6. Records.

(1) Licensed elk farms shall maintain accurate and legible office records showing the inventory of ~~[all]~~each elk on the facility.

(2) The inventory record of each animal shall include:

(a) name and address of agent which the elk was ~~[purchased]~~bought from;

(b) official identification number on a tamper-resistant ear tag or USDA metal tag, and the secondary identification number;

(c) age;

(d) sex;

(e) date of purchase or birth;

(f) date of death or change of ownership, with the name of new owner and address recorded and retained; and

(g) Certificate of Veterinary Inspection if ~~[purchased]~~bought out of state.

(3) The inventory sheet may be one that is either provided by the department or may be a personal design of similar format.

(4) Any animal born on the property or transported into a facility ~~[must]~~shall be added to the inventory sheet within seven days.

(5) Any elk ~~[purchased must]~~bought shall be shown on the inventory sheet within 30 days after acquisition, including source.

(6) A death record of elk 12 months of age and over that die; or that are otherwise harvested, slaughtered, killed, or destroyed shall be submitted to the department within 48 hours ~~[after]~~of the discovery of the death of the animal.

R58-18-7. Genetic Purity.

(1) Elk entering Utah, except those going directly to slaughter, ~~[must]~~shall have written evidence of genetic purity.

(2) Written evidence of genetic purity ~~[will]~~shall include~~[one of the following]~~:

(a) test charts from an approved lab that have run either a:

(i) blood genetic purity test; or

(ii) DNA genetic purity test;

(b) registration papers from the North American Elk Breeders Association; or

(c) herd purity certification papers issued by another state agency.

(3) Genetic purity records ~~[must]~~shall be kept on file and presented to the inspector ~~[at the time]~~when elk are brought into the state.~~[process.]~~

(4) Any elk identified as having red deer genetic factor shall be destroyed, or immediately removed from the state.

R58-18-8. Acquisition of or Slaughter of Elk.

(1) Only domesticated elk will be allowed to enter and be kept on any elk farm in Utah.

(2) New elk brought into a facility shall be held in a quarantine facility until a livestock inspector has inspected the animal to verify that health, identification, and genetic purity requirements have been met. New animals may not co~~[-]~~mmingle with any elk already on the premises until this verification is completed by the livestock inspector.

(3) Elk presented for slaughter at an official slaughter facility~~[-]~~ that have come from an out of state source, ~~[must]~~shall arrive on a day when no Utah raised elk or elk carcasses are present at the plant.

(4) Individual elk identification ~~[must]~~shall be maintained throughout slaughter and processing until ~~[such]~~a time that CWD test results have been returned from the laboratory.

(5) Out of state elk shall be tested for Brucellosis ~~[at the time of slaughter]~~when slaughtered.

R58-18-9. Identification.

(1) ~~[All]~~Each elk shall have two forms of identification attached to each animal.

(2) Each animal shall be permanently identified with a tamper-resistant electronic radio-frequency identification (RFID) tag~~[- (RFID) or USDA metal tag]~~.

(3) ~~[If the identification method chosen to use is the RFID tag, a]~~A reader ~~[must]~~shall be made available, by the owner, to the inspector ~~[at the time of any inspection]~~when the animal is inspected to verify the electronic identification number. The RFID tag shall be placed in the right ear.

(4) Each newly purchased elk will not need to be re-tagged using the RFID tag if they already have this type of identification.

(5) Any purchased elk not already identified shall have the RFID tag applied within 30 days after arriving on the premises.

(6) ~~[All]~~Each calf~~[ves]~~ shall have the RFID tag applied within 15 days after weaning or in no case later than January 31st or before leaving the premises where they were born.

(7) In addition to the RFID tag an additional form of identification either a metal tag with a number unique to the farm, or a visible dangle ear tag within 15 days after weaning or in no case later than January 31st or before leaving the premises where they were born or within 30 days after arriving on the premises.

R58-18-10. Inspections.

(1) ~~[All]~~Each facilit~~[ies]~~y ~~[must]~~shall be inspected within 60 days before a license or the renewal of an existing license is issued. It is the responsibility of the applicant to arrange for an appointment with the ~~[D]~~department for ~~[such]~~inspection, giving the ~~[D]~~department ample time to respond to ~~[such]~~a request.

(2) ~~[All]~~Each elk must be inspected for inventory purposes within 60 days before a license renewal can be issued.

(3) ~~[A] Each~~ elk must be inspected when any change of ownership, movement out of state, leaving the facility, or slaughter occurs except as ~~[indicated]~~ shown in Subsection R58-18-10(3)(f).

(a) It is the responsibility of the licensee to arrange for any inspection with the local state livestock inspector.

(b) A ~~[minimum of]~~ at least 48 hours advance notice shall be given to the inspector.

(c) For the inspection, the licensee or ~~[his]~~ their representative shall make available ~~[such]~~ the records ~~[as]~~ that will certify ownership, genetic purity, and animal health.

(d) Elk to be inspected shall be properly contained in facilities adequate to confine each individual animal for proper inspection.

(e) Animals shall be inspected before being loaded or moved outside the facility.

(f) Animals moving from one perimeter fence to another within the facility or from a licensed facility to another licensed facility owned by the same person within the state may move directly from one site to another site without a brand inspection, but ~~[must]~~ shall be accompanied with a copy of the facility license.

(4) Any elk purchased or brought into the facility from an ~~[out of state]~~ out of state source shall be inspected upon arrival at a licensed farm before being released into an area inhabited by other elk. ~~[A] Each~~ requirement[s] of Subsection R58-18-10(3) ~~[above]~~ shall apply to the inspection of ~~the~~ such animals.

(5) A Utah Brand Inspection Certificate shall accompany any shipment of elk ~~[which]~~ that are to be moved from a Utah elk farm.

(a) Shed antlers are excluded from needing an inspection.

(6) Proof of ownership and proper health papers shall accompany ~~[a] any~~ interstate movement of elk to a Utah destination.

(7) Proof of ownership may include:

(a) ~~[A]~~ a brand inspection certificate issued by another state[-];

(b) ~~[A]~~ a purchase invoice from a licensed public livestock market showing individual animal identification[-];

(c) ~~[C]~~ court orders[-];

(d) ~~[R]~~ registration papers showing individual animal identification[-]; or

(e) ~~[A]~~ a ~~[duly executed]~~ notarized bill of sale.

R58-18-11. Health Rules.

(1) ~~[Prior to]~~ Before the importation of elk, whether by live animals, gametes, eggs, sperm, or other genetic material into ~~the State of~~ Utah, the importing party ~~[must]~~ shall ~~[obtain]~~ get an import permit from the Utah State Veterinarian's office.

(a) An import permit number shall be issued only if the destination is licensed as an elk farm by the ~~[Utah Department of Agriculture and Food]~~ department or an official slaughter facility.

(b) The import permit number for Utah shall be obtained by the local veterinarian conducting the official health inspection by contacting the ~~[Utah Department of Agriculture and Food]~~ department.

(2) ~~[A] Each~~ elk imported into Utah ~~[must]~~ shall be examined by an accredited veterinarian ~~[prior to]~~ before importation and ~~[must]~~ shall be accompanied by a valid Certificate of Veterinary Inspection, health certificate, certifying a disease free status.

(a) Minimum specific disease testing results or health statements ~~[must]~~ shall be included on the Certificate of Veterinary Inspection. Minimum disease testing requirements may be waived on elk traveling directly to an official slaughter facility.

(b) A negative tuberculosis test ~~[must]~~ shall be ~~[completed]~~ within 60 days ~~[prior to]~~ before entry into the state. A retest is also optional at the discretion of the State Veterinarian.

(c) If animals do not originate from a tuberculosis accredited, qualified, or monitored herd, they may be imported only if accompanied by a certificate stating that ~~[such]~~ the domestic ~~[e]~~ Cervidae have been classified negative to two official tuberculosis tests that were conducted not less than 90 days apart, that the second test was conducted within 60 days ~~[prior to]~~ before the date of movement. The test eligible age is six months or older, or less than six months of age if not accompanied by a negative testing dam.

(d) Elk being imported shall test negative for ~~[b]~~ Brucellosis if six months of age or older, by at least two types of official USDA ~~[b]~~ Brucellosis tests.

(e) The Certificate of Veterinary Inspection ~~[must also]~~ shall include the ~~[following]~~ signed statement: "To the best of my knowledge the elk listed herein are not infected with Johnes Disease (Paratuberculosis), CWD or Malignant Catarrhal Fever and have never been east of the 100 degree meridian."

(f) The Certificate of Veterinary Inspection shall also contain the name and address of the shipper and receiver, the number, sex, age, and any individual identification on each animal.

(3) Additional disease testing may be required at the discretion of the State Veterinarian ~~[prior to]~~ before importation or when there is reason to believe other disease~~(s)]~~, ~~[or]~~ parasites, or ~~[that some]~~ other health concerns are present.

(4) Imported or existing elk may be required to be quarantined at an elk farm when the State Veterinarian determines the need for and the length of ~~[such]~~ a quarantine.

(5) ~~[Any movement of elk outside a licensed elk farm shall comply with standards as provided in the document entitled: "Uniform Methods and Rules (UM and R)", as approved and published by the USDA. The documents, entitled: "Tuberculosis Eradication in Cervidae, Uniform Methods and Rules", the May 15, 1994 edition, and "Brucellosis Cervidae, Uniform Methods and Rules", the September 30, 2003 edition as published by the USDA, are hereby incorporated by reference into this rule. These are the standards for tuberculosis and brucellosis eradication in domestic cervidae.] The USDA published documents "Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999" and "Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 2003" are incorporated by reference into this rule. Any movement of elk outside of a licensed elk farm shall comply with these documents.~~

(6) Treatment of ~~[all]~~ each elk for internal and external parasites is required within 30 days ~~[prior to]~~ before entry, except elk going directly to slaughter.

(7) ~~[A] Each~~ elk imported into Utah ~~[must]~~ shall originate from a state or province~~[-, which]~~ that requires that ~~[a] any~~ suspected or confirmed cases of ~~[(CWD)]~~, be reported to the State Veterinarian or regulatory authority. The state or province of origin ~~[must]~~ shall have the authority to quarantine source herds and herds affected with or exposed to CWD.

(8) Based on the State Veterinarian's approval, ~~[a] each~~ elk imported into Utah shall originate from states~~[-, which]~~ that have implemented a Program for Surveillance, Control, and Eradication of CWD in Domestic Elk.

(a) ~~[A] Each~~ elk imported to Utah ~~[must]~~ shall originate from herds that have been participating in a verified CWD surveillance program for a ~~[minimum of 5]~~ at least five years.

(b) Animals will be accepted for movement only if epidemiology based on vertical and horizontal transmission is in place.

(9) No elk originating from a CWD affected herd, trace back herd, source herd, trace forward herd, adjacent herd, or from an area considered to be endemic to CWD, may be imported to Utah.

(10) Elk semen, eggs, or gametes require a Certificate of Veterinary Inspection verifying the individual source animal has genetic purity and certifying that it has never resided on a premises where CWD has been identified or traced. An import permit obtained by the issuing veterinarian ~~must~~ shall be listed on the Certificate of Veterinary Inspection.

R58-18-12. CWD Surveillance and Investigation.

(1) The owner, veterinarian, or inspector of any elk ~~which~~ that is suspected or confirmed to be ~~affected~~ infected with CWD in Utah ~~is required to~~ shall report that finding to the State Veterinarian immediately upon finding.

(2) The State Veterinarian ~~will~~ shall promptly investigate ~~all~~ any animals reported as CWD-exposed, CWD-suspect, or CWD-positive animals ~~including but not limited to~~

(a) The State Veterinarian may:

(i) ~~conduct~~ conduct an epidemiologic investigation of CWD-positive, CWD-exposed, and CWD-suspect herds that includes the designation of suspect and exposed animals and that identifies animals to be traced;

(ii) ~~conduct~~ conduct tracebacks of CWD-positive animals and traceouts of CWD-exposed animals and report any ~~out of State~~ out of state traces to the appropriate ~~State~~ state promptly after receipt of notification of a CWD-positive animal; and

(iii) ~~conduct~~ conduct tracebacks based on slaughter or other sampling promptly after receipt of notification of a CWD-positive animal at slaughter.

(b) With the approval of the ~~commissioner of Agriculture~~ commissioner, the State Veterinarian ~~will~~ shall place the facility under quarantine and any trace-back or trace-forward facility as needed.

(c) Any elk over 12 months of age that dies or is otherwise slaughtered or destroyed from a CWD-positive, CWD-exposed, and CWD-suspect herd shall have the brain stem ~~the~~ obex portion of the medulla, and medial retropharyngeal lymph nodes collected for testing for CWD by an official test.

(i) The samples shall be collected by an accredited veterinarian, or an approved laboratory, or person trained and approved by the State Veterinarian.

(ii) Carcasses and tissues from these animals ~~will~~ shall be either secured by a state or federally inspected slaughter establishment until testing is ~~completed~~ finished.

(iii) Carcasses and tissues from animals testing positive ~~must~~ shall be disposed of by incineration or other means approved by the State Veterinarian.

(3) Each elk farm, licensed in Utah, shall be required to submit the brain stem ~~the~~ obex portion of the medulla, and medial retropharyngeal lymph nodes of any elk over 12 months of age that dies or is otherwise slaughtered or destroyed, for testing for CWD by an official test.

(a) The samples shall be collected by an accredited veterinarian, an approved laboratory, or person trained and approved by the State Veterinarian.

(b) Farms owning 20 or more elk may be allowed up to a 10% error rate on samples ~~per~~ each year; farms owning less than 20 elk ~~will~~ shall not have an acceptable error rate.

(4) Each hunting park ~~licensed~~ licensed in Utah ~~shall~~ shall be required to submit the brain stem ~~the~~ obex portion of the medulla, and medial retropharyngeal lymph nodes of ~~all~~ each elk over 12 months of age that die, or that are otherwise harvested, slaughtered, killed, or destroyed, for testing for CWD with an official test.

(a) The samples shall be collected by an accredited veterinarian, approved laboratory, or person trained and approved by the State Veterinarian.

(b) Hunting parks may be allowed up to a 10% error rate on samples per year with consideration taken when elk are shot in an area of the elk that causes an unacceptable sample.

(5) The CWD surveillance samples from elk residing on licensed elk farms and elk hunting parks shall be collected and preserved in formalin within 48 hours following the death of the animal, and submitted within ~~7~~ seven days to a laboratory approved by the State Veterinarian. Training of approved personnel shall include collection, storing, handling, shipping, and identification of specimens for submission.

(6) Laboratory fees and expenses incurred for collection and shipping of samples shall be the responsibility of the participating elk farm or hunting park.

(7) The designation and disposition of CWD-exposed, positive, or suspect animals or herds in Utah shall be determined by the State Veterinarian.

R58-18-13. CWD Herd Certification Status.

(1) Initial and subsequent status.

(a) When a herd is first enrolled in the CWD Herd Certification Program, it ~~will~~ shall be placed in First Year status, except that; if the herd is comprised solely of animals obtained from herds already enrolled in the ~~Program~~ program, the newly enrolled herd ~~will~~ shall have the same status as the lowest status of any herd that provided animals for the new herd.

(b) If the herd continues to meet the requirements of the CWD Herd Certification Program, each consecutive year, on the anniversary of the enrollment date the herd status will be upgraded by ~~one~~ one year, ~~from~~ to Second Year status, Third Year status, Fourth Year status, ~~and~~ or Fifth Year status.

(c) One year from the date a herd is placed in Fifth Year status, the herd status will be changed to "Certified" and the herd will remain in "Certified" status as long as it is enrolled in the program, provided its status is not lost or suspended in accordance with this section.

(2) Loss or suspension of herd status.

(a) If a herd is designated a CWD-positive herd or a CWD-exposed herd, it ~~will~~ shall immediately lose its program status and may only re-enroll after entering into an approved herd plan.

(b) If a herd is designated a CWD-suspect herd, a trace back herd, or a trace forward herd, it ~~will~~ shall immediately be placed in Suspended status pending an epidemiologic investigation.

(i) If the epidemiologic investigation determines that the herd was not commingled with a CWD-positive animal, the herd ~~will~~ shall be reinstated to its former program status, and the time spent in Suspended status will count toward its promotion to the next herd status level or maintenance of ~~certified~~ Certified status.

(ii) If the epidemiologic investigation determines that the herd was commingled with a CWD-positive animal, the herd ~~will~~ shall lose its program status and will be designated a CWD-exposed herd.

(iii) If the epidemiological investigation ~~is unable to~~ cannot make a determination regarding the exposure of the herd, because the necessary animal or animals are no longer available for

testing, for example, because a trace animal from a known positive herd died and was not tested, or for other reasons, the herd status ~~[will]shall~~ continue as Suspended ~~[unless and]~~ until a herd plan is developed for the herd.

(iv) If a herd plan is developed and implemented, the herd ~~[will]shall~~ be reinstated to its former program status, and the time spent in Suspended status ~~[will]shall~~ count toward its promotion to the next herd status level; Except that, if the epidemiological investigation finds that the owner of the herd has not fully complied with program requirements for animal identification, animal testing, and recordkeeping, the herd ~~[will]shall~~ be reinstated into the CWD Herd Certification Program at the First Year status level, with a new enrollment date set at the date the herd entered into Suspended status.

(v) Any herd reinstated after being placed in Suspended status ~~[must]shall~~ then comply with the requirements of the herd plan as well as the requirements of the CWD Herd Certification Program. The herd plan ~~[will]~~:

(A) ~~shall~~ require testing of ~~[all]any~~ animals that die in the herd for any reason, regardless of the age of the animal~~[-]~~;

(B) may require movement restrictions for animals in the herd based on epidemiologic evidence regarding the risk posed by the animals in question~~[-]~~; and

(C) may include other requirements found necessary to control the risk of spreading CWD.

(c) If the department determines that animals from a herd enrolled in the program have commingled with animals from a herd with a lower program status, the herd with the higher program status ~~[will]shall~~ be reduced to the status of the herd with which its animals commingled.

(3) Cancellation of enrollment by the department.

(a) The department may cancel the enrollment of an enrolled herd by giving written notice to the herd owner.

(b) In the event of ~~[such]~~ cancellation, the herd owner may not reapply to enroll in the CWD Herd Certification Program for five years from the effective date of the cancellation.

(c) The department may cancel enrollment after determining that the herd owner failed to comply with any requirements of this section. Before enrollment is cancelled, the department ~~[will]~~ ~~shall~~ inform the herd owner of the reasons for the proposed cancellation in writing.

(d) Herd owners may appeal cancellation of enrollment, loss, or suspension of herd status by writing to the ~~[C]commissioner [of Agriculture]~~ within 10 days after being informed of the reasons for the proposed action.

(i) The appeal ~~[must]shall~~ include ~~[all of the]~~ the facts and reasons upon which the herd owner relies to show that the reasons for the proposed action are incorrect or do not support the action.

(ii) The ~~[C]commissioner [of Agriculture]~~ ~~will~~ ~~shall~~ grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for ~~[his or her]~~ the commissioner's decision.

(iii) If there is a conflict as to any material fact, a hearing ~~[will]shall~~ be held to resolve the conflict.

(iv) The cancellation of enrollment, loss, or suspension of herd status shall become effective pending final determination in the proceeding if the ~~[C]commissioner [of Agriculture]~~ determines that ~~[such]~~ the action is necessary to prevent the possible spread of CWD.

(A) ~~[Such]~~ The action shall become effective upon oral or written notification, whichever is earlier, to the herd owner.

(B) In the event of oral notification, written confirmation shall be given as promptly as circumstances allow.

(v) This cancellation of enrollment or loss or suspension of herd status shall continue in effect pending the completion of the

proceeding, and any judicial review~~[- thereof]~~, unless otherwise ordered by the ~~[C]commissioner [of Agriculture]~~.

(4) Herd status of animals added to herds.

(a) A herd may add animals from herds with the same or a higher herd status in the CWD Herd Certification Program with no negative impact on the certification status of the receiving herd.

(b) If animals are acquired from a herd with a lower herd status, the receiving herd reverts to the program status of the sending herd.

(c) If a herd participating in the CWD Herd Certification Program acquires animals from a nonparticipating herd, the receiving herd reverts to First Year status with a new enrollment date of the date of acquisition of the animal.

R58-18-14. Herd Plan.

(1) A written herd plan ~~[will]shall~~ be developed by the State Veterinarian with input from the herd owner, USDA, and other affected parties.

(2) The herd plan sets out the steps to be taken to eradicate CWD from a CWD~~-~~positive herd, to control the risk of CWD in a CWD-exposed or CWD-suspect herd, or to prevent introduction of CWD into another herd.

(3) A herd plan ~~[will]shall~~ require:

(a) specified means of identification for each animal in the herd;

(b) regular examination of animals in the herd by a veterinarian for signs of disease;

(c) reporting to a ~~[S]~~state or USDA representative of any signs of central nervous system disease in herd animals; and

(d) maintaining records of the acquisition and disposition of ~~[all]any~~ animals entering or leaving the herd, including the date of acquisition or removal, name and address of the person from whom the animal was acquired or to whom it was disposed, and cause of death, if the animal died while in the herd.

(4) A herd plan may also contain additional requirements to prevent or control the possible spread of CWD, depending on the particular condition of the herd and its premises, including~~[- but not limited to]~~:

(a) specifying the time for which a premises must not contain cervids after CWD~~-~~positive, exposed, or suspect animals are removed from the premises;

(b) fencing requirements;

(c) depopulation or selective culling of animals;

(d) restrictions on sharing and movement of possibly contaminated livestock equipment; and

(e) cleaning and disinfection requirements, or other bio~~[-]security~~ requirements.

(5) The State Veterinarian ~~[must]shall~~ approve ~~[all]any~~ movement of cervids onto or off ~~[of]~~ the facility.

(a) Movement restriction of cervids ~~[will]shall~~ remain in place until requirements of the herd plan have been met.

(6) The State Veterinarian may review and revise a herd plan at any time in response to changes in the situation of the herd or premises or improvements in understanding of the nature of CWD epidemiology or techniques to prevent its spread.

R58-18-15. Grounds for Denial, Suspension, or Revocation of Licenses for Domestic Elk Facilities.

(1) A license to operate a domestic elk facility may be denied, suspended, or revoked by the department for any of the following reasons:

- (a) [~~incomplete~~un]finished application or incorrect application information;
 - (b) incorrect records or failure to maintain required records;
 - (c) not presenting animals for identification at the request of the department;
 - (d) [~~F~~]failure to notify the department of movement of elk onto or off [~~of~~]the facility;
 - (e) failure to identify elk as required;
 - (f) movement of imported elk onto facility without [~~obtaining~~]getting a Certificate of Veterinary Inspection [~~which~~]that has an import permit number obtained from the department;
 - (g) importing animals that are prohibited or controlled as listed in Rule R657-3;
 - (h) failure to notify the department concerning an escape of an animal from a domestic elk facility;
 - (~~g~~)i) failure to maintain a perimeter fence that prevents escape of domestic elk or ingress of wild cervids into the facility;
 - (~~i~~)j) failure to notify the [~~Division of Wildlife Resources~~]DWR that there are wild cervids inside a domestic elk farm or hunting park;
 - (~~j~~)k) failure to participate with the [~~Utah Department of Agriculture and Food and the Utah Division of Wildlife Resources~~]department and DWR in a cooperative wild cervid removal program;
 - (~~k~~)l) failure to have inventories match with at least a 95% match;
 - (~~l~~)m) failure to submit the acceptable rate of CWD test samples;
 - (~~m~~)n) failure to have the minimum proper equipment necessary to safely and humanely handle animals in the facility; or
 - (~~o~~) inhumane handling or neglect of animals on the facility as determined by the department.
- (2) Once the department has notified the operator of a domestic elk facility of the denial, suspension, or revocation of a license to operate a domestic elk facility, the operator has 15 calendar days to request an appeal with the [~~C~~]commissioner[~~of Agriculture~~].
- (3) An operator of a domestic elk facility that has had their license revoked shall remove [~~an~~]any elk from the facility within 30 calendar days by:
- (a) sending [~~an~~]any elk to an inspected facility for slaughter; or
 - (b) selling elk to another facility.
- (4) Any elk remaining on the facility at the end of 30 days [~~will~~]shall be sold by the department during a special sale conducted for that purpose.

KEY: chronic wasting disease, elk, inspections
Date of Last Change: [~~July 22, 2019~~]2022
Notice of Continuation: December 28, 2021
Authorizing, and Implemented or Interpreted Law: 4-39-106

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R68-32	Filing ID: 54833

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	4325 S 2700 W, TSOB, South Bldg, Floor 2	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Cody James	801-982-2376	codyjames@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-32. Sale and Transfer of Industrial Hemp Waste to Medical Cannabis Cultivators
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Changes are needed to allow industrial hemp waste to enter the state of Utah following testing by a non-Utah laboratory. This will codify current Department of Agriculture and Food (Department) practice and add additional clarity to help licensees more fully understand this rule requirements.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Subsection R68-32-4(1)(c) has been clarified to remove an outdated statutory reference (changed during 2022 General Session) and allow for a certificate of analysis (COA) to be submitted from a non-Utah laboratory. Similarly, "before transportation" has been removed from the beginning of Subsection R68-32-5(1) to allow for product to be received by a medical cannabis cultivator prior to meeting testing requirements of Rule R68-29. Rule R68-29 requires testing by a Utah laboratory which is not possible if product is coming in from out of state. The same outdated reference has been removed from Subsection R68-32-5(1) as well.

Fiscal Information

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

A) State budget:

These changes are clarifying in nature and make this rule consistent with current practice and should not have any fiscal impact to the state budget.

B) Local governments:

Local governments do not participate in this program and will not be impacted by this change.

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

These changes are clarifying in nature and make this rule consistent with current practice and should not have any fiscal impact to small businesses.

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

These changes are clarifying in nature and make this rule consistent with current practice and should not have any fiscal impact to non-small businesses.

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

These changes are clarifying in nature and make this rule consistent with current practice and should not have any fiscal impact to other persons.

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

Compliance costs will not change because the requirements of the program will not change.

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

Regulatory Impact Table

Fiscal Cost	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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Commissioner of the Utah Department of Agriculture and Food, Craig W Buttars, 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 4-41a-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: 10/17/2022

9. This rule change MAY become effective on: 10/24/2022

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

Agency head or designee and title: Craig W Buttars, Commissioner **Date:** 08/24/2022

R68. Agriculture and Food, Plant Industry.**R68-32. Sale and Transfer of Industrial Hemp Waste to Medical Cannabis Cultivators.****R68-32-1. Authority and Purpose.**

Pursuant to Subsection 4-41a-501(5), this rule establishes the procedures governing the sale of a cannabinoid concentrate by an industrial hemp processing facility to a cannabis cultivation facility, including procedures for sale approval, transportation, recordkeeping, testing, and inspection and recall.

R68-32-2. Definitions.

- 1) "Batch" means a quantity of:
 - a) cannabis extract produced on a particular date and time, following clean up until the next clean up during which the same lots of cannabis are used; or
 - b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis extract is used.
- 2) "Cannabinoid" means any:
 - a) naturally occurring derivative of cannabigerolic acid (CAS 25555-57-1); or
 - b) any chemical compound that is both structurally and chemically similar to a derivative of cannabigerolic acid.
- 3) "Cannabis" means any part of the marijuana plant.
- 4) "Cannabinoid concentrate" means the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass.
- 5) "Cannabis cultivation facility" means a person licensed by the department that:
 - a) possesses cannabis;
 - b)i) grows or intends to grow cannabis; or
 - ii) acquires or intends to acquire industrial hemp waste from an industrial hemp processor; and
 - c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.
- 6) "Cannabis product" means a product that:
 - a) is intended for human use; and
 - b) contains cannabis or tetrahydrocannabinol.
- 7) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for which testing was performed.
- 8) "Department" means the Utah Department of Agriculture and Food.
- 9) "Final product" means a reasonably homogeneous cannabis product in its final packaged form created using the same standard operating procedures and the same formulation.
- 10) "Industrial hemp" means any part of the cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.
- 11) "Industrial hemp waste" means^[§]:
 - (a) a cannabinoid concentrate; or
 - (b) industrial hemp biomass.
- 12) "Inventory Control System" means the system described in Section 4-41a-103.

R68-32-3. Sale of Industrial Hemp Requirements.

- 1) Industrial hemp waste shall only be sold by an industrial hemp processing facility to a cannabis cultivation facility if:
 - a) the industrial hemp waste is derived from industrial hemp biomass that has been certified as industrial hemp by a state department of agriculture or the U.S. Department of Agriculture; and

b) the industrial hemp processing facility has records to substantiate the certification.

2) A cannabis cultivation facility may not receive more than 120 kilograms of industrial hemp waste in a single license year.

R68-32-4. Sale of Industrial Hemp - Notification and Approval.

1) Within ten days of the sale of industrial hemp waste by an industrial hemp processing facility to a cannabis cultivation facility, the industrial hemp processing facility shall:

- a) notify the department of the potential sale in writing;
- b) provide the department with a COA showing that the biomass from which the industrial hemp waste was derived was certified industrial hemp by a state department of agriculture or the U.S. Department of Agriculture; and
- c) provide the department with a COA or other documentation of test results showing that a representative sample of the industrial hemp waste has been tested ~~[by a licensed cannabis testing laboratory]~~ as required by ~~[Subsection 4-41a-501(5)(a)(i)]~~ Rule R68-29.

2) The department will approve the sale following review of the records of the industrial hemp processing facility to ensure compliance with this rule.

3) Upon approval of the sale, the department will issue a certificate to the industrial hemp processing facility allowing the sale to proceed.

4) No industrial hemp waste may be sold by an industrial hemp processing facility unless the industrial hemp processing facility has a license in good standing with the department.

5) The department may not approve the sale of cannabinoid concentrate with a THC concentration above 0.3%.

R68-32-5. Transportation.

1) ~~[Before transportation, i]~~ Industrial hemp waste shall meet the testing requirements of ~~[Subsection 4-41a-501(5)(a)(i) and]~~ Rule R68-29.

2) A printed certificate of sale shall accompany every transport of industrial hemp waste.

3) The certificate of sale may not be voided or changed after departing from the original industrial hemp processing facility.

4) The receiving cannabis cultivation facility shall ensure they are given a copy of the certificate of sale.

5) The receiving cannabis cultivation facility shall ensure that the industrial hemp waste received is as described in the certificate of sale and shall record the amounts received into the inventory control system.

6) The receiving cannabis cultivation facility shall document any differences between the quantity specified in the certificate of sale and the quantities received in the inventory control system.

7) During transport, the industrial hemp waste shall be:

- a) shielded from the public view;
 - b) in a secure container; and
 - c) temperature-controlled if perishable.
- 8) A cannabis cultivation facility shall contact the department within 24 hours if a vehicle transporting industrial hemp waste is involved in an accident that involves product loss.

R68-32-6. Recordkeeping Requirements.

1) Following the purchase of industrial hemp waste from an industrial hemp processing facility, a cannabis cultivation facility shall ensure that each batch of industrial hemp waste has a unique identification number in the inventory control system.

- 2) A cannabis cultivation facility shall maintain a record of each purchase of industrial hemp waste, including:
- a) a copy of the certification that the industrial hemp waste is derived from certified industrial hemp; and
 - b) if applicable, a copy of the record documenting that the extraction of the cannabinoid extract that qualifies as industrial hemp waste took place in Utah.
- 3) Each record shall be made available for inspection by the department.

R68-32-7. Testing Requirements.

- 1) Industrial hemp waste purchased by a cannabis cultivation facility shall be tested by a licensed cannabis testing laboratory pursuant to the requirements of Section R68-29-3 before transfer of the industrial hemp waste to a cannabis processing facility.
- 2) Testing shall be documented on a COA and recorded in the inventory control system.
- 3) Final products derived from industrial hemp waste are subject to the same testing requirements as other cannabis products.

R68-32-8. Inspection and Recall.

- 1) The department has the right to conduct a random inspection of industrial hemp processing facilities and medical cannabis cultivators that are subject to this rule, including an audit of the following to ensure compliance with Utah state law, rules, and this rule:
- a) the records of an industrial hemp processing facility that has sold industrial hemp waste; and
 - b) the records of a cannabis cultivation facility that has purchased industrial hemp waste.
- 2) Inspection may take place at any time during normal business hours.
- 3) Industrial hemp waste that is identified as out of compliance may be subject to recall and destruction by the department.

R68-32-9. Violations.

- 1) Violations of this rule include:
- a) sale or transfer of industrial hemp waste without notifying the department;
 - b) sale of cannabinoid concentrate with a THC level greater than 0.3%;
 - c) a medical cannabis facility allowing industrial hemp waste into the facility without entering it into the inventory control system;
 - d) a medical cannabis facility allowing industrial hemp waste into the facility without testing;
 - e) a facility not keeping and maintaining each record required by this rule;
 - f) a facility falsifying a record required to be kept under this rule;
 - g) a facility denying the department access to the records; and
 - h) transporting industrial hemp waste to a cannabis cultivation facility without a certificate of sale.
- 2) The department shall assess fines of:
- a) \$3,000 - \$5,000 for public safety violations;
 - b) \$1,000 - \$5,000 for regulatory violations; and
 - c) \$500 - \$5,000 for licensing violations.
- 3) The department shall calculate fines based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

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

KEY: industrial hemp waste, industrial hemp processing facility, cannabis cultivation facility
Date of Last Change: [June 8,] 2022
Authorizing, and Implemented or Interpreted Law: 4-41a-501(5)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R82-1-102	Filing ID: 54841

Agency Information

1. Department:	Alcoholic Beverage Services	
Agency:	Administration	
Street address:	1625 S 900 W	
City, state and zip:	Salt Lake City, UT 84104	
Mailing address:	PO Box 30408	
City, state and zip:	Salt Lake City, UT 84130-0408	
Contact persons:		
Name:	Phone:	Email:
Vickie Ashby	801-977-6801	vickieashby@utah.gov
Angela Micklos	801-977-6800	afmicklos@utah.gov

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

General Information

2. Rule or section catchline:
R82-1-102. Definitions
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
S.B. 176, passed in the 2022 General Session, expanded the Department of Alcoholic Beverage Services' ability to examine whether a producer who is applying for the reduced markup pursuant to Subsection 32B-2-304(3) is part of a "controlled group of manufacturers", and granted the commission rulemaking authority to define "controlled group of manufacturers." In 2021, the commission defined "controlled group of breweries" pursuant to rulemaking authority granted in H.B. 371. This amendment modifies this section to apply to all types of alcohol manufacturing.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the

substantive differences between the repealed rule and the reenacted rule):

This amendment will modify the section to define "controlled group of manufacturers."

Fiscal Information

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

A) State budget:

None--Any anticipated cost or savings to the state budget are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

B) Local governments:

None--Any anticipated cost or savings to local governments are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

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

None--Any anticipated cost or savings to small businesses are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

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

None--Any anticipated cost or savings are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

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**):

None--Any anticipated cost or savings are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

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 fees associated with this process. Any anticipated cost or savings are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Department of Alcoholic Beverage Services, Tiffany Clason, 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 32B-2-304	Section 32B-2-202	
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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:	10/17/2022
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9. This rule change MAY become effective on:	10/24/2022
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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

Agency head or designee and title:	Tiffany Clason, Executive Director	Date:	08/24/2022
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R82. Alcoholic Beverage ~~Control~~ Services, Administration.

R82-1. General.

R82-1-102. Definitions.

Definitions of terms in the Act are used in ~~[these rules]~~ Title R82, except where the context of the terms in ~~[these rules]~~ Title R82 clearly indicates a different meaning.

(1) "Act" means the Alcoholic Beverage Control Act, Title 32B.

(2) "Commission" means the Utah Alcoholic Beverage Services Commission.

(3) "Controlled Group of ~~[Breweries]~~ Manufacturers" means a group of incorporated or non-incorporated ~~[breweries]~~ alcohol manufacturers that are related directly or indirectly through more than 50% common ownership or control by any person ~~[—or—]~~ persons. Additionally, a ~~[—]n~~ alcohol manufacturer ~~[brewery]~~ is considered to be part of a controlled group of ~~[breweries]~~ manufacturers if more than 50% of the ~~[brewery]~~ alcohol manufacturing entity is owned or controlled directly or indirectly either by, or in common with, another ~~[brewery or breweries]~~ alcohol manufacturer.

(4) "Department" or "DABS" means the Utah Department of Alcoholic Beverage Services.

(5) "Director" means the director of the Department of Alcoholic Beverage Services.

(6) "Dispensing System" means a dispensing system or device which dispenses liquor in controlled quantities not exceeding 1.5 ounces and has a meter which counts the number of pours served.

(7) "Guest Room" means a space normally utilized by a natural person for occupancy, usually a traveler who lodges at an inn, hotel, or resort.

(8) "Manager" means, depending on the context, a:

(a) a person chosen or appointed to manage, direct, or administer the affairs of another person, corporation, or company;

(b) an individual chosen or appointed to direct, supervise, or administer the operations at a licensed business; or

(c) an individual who supervises the furnishing of an alcoholic product to another, regardless of the exact employment title that the person holds.

(9) "Person" means the same as that term is defined in Section 68-3-12.5.

(10) "Point of Sale" means that portion of a package agency, restaurant, limited restaurant, beer-only restaurant, airport lounge, on-premise banquet premises, reception center, recreational amenity on-premise beer retailer, tavern, single event permitted area, temporary special event beer permitted area, or public service special use permitted area that has been designated by the Department as an alcoholic beverage selling area. It also means that portion of an establishment that sells beer for off-premises consumption where the beer is displayed or offered for sale.

(11) "Respondent" means a Department licensee, or permittee, or employee or agent of a licensee or permittee, or other entity against whom a letter of admonishment or notice of agency action is directed.

(12) "Staff" or "authorized staff member" means a person ~~[duly]~~ authorized by the director of the Department to perform a particular act.

(13) "subpart" refers to subparagraphs of this rule.

(14) "Utah Alcoholic Beverage Control Laws" means any Utah statutes, Commission rules and municipal and county ordinances relating to the manufacture, possession, transportation, distribution, sale, supply, wholesale, warehousing, and furnishing of alcoholic beverages.

(15) "Warning Sign" means a sign no smaller than 8.5 inches high by 11 inches wide, clearly readable, stating: "Warning: drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child. Call the Utah Department of Health at ~~[(insert most current toll free number)]~~ INSERT MOST CURRENT TOLL-FREE NUMBER with questions or for more information" and "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah." The two warning messages shall be in the same font size but different font styles that are no smaller than 36 point bold. The font size for the health department contact information shall be no smaller than 20 point bold.

KEY: alcoholic beverages

Date of Last Change: ~~[June 1,]~~ 2022

Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-1-208; 32B-1-304(7)(a); 32B-1-304(7)(b)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R82-1-208	Filing ID:	54842
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Agency Information

1. Department:	Alcoholic Beverage Services
Agency:	Administration
Street address:	1625 S 900 W
City, state and zip:	Salt Lake City, UT 84104

Mailing address: PO Box 30408		
City, state and zip: Salt Lake City, UT 84130-0408		
Contact persons:		
Name:	Phone:	Email:
Vickie Ashby	801-977-6801	vickieashby@utah.gov
Angela Micklos	801-977-6800	afmicklos@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R82-1-208. Percentage Lease Agreements
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Section 32B-1-208 provides that the commission shall make rules establishing the maximum percentage of revenue from alcohol sales a percentage lease agreement may require. The current version of this rule provides that the maximum percentage of revenue from alcohol sales allowable in a percentage lease agreement is 20%. The proposed modification in Subsections R82-1-208(4)(a) and (d) lowers the amount to 19%, as at the 20% level, the landlord would be considered to hold an ownership interest that would require them to undergo a background check.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This amendment will modify the rule to reduce the maximum percentage of revenue from alcohol sales allowable in a percentage lease agreement from 20% to 19%.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The fiscal impact of this amendment on the state budget is inestimable as it is unknown how many applicants will submit a percentage lease agreement where the landlord holds an ownership interest. Additionally, the proposed change from a cap of 20% to 19% is minute, and any fiscal impact would be miniscule.

B) Local governments:			
The fiscal impact of this amendment for local governments is inestimable as it is unknown how many applicants will submit a percentage lease agreement where the landlord holds an ownership interest. Additionally, the proposed change from a cap of 20% to 19% is minute, and any fiscal impact would be miniscule.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
The fiscal impact of this amendment for small businesses is inestimable as it is unknown how many applicants will submit a percentage lease agreement where the landlord holds an ownership interest. Additionally, the proposed change from a cap of 20% to 19% is minute, and any fiscal impact would be miniscule.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
The fiscal impact of this amendment for non-small businesses is inestimable as it is unknown how many applicants will submit a percentage lease agreement where the landlord holds an ownership interest. Additionally, the proposed change from a cap of 20% to 19% is minute, and any fiscal impact would be miniscule.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):			
The fiscal impact of this amendment is inestimable as it is unknown how many applicants will submit a percentage lease agreement where the landlord holds an ownership interest. Additionally, the proposed change from a cap of 20% to 19% is minute, and any fiscal impact would be miniscule.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
The fiscal impact of this amendment is inestimable as it is unknown how many applicants will submit a percentage lease agreement where the landlord holds an ownership interest. Additionally, the proposed change from a cap of 20% to 19% is minute, and any fiscal impact would be miniscule.			
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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Alcoholic Beverage Services, Tiffany Clason, 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 32B-1-208 Section 32B-2-202

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: 10/17/2022

9. This rule change MAY become effective on: 10/24/2022
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

Agency head or designee and title: Tiffany Clason, Executive Director	Date: 08/24/2022
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R82. Alcoholic Beverage Control, Administration.

R82-1. General.

R82-1-208. Percentage Lease Agreements.

- (1) The authority for this rule is Section 32B-1-208
- (2) This rule establishes the following:
 - (a) the maximum percentage of revenue from alcohol sales a percentage lease agreement may require; and
 - (b) the procedure for submitting a percentage lease to the department.
- (3) As used in this section, "Percentage lease" means the same as in Section 32B-1-208.
- (4)(a) The maximum percentage of revenue from alcohol sales allowed in a percentage lease is ~~[20]~~19%~~[percent]~~, whether that percentage is:
 - (i) described through a rent-sharing or profit-sharing agreement;
 - (ii) calculated in part on the gross sales or profits of the licensee, including profits from the sale of alcoholic beverages; or
 - (iii) described in the percentage lease in some other manner.
- (b) Parties to a percentage lease must submit a copy to the department for review as part of the application for licensing.
- (c) If during the review process, the Department ~~[is unable to]~~cannot determine how alcohol sales in a percentage lease agreement are being shared, based on the language in the percentage lease agreement, the department staff shall return the lease agreement and license application, and the Commission may decline to act on the application.
- (d) An applicant may resubmit a lease once the language in the lease is sufficiently clear for the Department to determine that no more than ~~[20]~~19% of profits from the sale of alcoholic beverages will be distributed to a lessor.
- (e) The lessor cannot control or acquire an ownership interest in the business of the lessee.
- (f) An industry representative is prohibited from profit-sharing and ownership of retail license operations.

KEY: alcoholic beverages

Date of Last Change: ~~[June 1,]~~ 2022

Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-1-208; 32B-1-304(7)(a); 32B-1-304(7)(b)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R82-2-202.1	Filing ID: 54843

Agency Information

1. Department:	Alcoholic Beverage Services
Agency:	Administration
Street address:	1625 S 900 W
City, state and zip:	Salt Lake City, UT 84104

Mailing address:	PO Box 30408	
City, state and zip:	Salt Lake City, UT 84130-0408	
Contact persons:		
Name:	Phone:	Email:
Vickie Ashby	801-977-6801	vickieashby@utah.gov
Angela Micklos	801-977-6800	afmicklos@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R82-2-202.1. Late License Renewals
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This new section replaces existing Section R82-5-202, which allowed for late renewals for retail licenses (defined in Subsection 32B-1-102(111)). S.B. 176, passed in the 2022 General Session, expanded this rulemaking authority to apply to all license types. (EDITOR'S NOTE: The proposed amendment to Section R82-5-202 is under ID 84847 in this issue, September 15, 2022, of the Bulletin.)
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This new section will allow late renewals for all license types.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
None--Any anticipated cost or savings to the state budget are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.
B) Local governments:
None--Any anticipated cost or savings to local governments are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

C) Small businesses ("small business" means a business employing 1-49 persons):																				
None--Any anticipated cost or savings to small businesses are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.																				
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):																				
None--Any anticipated cost or savings are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.																				
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):																				
None--Any anticipated cost or savings are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.																				
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):																				
Any anticipated cost or savings are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.																				
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																				
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2023</th> <th>FY2024</th> <th>FY2025</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </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
Fiscal Cost	FY2023	FY2024	FY2025																	
State Government	\$0	\$0	\$0																	
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Small Businesses	\$0	\$0	\$0																	
Non-Small Businesses	\$0	\$0	\$0																	

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Alcoholic Beverage Services, Tiffany Clason, 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 32B-2-202		

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:	10/17/2022

9. This rule change MAY become effective on:	10/24/2022
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

Agency head or designee and title:	Tiffany Clason, Executive Director	Date:	08/24/2022
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R82. Alcoholic Beverage Services, Administration.

R82-2. Administration.

R82-2-202.1. Late License Renewals.

(1) Authority. This rule is adopted pursuant to Section 32B-2-202, which authorizes the Commission to make rules permitting and establishing the parameters of late license renewals.

(2) Definitions. For purposes of this rule, "late renewal" means the Department's receipt, after the date of the statutory renewal deadline related to the license at issue, of the requisite documents and payment to renew a license.

(3) Application:

(a) The Department may accept a late renewal application for a license received at the Department's Administrative Office by 5 p.m. the 10th day of the month that follows the statutory renewal deadline for that license type. If the 10th of the month falls on a Saturday, Sunday, or state or federal holiday, the Department shall consider a completed renewal application that is received by 5 p.m. on the next business day following the weekend or holiday.

(b) Licensees who fail to meet the deadline established in this rule must apply for a new license.

(c) The licensee seeking late renewal shall submit to the Department:

(i) Each document required for renewal for the specific license type;

(ii) The statutory renewal fee for that license; and

(iii) A late fee either prescribed in Section 32B-2-202 or adopted in accordance with Section 63J-1-504.

KEY: alcoholic beverages

Date of Last Change: [August 3,] 2022

Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-1-206

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R82-2-306	Filing ID:	54844
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Agency Information

1. Department:	Alcoholic Beverage Services	
Agency:	Administration	
Street address:	1625 S 900 W	
City, state and zip:	Salt Lake City, UT 84104	
Mailing address:	PO Box 30408	
City, state and zip:	Salt Lake City, UT 84130-0408	
Contact persons:		
Name:	Phone:	Email:
Vickie Ashby	801-977-6801	vickieashby@utah.gov
Angela Micklos	801-977-6800	afmicklos@utah.gov

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

General Information

2. Rule or section catchline:

R82-2-306. Operational Matters

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

S.B. 176, passed in the 2022 General Session, modified Subsection 32B-2-605(13) to allow Type 5 package agencies to sell alcohol on Sundays and holidays if the manufacturer associated with the package agency also had a bar or restaurant license. This proposed rule simply reflects this change in statute.

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

This amendment will modify the rule to allow Type 5 package agencies to sell alcohol on Sundays and holidays if the manufacturer associated with the package agency also holds a bar or restaurant license.

Fiscal Information

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

A) State budget:

None--Any anticipated cost or savings to the state budget are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

B) Local governments:

None--Any anticipated cost or savings to local governments are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

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

None--Any anticipated cost or savings to small businesses are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

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

None--Any anticipated cost or savings are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

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):

None--Any anticipated cost or savings are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

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 fees associated with this process. Any anticipated cost or savings are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process.

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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Department of Alcoholic Beverage Services, Tiffany Clason, 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 32B-2-605	Section 32B-2-202	
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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:	10/17/2022
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9. This rule change MAY become effective on:	10/24/2022
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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

Agency head or designee and title:	Tiffany Clason, Executive Director	Date:	08/24/2022
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R82. Alcoholic Beverage Services, Administration.

R82-2. Administration.

R82-2-306. Operational Matters.

(1) This rule is made pursuant to Section 32B-2-202, which authorizes the Commission to make rules governing package agencies.

(2) Hours of Operation.

(a) Type 1 ~~[-]~~ and 2 ~~[-and-]~~ package agencies may operate from 10 a.m. until ~~[12-]~~midnight, Monday through Saturday. However, the actual operating hours may be less in the discretion of the package agent with the approval of the Department. Type 2 agencies shall be open for business at least seven hours a day, five days a week, except where closure is otherwise required by law.

~~Type 5 package agencies may, at the discretion of the package agent, be open as early as 8 a.m. for sales to licensees with the approval of the Department. Type 5 package agencies may also be open on Sundays and state and federal holidays if the package agency is located at a manufacturing facility licensed by the Commission and the manufacturing facility holds a full service restaurant license, a limited service restaurant license, a beer only restaurant license, or a bar license.]~~

(b) Type 3 package agencies may operate from 10 a.m. until 10 p.m., Monday through Saturday, but may remain closed on Mondays at the discretion of the package agent. However, the actual operating hours may be less in the discretion of the package agent with the approval of the Department, provided the package agency operates at least seven hours a day.

(c) Type 4 package agencies may operate from 10 a.m. until 1 a.m., Monday through Friday, and 10 a.m. until ~~[12-]~~midnight on Saturday. However, the actual operating hours may be less at the discretion of the package agent with the approval of the Department. A Type 4 package agency in a resort that is licensed under Title 32B, Chapter 8, Resort License Act may operate 24 hours a day, Monday through Sunday to provide room service to the room of a guest of the resort.

(d) Type 5 package agencies may operate from 10 a.m. until midnight, Monday through Sunday. However, the actual operating hours may be less in the discretion of the package agent with the approval of the Department. Type 5 package agencies may, at the discretion of the package agent, be open as early as 8 a.m. for sales to licensees with the approval of the Department. Type 5 package agencies may also be open on Sundays and state and federal holidays if the package agency is located at a manufacturing facility licensed by the Commission and only sells alcoholic products produced at the manufacturing facility.

~~([e])~~ Any change in the hours of operation of any package agency requires prior Department approval and shall be submitted in writing by the package agent to the Department.

~~([e])~~(i) A package agency shall not operate on a Sunday or legal holiday except to the extent authorized by Section 32B-2-605, which allows the following to operate on a Sunday or legal holiday:

(A) a package agency located in certain licensed wineries, breweries, and distilleries; and

(B) a package agency held by a resort that is licensed under Title 32B, Chapter 8, Resort License Act that does not sell liquor in a manner similar to a state store which is limited to a Type 4 package agency.

(ii) If a legal holiday falls on a Sunday, the following Monday will be observed as the holiday by a Type 2 and 3 package agency.

(3) Size of Outlet. The retail selling space devoted to liquor sales in a Type 2 or 3 package agency must be at least one hundred square feet.

(4) Inventory Size. Type 2 and 3 package agencies must maintain at least 50 code numbers of inventory at a retail value of at least five thousand dollars and must maintain a representative inventory by brand, code, and size.

(5) Access to General Public. Type 1, 2, and 3 package agencies must be easily accessible to the general consuming public.

(6) Purchase of Inventory. Any new package agencies, at the discretion of the Department, will purchase and maintain their inventory of liquor.

(7) Recordkeeping. Records required by the Department shall be kept current and available to the Department for auditing purposes for at least three years.

KEY: alcoholic beverages
Date of Last Change: [August 3,] 2022
Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-1-206

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R82-2-308	Filing ID: 54845

Agency Information

1. Department:	Alcoholic Beverage Services	
Agency:	Administration	
Street address:	1625 S 900 W	
City, state and zip:	Salt Lake City, UT 84104	
Mailing address:	PO Box 30408	
City, state and zip:	Salt Lake City, UT 84130-0408	
Contact persons:		
Name:	Phone:	Email:
Vickie Ashby	801-977-6801	vickieashby@utah.gov
Angela Micklos	801-977-6800	afmicklos@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R82-2-308. Consignment Inventory Package Agencies
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Subsection R82-2-308(3)(e)(i) requires the Department of Alcoholic Beverage Services (DABS) to audit each consignment package agency at least twice each fiscal year. A recent audit conducted by the State Auditor noted that "if inventory systems are functioning properly and providing DABS insight into in-store inventory, an annual audit may be sufficient." This new requirement mandates only one audit per fiscal year but allows for additional audits if deemed necessary.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This amendment will modify the section to mandate only one audit per fiscal year but allows for additional audits if deemed necessary.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
None--There are only 26 consignment package agencies (PAs). The majority of the cost in conducting an audit for these rural PAs is transportation, but we schedule audits in clusters by location such that we would be auditing the consignment PAs when DABS otherwise would be in their location. Our finance director does not anticipate a measurable savings as staff and transportation costs will remain the same since staff will be in the rural areas conducting other audits.
B) Local governments:
None--This section does not create additional cost or savings for local governments, as it does not regulate them.
C) Small businesses ("small business" means a business employing 1-49 persons):
None--This section does not create additional cost or savings for small businesses, as it does not fiscally impact them. At most, only 26 consignment package agencies could save personnel time if they are audited only once a year rather than twice, but the DABS is unable to calculate the fiscal impact of such.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
None--This section does not create additional cost or savings for non-small businesses, as it does not regulate them.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
None--This section does not create additional cost or savings for persons other than small businesses, non-small businesses, state, or local government entities as it does not regulate them.
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 fees associated with this process. This section does not create additional cost or savings.

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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Department of Alcoholic Beverage Services, Tiffany Clason, 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 32B-2-605 | Section 32B-2-202 |

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: 10/17/2022

9. This rule change MAY become effective on: 10/24/2022

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

Agency head or designee and title:	Tiffany Clason, Executive Director	Date:	08/24/2022
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R82. Alcoholic Beverage Services, Administration.

R82-2. Administration.

R82-2-308. Consignment Inventory Package Agencies.

(1) This rule is made pursuant to Section 32B-2-202, which authorizes the Commission to make rules governing package agencies.

(2) Purpose. At the discretion of the Department, liquor may be provided by the Department to a Type 2 and Type 3 Package Agency for sale on consignment pursuant to Subsection 32B-2-605(5). This rule provides the procedures for such consignment sales.

(3) Application of the rule.

(a) Consignment Inventory.

(i) The initial amount of consignment inventory furnished to the Package Agency shall be established by the Department.

(ii) The consignment inventory amount shall be posted to the Department's accounting system as "Consignment Inventory Account."

(iii) The consignment inventory amount shall be stated in the Department's contract with the Package Agency.

(iv) Any adjustment to the consignment inventory amount shall be done using a transfer, shipment, or payment of money. A copy of the transfer, adjusting shipment, or evidence of payment shall be included in the Package Agency's file.

(v) The consignment inventory amount may be adjusted from time to time based on the Package Agency's monthly average sales. Any adjustment shall be made by a properly executed amendment to the Department's contract with the Package Agency. In the event 12-month average sales are lower than the Package Agency's current consignment amount the Department may lower the consignment amount. If the consignment amount is to be reduced the Package Agency must pay for the difference through cash payment or returned inventory. Any adjustment to the consignment amount will be handled through a contract amendment or a new contract.

(b) Payments.

(i) Agencies receiving shipments or transfers are required to have an [~~ACH~~]Automated Clearing House (ACH) payment system set up with the Department.

(ii) Statements showing unpaid debts and applied credits will be generated and emailed to the agencies on each Thursday after credit card payments have been posted that Wednesday to reflect credit card payments received. Ordered liquor inventory will [~~now~~]reflect 30 days to pay from the order date, instead of being due upon order. This generated weekly statement will reflect payments received against the oldest outstanding invoices first. Payments received over those previous statement balances will be credited

chronologically against ordered inventory due after previous statements. It is the agent's responsibility to review the statement and contact the Department with any discrepancies ~~[prior to]~~before the payment date.

(iii) Agents may, in advance of the Department drawing payments via ACH, remit payment to the Department on balances due from outstanding invoices which have not received enough credit card payments or other payments to cover those outstanding balances. Payment will be for the statement total. If no other payment has been received by the due date, payment will be automatically drawn through the ACH process on the due date unless prior arrangements have been made between the agent and the Department.

(iv) Insufficient funds, returned checks, and unpaid balances from a previous statement are past due. The Department may assess the legal rate of interest on the amount owed and the Package Agency may be referred to the Commission for possible termination of the contract and closure.

(v) Any delivery discrepancies shall be resolved using the LQ9 form. Debits or credits shall be issued based on proper completion and submission of the LQ9 form to the Department. Payment shall be made in accordance with the Package Agency's statement by the due date whether or not any discrepancies have been resolved.

(c) Transfers.

(i) Transfers, up or down, shall be adjusted to the Package Agency's payment due the Department.

(ii) Transfers in to the Package Agency will add to the amount owed to the Department.

(iii) Transfers out will subtract from the amount owed to the Department on the next check due to the Department.

(d) Credit and Debit Card Credits.

(i) Credit for credit and debit cards processed at the Package Agency will be posted to the Package Agency's statement.

(ii) It is the agent's responsibility to mail in their settlement report and individual receipts to the Department to receive credit.

(e) Audits.

(i) The Department shall audit the Package Agency at least ~~[twice]~~once each fiscal year, but may conduct additional audits if deemed necessary.

(ii) The Package Agency is subject to a Department audit at any time.

KEY: alcoholic beverages

Date of Last Change: ~~[August 3,]~~ 2022

Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-1-206

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R82-2-309	Filing ID: 54846

Agency Information

1. Department:	Alcoholic Beverage Services
Agency:	Administration
Street address:	1625 S 900 W

City, state and zip:	Salt Lake City, UT 84104	
Mailing address:	PO Box 30408	
City, state and zip:	Salt Lake City, UT 84130-0408	
Contact persons:		
Name:	Phone:	Email:
Vickie Ashby	801-977-6801	vickieashby@utah.gov
Angela Micklos	801-977-6800	afmicklos@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R82-2-309. Type 4 Package Agency Room Service – Mini Bottle/187 ml Wine Sales
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Section 32B-2-303 prohibits the Department of Alcoholic Beverage Services (Department) from purchasing and stocking spirituous liquor in containers smaller than 200 ml, unless otherwise allowed by the commission. Allowing the sale of 50 ml and 187 ml bottles in a small pilot program aligns the state's retail operations with industry norms to meet reasonable consumer demand in a safe and responsible manner.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This amendment will modify the rule to allow, not require: 1) the Department to conduct a small pilot program whereby it can purchase and store as small as 50 ml bottles of spirituous liquor and as small as 187 ml bottles of wine; 2) package agencies the same authority, with specific parameters that apply to the different types of package agencies; and 3) Public Service Permittees to purchase, store, and sell these smaller bottles, with sales/service limited to the "public conveyance" (airline, train, etc.) that the permittee operates. This section also requires package agencies to purchase by the case. Type 4 package agencies are limited to selling the small bottles in conjunction with room service. Type 5 package agencies must sell by the case.

Fiscal Information

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

A) State budget:			
Cost or savings to the state budget is inestimable. A planned small pilot program will assist with revenue data collection and analysis to better determine the revenue savings and/or increase to the state budget.			
B) Local governments:			
None--This section does not create additional cost or savings for local governments, because it does not regulate them.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
Cost or savings to small businesses is inestimable, as there is no way to predict how many package agencies will desire the new product size after the pilot program concludes, and whether overall sales will increase or decrease.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
Costs or savings is inestimable, as hotels and other larger alcohol licensees are already able to purchase and sell these smaller bottles in the course of providing room service.			
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):			
Costs or savings to individual purchasers is inestimable, as there is no way to predict how a new product size will impact personal buying choices.			
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 fees associated with this process. This section does not create additional cost or savings.			
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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Department of Alcoholic Beverage Services, Tiffany Clason, 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 32B-2-303	Section 32B-2-202	
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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:	10/17/2022
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9. This rule change MAY become effective on: 10/24/2022

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

Agency head or designee and title:	Tiffany Clason, Executive Director	Date:	08/24/2022
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R82. Alcoholic Beverage Services, Administration.

R82-2. Administration.

~~R82-2-309. [Type 4 Package Agency Room Service Mini-Bottle] 50 Milliliter Spirituous Liquor/187 [ml] Milliliter Wine Sales.~~

(1)(a) Authority and Purpose. Pursuant to [s]Section 32B-2-303, the Department may not purchase or stock ~~[alcoholic beverages]~~ spirituous liquor in containers smaller than 200 milliliters, except as otherwise allowed by the Commission.

(b) The Commission hereby ~~[allows the limited use of 50 milliliter "mini-bottles" of distilled spirits and 187 milliliter bottles of wine as one form of room service sales by Type 4 package agencies located in hotels and resorts.]~~ authorizes:

(i) The Department to purchase, store, and sell at its state stores spirituous liquor in bottles as small as 50 milliliters and wine in bottles as small as 187 milliliters; and

(ii) Package agencies to purchase, store, and sell spirituous liquor in bottles as small as 50 milliliters and wine in bottles as small as 187 milliliters.

~~[(e) The conditions outlined in this section are imposed to ensure that these smaller bottle sales are limited to patrons of sleeping rooms and are not offered to the general public.]~~

(2) Application of Rule.

~~[(a) The Department will not maintain a regular inventory of distilled spirits and wine in the smaller bottle sizes, but will accept special orders for these products from a Type 4 package agency. Special orders may be placed with the Department's purchasing division, any state store, or any Type 2 or 3 package agency.~~

~~[(b) The Type 4 package agency must order in full case lots and all sales are final.~~

~~[(c) If the hotel or resort has a Type 1 package agency with Type 4 privileges, the smaller bottle sized products must be stored in a secure area separate from the Type 1 package agency inventory.~~

~~[(d) Sale and use of alcohol in the smaller bottle sizes is restricted to providing one form of room service to guests in sleeping rooms in the hotel or resort, and may not be used for other purposes, or be sold to the general public.~~

~~[(e) Failure of the Type 4 package agency to strictly adhere to the provisions of this rule is grounds for the Department to terminate its contract with the Type 4 package agency.]~~

(a) Type 1, 2, and 3 package agencies may purchase, store, and sell spirituous liquor in bottles as small as 50 milliliters and wine in bottles as small as 187 milliliters to the general public.

(b) Type 4 package agencies located in hotels and resorts may serve spirituous liquor in bottles as small as 50 milliliters and wine in bottles as small as 187 milliliter bottles as one form of room service sales.

(i) Sale and use of alcohol in the smaller bottle sizes is restricted to providing spirituous liquor and wine to guests in sleeping rooms in the hotel or resort as part of a food and beverage room service program adopted by the hotel or resort, and may not be used for other purposes, or be sold to the general public.

(ii) Failure of the Type 4 package agency to strictly adhere to the provisions of this rule is grounds for the Department to terminate its contract with the Type 4 package agency.

(c) Type 5 package agencies may store their own manufactured and branded spirituous liquor in bottles as small as 50 milliliters and their own manufactured and branded wine in bottles as small as 187 milliliters. Type 5 package agencies shall sell self-manufactured spirituous liquor or wine in bottles smaller than 200 milliliters only by the case.

(d) Type 1, 2, 3, and 4 package agency purchases of spirituous liquor and wine in bottles smaller than 200 milliliters shall be in full case lots and all sales are final.

KEY: alcoholic beverages

Date of Last Change: [August 3,] 2022

Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-1-206

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R82-5-202	Filing ID: 54847

Agency Information

1. Department:	Alcoholic Beverage Services	
Agency:	Administration	
Street address:	1625 S 900 W	
City, state and zip:	Salt Lake City, UT 84104	
Mailing address:	PO Box 30408	
City, state and zip:	Salt Lake City, UT 84130-0408	
Contact persons:		
Name:	Phone:	Email:
Vickie Ashby	801-977-6801	vickieashby@utah.gov
Angela Micklos	801-977-6800	afmicklos@utah.gov

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

General Information

2. Rule or section catchline:
R82-5-202. Retail License Renewals
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
In the 2022 General Session, S.B. 176 expanded the commission's rulemaking authority to enact rules related to "late renewals" for all license types, which encompasses all alcohol licenses issued by the commission. Section R82-5-202 governs late renewals for only "retail licenses" as defined in Subsection 32B-1-102(111). Since retail licenses are a subset of all alcohol licenses, there is no need to have a separate rule for only retail licenses. Section R82-5-202 will be replaced with Section R82-2-202.1 which governs the process for late renewals for all license types. (EDITOR'S NOTE: The proposed amendment to Section R82-2-202.1 is under ID 54843 in this issue, September 15, 2022, of the Bulletin.)

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

This section will be deleted and replaced with Section R82-2-202.1 which incorporates the provisions for late retail license renewals that were previously in Section R82-5-202 and expands them to include all alcohol license types, as mandated in S.B. 176 (2022).

Fiscal Information

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

A) State budget:

None--This rule will reduce the amount of fees that the department receives for late renewals, but not substantially, given that there are only a handful of licensees that renew late. While the impact to an individual licensee may be several hundred dollars, the impact to the department's revenue, and therefore, the state budget, is miniscule. The fiscal impact of this amendment on the state budget is inestimable as it is unknown how many licensees will renew late and be charged the reduced amount.

B) Local governments:

None--This rule does not create additional cost or savings for local governments because it does not regulate them.

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

None -- The deletion of this section and enactment of Section R82-2-202.1 could save alcohol licensees who miss the statutory renewal deadline for their license several hundred dollars. However, the exact fiscal impact of this amendment is inestimable as it is unknown how many licensees will renew late and be charged the reduced amount.

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

The deletion of this section and enactment of Section R82-2-202.1 could save alcohol licensees who miss the statutory renewal deadline for their license several hundred dollars. However, the exact fiscal impact of this amendment is inestimable as it is unknown how many licensees will renew late and be charged the reduced amount.

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**):

None--This rule does not create additional cost or savings for persons other than small businesses, non-small businesses, state or local government entities. The exact fiscal impact of this amendment is inestimable as it is unknown how many persons will renew late and be charged the reduced amount.

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

None--This rule will save alcohol licensees who miss the statutory renewal deadline for their license several hundred dollars. Currently, alcohol licensees who miss the renewal deadline must submit the higher fees associated with a new license application, which in most cases greatly exceeds \$300.

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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Department of Alcoholic Beverage Services, Tiffany Clason, 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 32B-2-202

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: 10/17/2022

9. This rule change MAY become effective on: 10/24/2022

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

Agency head or designee and title:	Tiffany Clason, Executive Director	Date:	08/24/2022
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R82. Alcoholic Beverage Services, Administration.

R82-5. General Retail License Provisions.

~~**R82-5-202. Retail License Renewals.**~~

~~This rule is adopted pursuant to Section 32B-5-202, which authorizes the Commission to make rules permitting and establishing the parameters of late retail license renewals.~~

~~For purposes of this rule, "late renewal" means the Department's receipt, after the date of the statutory renewal deadline related to the retail license at issue, of the requisite documents and payment to renew a retail license.~~

~~The Department may accept a late renewal application for a retail license received at the Department's Administrative Office by 5 p.m. the 10th day of the month that follows the statutory renewal deadline for that retail license type. If the 10th of the month falls on a Saturday, Sunday, or state or federal holiday, the Department shall consider a completed renewal application that is received by 5 p.m. on the next business day following the weekend or holiday.~~

~~Retail licensees who fail to meet the deadline established in Section R82-5-202 must apply for a new retail license.~~

~~The licensee seeking late renewal shall submit to the Department:~~

- ~~(1) Each document required for renewal pursuant to Section 32B-5-202;~~
- ~~(2) The statutory renewal fee for that retail license; and~~
- ~~(3) A \$300 late fee.]~~

KEY: alcoholic beverages

Date of Last Change: [August 3,] 2022

Authorizing, and Implemented or Interpreted Law: 32B-2-202

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment		
Rule or Section Number:	R82-6-701	Filing ID: 54848

Agency Information

1. Department:	Alcoholic Beverage Services
Agency:	Administration
Street address:	1625 S 900 W
City, state and zip:	Salt Lake City, UT 84104
Mailing address:	PO Box 30408
City, state and zip:	Salt Lake City, UT 84130-0408

Contact persons:

Name:	Phone:	Email:
Vickie Ashby	801-977-6801	vickieashby@utah.gov
Angela Micklos	801-977-6800	afmicklos@utah.gov

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

General Information

2. Rule or section catchline:

R82-6-701. On Premise Beer Retailer – Reserved

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

Section 32B-6-702 grants the commission rulemaking authority to define "commission approved activity" related to an on-premise beer retailer license that is not a tavern. The statute clearly states that the activity may not involve the use of a dangerous weapon. The proposed section adds a variety of recreational activities for which the commission may grant a "Beer Rec" license.

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

This amendment will define "commission approved activity" related to an on-premise beer retailer license that is not a tavern. The proposed section adds a variety of recreational activities for which the commission may grant a "Beer Rec" license.

Fiscal Information

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

A) State budget:

None--This amendment does not create additional cost or savings to the state budget as the amendment only provides a definition of a commission approved activity.

B) Local governments:

None-- This amendment does not create additional cost or savings to local governments as the amendment only provides a definition of a commission approved activity.

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

None--This amendment does not create additional cost or savings for small businesses as the amendment only provides a definition of a commission approved activity.

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

None-- This amendment does not create additional cost or savings for non-small businesses as the amendment only provides a definition of a commission approved activity.

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**):

None--This amendment does not create additional cost or savings to persons other than small businesses, non-small businesses, state or local government entities as the amendment only provides a definition of a commission approved activity.

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 fees associated with this process. This amendment does not create additional costs. It only provides a definition of a commission approved activity.

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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Department of Alcoholic Beverage Services, Tiffany Clason, 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 32B-6-702	Section 32B-2-202	
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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:	10/17/2022
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9. This rule change MAY become effective on:

10/24/2022
 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

Agency head or designee and title:	Tiffany Clason, Executive Director	Date:	08/24/2022
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R82. Alcoholic Beverage [Control] Services, Administration.

R82-6. Specific Retail Provisions.

R82-6-701. On-Premise Beer Retailer -- [Reserved] Commission-Approved Activity.

[-----Reserved.]

(1) This rule is adopted pursuant to Section 32B-6-702, which authorizes the commission to define by rule "commission-approved activity" related to an on-premise beer retailer license that is not a tavern.

(2) A "commission-approved activity," for which the commission may grant an on-premise beer retailer license that is not a tavern, includes the following leisure activities that do not involve the use of a dangerous weapon:

(a) A virtual version of any sport or activity enumerated in Subsection 32B-6-702(2)(a);

(b) A video arcade;

(c) Trail bike park involving off-road trails;

(d) Historic and Scenic Railway;

(e) Recreational climbing facility;

(f) Pickleball;

(g) Badminton;

(h) Bocce ball;

(i) An activity similar to the foregoing activities or similar to those specifically enumerated in Subsection 32B-6-702(2)(a); and

(j) Any other activity that the commission deems recreational.

KEY: alcoholic beverages

Date of Last Change: 2022[October 27, 2020]

Authorizing, and Implemented or Interpreted Law: 32B-2-202

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R82-9-201	Filing ID: 54849

Agency Information

1. Department:	Alcoholic Beverage Services	
Agency:	Administration	
Street address:	1625 S 900 W	
City, state and zip:	Salt Lake City, UT 84104	
Mailing address:	PO Box 30408	
City, state and zip:	Salt Lake City, UT 84130-0408	
Contact persons:		
Name:	Phone:	Email:
Vickie Ashby	801-977-6801	vickieashby@utah.gov

Angela Micklos	801-977-6800	afmicklos@utah.gov
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Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R82-9-201. Application Requirements
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Section 32B-9-201 authorizes the commission to establish procedures and criteria for issuing and denying event permits. The proposed changes to this rule clarify the timelines for submitting event permit applications and grant the Department of Alcoholic Beverage Services (DABS) Executive Director more flexibility to consider late applications while still maintaining fidelity to public safety concerns.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This amendment will clarify the timelines for submitting event permit applications and grant the DABS Executive Director more flexibility to consider late applications while still maintaining fidelity to public safety concerns.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
None--The added discretion granted to the Department's Executive Director relates to the timeline for considering events. DABS does not anticipate a measurable cost or savings due to this change.
B) Local governments:
None--This amendment does not create additional costs or savings for local governments, as the adjusted timeline for the Department's Executive Director to consider events occurs after local government entity at issue has already reviewed and provided local consent, if appropriate.
C) Small businesses ("small business" means a business employing 1-49 persons):
None--The added discretion granted to the Department's Executive Director relates to the timeline for considering events. DABS does not anticipate a measurable cost or savings due to this change.

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

None--The added discretion granted to the Department's Executive Director relates to the timeline for considering events. DABS does not anticipate a measurable cost or savings due to this 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**):

None--The added discretion granted to the Department's Executive Director relates to the timeline for considering events. DABS does not anticipate a measurable cost or savings due to this change.

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

The added discretion granted to the Department's Executive Director relates to the timeline for considering events. DABS does not anticipate a measurable cost or savings due to this change.

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

Regulatory Impact Table			
Fiscal Cost	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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Department of Alcoholic Beverage Services, Tiffany Clason, 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 32B-9-201	Section 32B-2-202	
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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:	10/17/2022
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9. This rule change MAY become effective on: 10/24/2022

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

Agency head or designee and title:	Tiffany Clason, Executive Director	Date:	08/24/2022
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R82. Alcoholic Beverage Services, Administration.

R82-9. Event Permits.

R82-9-201. Application Requirements.

(1) The director will not consider an event permit application until the requirements of Sections 32B-1-304, 32B-9-201-203, 32B-9-304 and 32B-9-405 have been met, including:

(a) A complete application including all documents and supplemental materials listed on the department's application checklist has been submitted to the department [~~one month prior to the event~~] within the time periods delineated in this section; and

(b) the department has conducted an investigation in compliance with Subsection 32B-9-202(1)(a).

(2) Filing timelines:

(a) Subject to Subsection R82-9-201(2)(b), applications shall be submitted 30 days before the event to allow sufficient time for processing and approval.

(b) A late application ~~[will]may~~ be accepted ~~[up to seven business days prior to the event]~~if the director determines that public safety will not be compromised and sufficient time exists to ensure compliance with the notice requirements mandated in Section 32B-9-202. A late application will be reviewed as time allows and is not subject to the provisions in Subsections R82-9-201.1(1)(ii) and R82-9-201.1(1)(iii).

(3) For purposes of Subsection 32B-~~[2]9~~-201(2), a substantial change in an event application means a modification that seeks to alter the number of attendees, location, control measures, or any other substantive detail beyond changing the date of the event.

KEY: alcoholic beverages, event permits
Date of Last Change: ~~[August 3,] 2022~~
Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-9

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Rule or Section Number:	R309-230	Filing ID: 54837

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Dylan Martinez	385-278-3807	dylanmartinez@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R309-230. Lead in School Sampling and Remediation Requirements
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Division of Drinking Water (Division) is proposing a rule to establish the time period to take steps to reduce the lead level below the action level as described in Subsection 5 of H.B. 21 (2022 General Session).
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule establishes what constitutes steps to reduce the lead level below the action level and the time period to take steps to reduce the lead level below the action level as described in Subsection 5 of H.B. 21 (2022).

Fiscal Information

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

A) State budget:

Enactment of this rule could cost the Department of Environmental Quality (DEQ) \$1,650,000 in one-time previously authorized Federal Funds. The Division estimated that \$825,000 will be used for FY23 and \$825,000 will be used for FY24. This funding will be used to issue reimbursements to schools and child care centers to cover the expenses of testing consumable taps for lead and to provide staff to coordinate sampling and remediation efforts. It will also be used to provide reimbursements for the costs of remediating for taps found above the action level for lead concentration. Total reimbursement estimates are broken down in sections B and C.

B) Local governments:

Enactment of this rule could have a fiscal impact for Local Education Agencies (LEAs) to collect and submit a sample from consumable taps in their facilities to a Certified Laboratory for lead testing. The expense of testing would be paid by the DEQ. It is estimated that there are 45,262 consumable taps subject to testing, and 11% of those taps may require action. The average cost for lead remediation is \$281. To the extent that consumable taps are found to be above the action level of 5 parts-per-billion, LEAs could incur expenses of up to \$1,399,000 for remediation actions. Subject to availability of funding from previously authorized Federal grants, these expenses may be reimbursable through DEQ. This figure could be reduced if taps have been tested for lead since 01/01/2016. The Division estimates that \$699,500 will be reimbursed in FY23 and an additional \$699,500 will be reimbursed in FY24.

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

Enactment of this rule could result in a fiscal impact for private schools (which are required) and childcare centers (which have the option) to collect and submit a sample from each consumable tap in their facilities to a certified laboratory. Under this bill, private schools and childcare centers are not required to pay for lead testing, however private schools will be financially responsible for remediation of taps that test above the action level of 5 parts-per-billions and are required to report remedial actions to the DEQ. It is estimated that there are 8,100 taps in private schools and childcare centers subject to testing, and that 11% of those taps may require remedial actions. The average cost for lead remediation is \$281 (these estimates are formulated based on the State of

Indiana's study (https://www.in.gov/ifa/files/Indiana-School-Lead-Sampling-Program_FinalReport_IFA2019.pdf), resulting in a total possible cost to all private schools and child care centers (small and non-small) in the state of \$250,400 (which may be reimbursable through DEQ, subject to the availability of previously authorized Federal grants). This figure could be reduced if consumable taps have been tested for lead since January 1st, 2016. The division estimates that \$125,000 will be allocated for reimbursement in FY23 and \$125,000 will be allocated for reimbursement in FY24.

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

Due to difficulties to differentiate between small and non-small businesses, the Division has chosen to calculate the costs and benefits to all businesses as one sum.

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 is anticipated to have no aggregate costs or savings to persons other than small businesses, non-small businesses, state government, or local governments. This rule will only require schools and childcare centers to take actions to test and remediate lead in drinking water, it will not require any actions from individuals. However, it will have huge impact on the health of children throughout Utah.

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

Enactment of this rule could have a fiscal impact for schools (who are required) and childcare centers (who have the option) to collect and submit a sample from each consumable tap in their facilities to a Certified Laboratory. It is estimated that each school will have on average 40 consumable taps which will need to be sampled, and 11% of them will require remedial actions. The average cost for lead remediation is \$281, resulting in an estimated average of \$1,235 per school. This may be reimbursable through DEQ, subject to the availability of previously authorized federal grants.

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	\$825,000	\$825,500	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$825,000	\$825,500	\$0

Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$699,500	\$699,500	\$0
Small Businesses	\$125,500	\$125,000	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$825,000	\$825,000	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Department of Environmental Quality Kim Shelley 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		
19-4-115(4)(c)		

Incorporations by Reference Information

7. Incorporations by Reference :

A) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities
Publisher	EPA
Issue Date	October 2018

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:	10/17/2022
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9. This rule change MAY become effective on:	10/24/2022
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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

Agency head or designee and title:	Kim Shelley, Executive Director	Date:	10/31/2022
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**R309. Environmental Quality, Drinking Water.
R309-230. Lead in School Sampling and Remediation Requirements.**

R309-230-1. Purpose.

The purpose of this rule is to:

- (1) Establish the procedure for schools and child care centers applying for a grant under Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Section 115, to establish the steps that must be taken and the time period that must be met to reduce the lead level to be below the action level; and
- (2) Outline the steps the Division of Drinking Water will take to make the results public.

R309-230-2. Authority.

This rule was authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Section 115.

R309-230-3. Applicability.

This rule applies to each public and private school and child care center that conducts sampling under Section 19-4-115.

R309-230-4. Definitions.

Definitions for certain terms used in this rule are given in Rule R309-110 but may be further clarified in Subsections R309-230-4(1) and (2).

- (1) "Certified laboratory," "Child care center," "Consumable tap," "School," and "Action Level" are defined in Section 19-4-115;
- (2) "Third-party Certified" means a certifying body that is accredited by the American National Standards Institute (ANSI) National Accreditation Board (ANAB).

R309-230-5. Sampling Requirements.

(1) Each public and private school shall, and child care center may, take a sample from each consumable tap for lead and have those samples evaluated by a certified laboratory by December 31, 2023. Sampling must comply with EPA's "3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities" (October 2018) which is incorporated by reference; and

(2) The results of samples shall be submitted by the certified laboratory to the school or child care center and to the Division of Drinking Water.

R309-230-6. Immediate Response.

If a sample equals or exceeds a lead concentration of five parts per billion:

- (1) A school or child care center shall prevent use of the consumable tap that equals or exceeds a lead concentration of fifteen parts per billion within 24 hours after receiving the sample test result;
- (2) A school or child care center may develop and implement a flushing plan for a consumable tap with a lead concentration equal to or greater than five and less than fifteen parts per billion until remediation and retesting is completed in accordance with Section R309-230-7; and
- (3) A school or child care center may apply for reimbursement for costs associated with the purchase of bottled water with the Division of Drinking Water until a permanent control measure is implemented.

R309-230-7. Permanent Control Measures.

Following receipt of results that show a consumable tap has five or more parts per billion of lead, a school or child care center shall:

- (1) Implement one of the following permanent control measures:
 - (a) Replacement of the consumable tap with a replacement faucet that has been third-party certified to NSF or ANSI standard 372 for lead-free compliance and NSF or ANSI standard 61 for material safety.
 - (b) Installation of a water treatment device at the tap. The water treatment device must be certified to capture lead according to NSF or ANSI standard 53 or NSF or ANSI standard 58. Schools shall follow the manufacturer's instructions for installation, use, and maintenance. For each water treatment device installed, schools shall create a maintenance schedule that identifies a point of contact to oversee making sure they are properly installed and maintained.
 - (c) Permanently shut off and remove the consumable tap.
- (2) If control measures stated in Subsection (1)(a) or (1)(b) are completed, the school or child care center shall take a follow-up sample of the consumable tap and have those samples evaluated by a certified laboratory to demonstrate that lead is less than five parts per billion before access to the tap is resumed. Each sample taken must comply with requirements in Section R309-230-5.
- (3) A school or child care center may apply for reimbursement for costs associated with permanent control measures for consumable taps with the Division of Drinking Water.

R309-230-8. Report to the Division of Drinking Water.

Schools and child care centers shall report to the Division of Drinking Water each permanent control measure taken under Section R309-230-7 no later than 30 days after they are implemented.

R309-230-9. Publication of Data.

The Division shall post each sample result and remediation step on the Division of Drinking Water website 90 days after the Division receives them.

R309-230-10. Time Period to Take Steps to Reduce the Lead Level Below the Action Level and Report to the Division of Drinking Water.

For each consumable tap that equals or exceeds a lead concentration of five parts per billion:

(1) Schools and child care centers shall complete permanent control measures within 90 days of receiving results unless an alternative schedule is approved by the Division of Drinking Water;

(2) Schools and child care centers shall resample within 30 days of completing permanent control measures under Subsection R309-230-7(1);

(3) If a sample taken as required in Subsection R309-230-7(2) has a lead concentration greater than or equal to five parts per billion, the school or child care center shall implement additional permanent control measures as required in Section R309-230-7 until either the consumable tap is permanently removed or post mitigation results are below a lead concentration equal to five parts per billion; and

(4) Schools and child care centers shall report to the Division of Drinking Water resample results as well as permanent control measures taken within 30 days after taking steps under Subsection R309-230-7(1).

KEY: drinking fountain, remediation, Environmental Protection Agency

Date of Last Change: 2022

Authorizing, and Implemented or Interpreted Law: 19-4-115

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R317-1-7	Filing ID: 54828

Agency Information

1. Department:	Environmental Quality	
Agency:	Water Quality	
Room number:	DEQ, Third Floor	
Building:	Multi Agency State Office Building (MASOB)	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144870	
City, state and zip:	Salt Lake City, UT 84114-4870	
Contact persons:		
Name:	Phone:	Email:
Jodi Gardberg	801-536-4372	jgardberg@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R317-1-7. TMDLs
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this amendment is to incorporate by reference into Section R317-1-7, the Jordan River Watershed E. coli Total Maximum Daily Load (TMDL) as approved by the Water Quality Board.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This section incorporates by reference the Jordan River Watershed E. coli TMDL into Rule R317-1-7. The Water Quality Board initiated rulemaking to adopt the Jordan River Watershed E. coli TMDL on 08/24/2022.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The proposed rule is not expected to have any impact on state government revenues or expenditures. TMDL implementation will be addressed with existing state resources.
B) Local governments:
Fourteen municipalities will be affected by the Jordan River Watershed E. coli TMDL through additional requirements in the Municipal Separate Storm Sewer System (MS4) individual and general permits. It is estimated that each municipality will have an annual increase of \$23,920 for a part-time worker to implement the MS4 stormwater best management practices to comply with the TMDL. TMDL implementation for nonpoint source pollution is voluntary and addressed through existing incentive grants. The total annual cost is estimated at \$334,880.
C) Small businesses ("small business" means a business employing 1-49 persons):
The proposed rule is not expected to have any impact on small businesses' revenues or expenditures because TMDL implementation for nonpoint source pollution is voluntary and addressed through existing incentive grants.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The proposed rule is not expected to have any impact on non-small businesses' revenues or expenditures because TMDL implementation for nonpoint source pollution is voluntary and addressed through existing incentive grants.

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 benefit to persons other than small businesses, non-small businesses, state, or local government entities would be that for each of the affected municipalities, an individual would be employed part-time to implement the MS4 stormwater best management practices to comply with the TMDL and E. coli concentrations will be reduced in waterways in the Jordan River watershed and thus safe for recreation.

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 to impacted entities associated with this TMDL.

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	\$334,880	\$334,880	\$334,880
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$334,880	\$334,880	\$334,880
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
Total Fiscal Benefits	\$0	\$0	\$0

Net Fiscal Benefits	(\$334,880)	(\$334,880)	(\$334,880)
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H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Utah Department of Environmental Quality, Kim Shelly, 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:

Title 19, Chapter 5		
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Incorporations by Reference Information

7. Incorporations by Reference :

A) This rule adds, updates, or removes the following title of materials incorporated by references :

Official Title of Materials Incorporated (from title page)	Jordan River Watershed E. coli TMDL: Main Report, Jordan River Watershed E. coli TMDL: Appendices
Publisher	Utah Division of Water Quality
Issue Date	October 26, 2022
Issue or Version	First

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:	10/17/2022
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9. This rule change MAY become effective on:	10/26/2022
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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

Agency head or designee and title:	John K. Mackey, Director	Date:	08/28/2022
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**R317. Environmental Quality, Water Quality.
R317-1. Definitions and General Requirements.
R317-1-7. TMDLs.**

The following TMDLs are approved by the Board and [hereby] incorporated by reference into [these]this rule[s]:

- 7.1 Middle Bear River -- February 23, 2010;
- 7.2 Chalk Creek -- December 23, 1997;
- 7.3 Otter Creek -- December 23, 1997;
- 7.4 Little Bear River -- May 23, 2000;
- 7.5 Mantua Reservoir -- May 23, 2000;
- 7.6 East Canyon Creek -- September 14, 2010;
- 7.7 East Canyon Reservoir -- September 14, 2010;
- 7.8 Kents Lake -- September 1, 2000;
- 7.9 LaBaron Reservoir -- September 1, 2000;
- 7.10 Minersville Reservoir -- September 1, 2000;
- 7.11 Puffer Lake -- September 1, 2000;
- 7.12 Scofield Reservoir -- September 1, 2000;
- 7.13 Onion Creek (near Moab) -- July 25, 2002;
- 7.14 Cottonwood Wash -- September 9, 2002;
- 7.15 Deer Creek Reservoir -- September 9, 2002;
- 7.16 Hyrum Reservoir -- September 9, 2002;
- 7.17 Little Cottonwood Creek -- September 9, 2002;
- 7.18 Lower Bear River -- September 9, 2002;
- 7.19 Malad River -- September 9, 2002;
- 7.20 Mill Creek (near Moab) -- September 9, 2002;
- 7.21 Spring Creek -- September 9, 2002;
- 7.22 Forsyth Reservoir -- September 27, 2002;
- 7.23 Johnson Valley Reservoir -- September 27, 2002;
- 7.24 Lower Fremont River -- September 27, 2002;
- 7.25 Mill Meadow Reservoir -- September 27, 2002;
- 7.26 UM Creek -- September 27, 2002;
- 7.27 Upper Fremont River -- September 27, 2002;
- 7.28 Deep Creek -- October 9, 2002;
- 7.29 Uinta River -- October 9, 2002;
- 7.30 Pineview Reservoir -- December 9, 2002;
- 7.31 Browne Lake -- February 19, 2003;
- 7.32 San Pitch River -- November 18, 2003;
- 7.33 Newton Creek -- June 24, 2004;
- 7.34 Panguitch Lake -- June 24, 2004;
- 7.35 West Colorado -- August 4, 2004;
- 7.36 Silver Creek -- August 4, 2004;
- 7.37 Upper Sevier River -- August 4, 2004;
- 7.38 Lower and Middle Sevier River -- August 17, 2004;
- 7.39 Lower Colorado River -- September 20, 2004;
- 7.40 Upper Bear River -- August 4, 2006;
- 7.41 Echo Creek -- August 4, 2006;
- 7.42 Soldier Creek -- August 4, 2006;
- 7.43 East Fork Sevier River -- August 4, 2006;
- 7.44 Koosharem Reservoir -- August 4, 2006;
- 7.45 Lower Box Creek Reservoir -- August 4, 2006;
- 7.46 Otter Creek Reservoir -- August 4, 2006;
- 7.47 Thistle Creek -- July 9, 2007;
- 7.48 Strawberry Reservoir -- July 9, 2007;
- 7.49 Matt Warner Reservoir -- July 9, 2007;
- 7.50 Calder Reservoir -- July 9, 2007;
- 7.51 Lower Duchesne River -- July 9, 2007;
- 7.52 Lake Fork River -- July 9, 2007;
- 7.53 Brough Reservoir -- August 22, 2008;
- 7.54 Steinaker Reservoir -- August 22, 2008;
- 7.55 Red Fleet Reservoir -- August 22, 2008;
- 7.56 Newcastle Reservoir -- August 22, 2008;
- 7.57 Cutler Reservoir -- February 23, 2010;
- 7.58 Pariette Draw -- September 28, 2010;
- 7.59 Emigration Creek -- September 1, 2011;
- 7.60 Jordan River -- June 27, 2012;
- 7.61 Colorado River -- December 5, 2013;
- 7.62 Echo Reservoir -- March 26, 2014;

- 7.63 Rockport Reservoir -- March 26, 2014;
- 7.64 Nine Mile Creek -- October 27, 2016;
- 7.65 North Fork Virgin River -- May 23, 2018;
- 7.66 Fremont River -- October 28, 2020;[~~and~~]
- 7.67 Spring Creek (Heber) -- December 15, 2021[-]; and
- 7.68 Jordan River Watershed -- October 26, 2022.

KEY: TMDL, water pollution
Date of Last Change: 2022[~~December 15, 2021~~]
Notice of Continuation: August 30, 2017
Authorizing, and Implemented or Interpreted Law: 19-5

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R357-3	Filing ID: 54817

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-3. Economic Development Tax Increment Financing Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this rule filing is to expand the documentation that the office may request for a company to establish that it is financially secure and can finance the proposed project related to the tax incentive.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Section R357-3-104 is amended to include financial documents for the prior three years or other documentation that the company has the ability to finance the project.

Fiscal Information

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

A) State budget:

There is no new aggregate anticipated cost or savings to the state budget. This rule is merely updating program participation requirements.

B) Local governments:

There is no new aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.

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

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

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

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

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

There is no new aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

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

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

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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Governor's Office of Economic Opportunity, Dan Hemmert, has reviewed and approved this fiscal analysis.			

Citation Information

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 63N-2-104		
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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:	10/17/2022
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9. This rule change MAY become effective on:	10/24/2022
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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	08/23/2022
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R357. Governor, Economic Opportunity.

R357-3. Economic Development Tax Increment Financing Rule.

R357-3-101. Title.

This rule is known as the "Economic Development Tax Increment Financing Rule."

R357-3-102. Definitions.

In addition to the definitions in Sections 63N-1a-102 and 63N-2-103 the following terms are defined:

(1) "Apportionment" means a reduction in new state revenues in the period being assessed by the percentage of project employee wages against total employee wages.

(2) "High paying job" includes adjusted wage percentages in counties experiencing economic distress as outlined in Section R357-3-108.

(3) "Leisure and Hospitality Industry" means businesses, as determined by the office, that relate to service-providing industries consisting of:

- (a) arts, entertainment, and recreation under NAICS code 71;
- (b) accommodation and food services under NAICS code 72; and
- (c) resort, resort building, or resort boundary as defined in Section 32B-8-102.

(4) "New commercial project" does not include retail operations.

(5) "Retail operations" means a project with a physical location from which the general public may directly purchase merchandise or direct services and does not include distribution centers, the corporate functions associated with retailing, or other activities associated with retailing that may be accomplished from any physical location or that are not dependent on proximity to end consumers for retail sales.

R357-3-103. Authority.

This rule is adopted by the office under the authority of Subsection 63N-2-104(2).

R357-3-104. Application Content.

(1) To determine a company's eligibility for an Economic Development Tax Increment Financing Incentive the company shall submit:

- (a) financial documents for the prior three years including:
 - ~~(a)~~i) balance sheets;
 - ~~(b)~~ii) income statements; and
 - ~~(c)~~iii) cash flow statements; or
 - (b) other documentation demonstrating that the company has the ability to finance the project:
 - ~~(d)~~c) corporate structure;
 - ~~(e)~~d) workforce data;

- ~~(f)~~e) corporate citizenry plan;
- ~~(g)~~f) plan to hire Utah employees;
- ~~(h)~~g) forecasted new state revenue associated with the new commercial project;
- ~~(i)~~h) forecasted incremental job creation associated with the new commercial project; and
- ~~(j)~~i) forecasted wages associated with the new commercial project.

(2) To determine a company's eligibility for an Economic Development Tax Increment Financing Incentive the office may review the company's:

- (a) incentive offers from other states;
- (b) remote work options for the project;
- (c) market analysis;
- (d) proof of fundraising;
- (e) tax filings;
- (f) reshoring plans; and
- (g) other information as determined by GO Utah.

(2) GO Utah may deny an application for any reason.

(3) Information provided by the business entity is subject to the Government Records Access and Management Act. The business entity has the option to designate what information provided is private or protected subject to Sections 63G-2-302 and 63G-2-305.

R357-3-105. Factors to Be Considered in Authorizing an Economic Development Tax Credit Award.

(1) The amount and duration of a tax credit award shall be determined on a case-by-case basis. The factors that may be considered include:

- (a) whether the company is projecting positive long-term growth;
- (b) whether the company is part of a targeted industry;
- (c) the overall benefit to the state from the new commercial project;
- (d) the uniqueness of the economic opportunity;
- (e) the economic environment at the time of the new commercial project or company applies including:
 - (i) the job leakage to other counties;
 - (ii) the relative value of a job; and
 - (iii) the underemployment rate;
- (f) the location of the new commercial project;
- (g) the quality of financing the company has received;
- (h) comparison to previously incented projects in size, scope, and industry; and
- (i) other factors as reasonably determined by the administrator.

(2) The factors for an award higher than 30% of new state revenues for a project located in a county of the third-class, or a municipality with a population of 10,000 or less located within a county of the second class and that is experiencing economic hardship are:

- (a) factors in Subsection R357-3-105-1);
- (b) evidence of significant financial support of the local community for the project;
- (c)(i) capital expenditures of at least \$500,000,000 for the new commercial project;
- (ii) the new capital project is in targeted industry as defined by the office; or
- (iii) local taxing entities are offering a tax increment agreement of at least 75% and 25 years of property tax rebates;
- (d)(i) the new capital project creates at least 2,000 new high-wage jobs;

(ii) the new capital project is in targeted industry as defined by the office;

(iii) the average wages for the new high paying jobs are at least 300% of the average county wage; or

(iv) local taxing entities are offering a tax increment deal over 75% and 25 years for property tax rebates;

(3) A new commercial project within the leisure and hospitality industry sector, located in a county of the fifth or sixth class may receive an award up to 50% of new state revenues over 20 years if the project:

(a) has capital expenditure of at least \$10,000,000;

(b) creates a significant number of new high paying jobs;

(c) is of strategic importance to the state, county and city;

(d) is adjacent to a unique, high visitation tourist area; and

(e) location would otherwise be underserved in leisure and hospitality without being provided an incentive.

(4) If a project has not been approved by the G[~~o~~] Utah Board within six months of submission the[~~y~~] company must submit an updated application.

(5) The Executive Director after consultation with the G[~~o~~] Utah Board may:

(a) approve or deny an application[~~z~~]; and

(b) determine terms and conditions of an approved application.

R357-3-106. Economic Development Tax Credit Process.

(1) Annual tax credits shall be based on actual incremental taxes paid by the business entity or withheld on behalf of employees of a new commercial project.

(2) GO Utah shall propose a tax credit structure based on the factors set forth in this rule in a combination GO Utah deems the most effective and beneficial in weighing the benefits of the State, local community, and company.

(a) GO Utah shall propose the tax credit terms and structure to the Board before making a final offer to the business entity.

(3) If the Executive Director approves an Economic Development Tax Credit, GO Utah shall provide a tax credit offer letter to a business entity that includes:

(a) the proposed terms of the Economic Development Tax Credit, including the maximum amount of aggregate annual tax credits and the time period over which the tax credits may be claimed;

(b) a statement that the company must demonstrate sufficient growth and supply; and

(c) documentation that will be required each incentive year to claim a tax credit for the following tax year.

(4) If the applicant intends to accept the incentive offer, it shall counter-execute the tax credit offer letter.

(5) If the Executive Director denies an application for an Economic Development Tax Credit, GO Utah shall provide a letter to the business entity that includes:

(a) notice of the application denial;

(b) reason for denial; and

(c) notice that the business entity can reapply for a tax credit if changes to the proposed new commercial project are made.

(6) GO Utah will establish a baseline with the company that consists of the count of full-time employees and state revenue reflective of presence in the state before Board approval date. Baseline must be established before awarding a tax credit.

(7) A company with an active contract, who desires a tax credit, must provide an annual report for the incentive year in the format and method as directed by GO Utah, with a level of accuracy

comparable with information GO Utah obtains from the Department of Workforce[~~s~~] Services and the Tax Commission, that at a minimum must contain:

(a) a list of individuals in Utah that received compensation at the company or project with their position, start date, termination date, hours paid, wages paid, benefits paid and employer withholding taxes paid or an aggregate list that provides qualification and legislative reporting required for Section 63N-2-106, as determined GO Utah.

(b) the requested amount of tax revenue to be rebated from withholding, sales and use, vendor paid sales tax and income tax verified as paid, remitted and received to the state.

(c) [~~maintains~~] a current authorization to disclose from the Utah State Tax Commission from the baseline period to three years after the end date of the contract.

(8) The office may cause an apportionment for the following reasons:

(a) a business entity's project scope is to create or develop a new good or service that is co-located within a current location that is not transparent with other operations, employees and revenue, which would not be included in the calculation of new state revenue;

(b) a business entity has a material amount of employees operating the company's retail business; or

(c) a company adjusts operations that create operations outside the scope of the agreement or boundaries of the economic development zone.

(9) The office may consider sales and use tax paid for capital asset purchases of a business entity within the scope of the agreement up to 50% of the total amount of state tax.

(10) A company who hires employees for the new commercial project through a professional employment organization shall require the professional employment organization to provide the office an employee report under attestation.

(11) The projected employment and salary growth from the latest annual report period may be carried forward to additional periods when the Fiscal Impact Questionnaire omits this information.

R357-3-107. Modification of Agreement.

(1) GO Utah may change, or a business entity may request to change, the terms of a tax credit offer or contract as set forth in this section:

(a) Substantive Modifications: under extraordinary circumstances, a business entity may request to change the terms of the tax credit agreement if:

(i) there is a substantial change to new commercial project plan; and

(ii) changing the terms of the tax credit would benefit the state.

(b) Nonsubstantive Modifications: GO Utah and the business entity may make nonsubstantive modifications to the tax credit contract to:

(i) correct clerical errors made in the initial application, the offer, the contract, or the tax credit;

(ii) make technical changes that do not alter the tax incentive amount or violate any state or federal law; or

(iii) adjust the timeline less than 24 months.

(2) Substantive modifications require Board consultation before the Executive Director's approval or denial.

(3) Requests and modifications shall be documented and maintained by GO Utah.

(4) When a business entity acquires another company with employees in Utah or if another Utah company acquires a business

entity and the office can distinguish between both entities' employees and separate how much new state revenue is generated from the acquiree and acquirer, no changes to the baseline employees or new state revenues will be made.

(5) When a business entity acquires another company with employees in Utah or if another Utah company acquires a business entity and the office cannot separate the acquiree's and acquirer's employees or new state revenue the office shall:

(a) increase the baseline to the lesser of the acquiree's number of full-time positions as determined by the office:

(i) on the GO Utah Board approval date; or

(ii) at the time of acquisition; and

(b) increase baseline state revenue to the same time period as chosen for baseline jobs.

(6) A company may request to exclude the 2020 EDTIF period. If a request is granted the contract must be amended that:

(a) establishes a one year gap where no incentive is awarded;

(b) delays annual job projections by one year moving forward, and

(c) extends the contract by one year.

(7) The office may deny a request to exclude the 2020 EDTIF period for any reason.

R357-3-108. High Paying Jobs and Economic Distress.

(1) To establish that a county is experiencing economic distress a business entity or county shall submit to the office:

(a) evidence that the county's unemployment rate was at least 5% for the six consecutive months before the application date;

(b) evidence that the county experienced year over year economic decline; and

(c) other evidence as requested by the office.

KEY: economic development, jobs, tax credit

Date of Last Change: [April 8,] 2022

Authorizing, and Implemented or Interpreted Law: 63N-2-104

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Rule or Section Number:	R357-11	Filing ID: 54826

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-11. Technology Commercialization and Innovation Program (TCIP)
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
H.B. 333 passed during the 2022 General Session and changed the technology commercialization and innovation program into Utah technology innovation funding program. The purpose of this rule filing is to align this rule with the statutory modifications.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule will codify definitions, authority, awards amounts, contract requirements, contract modification process, and funding distribution for the Utah technology innovation funding program.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no new aggregate anticipated cost or savings to the state budget. This rule is merely updating program participation requirements.
B) Local governments:
There is no new aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no new aggregate anticipated cost or savings to small businesses because this proposed amendment does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation. Participation in the program is optional.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no new aggregate anticipated cost or savings to non-small businesses because this proposed amendment does not create new obligations for non-small businesses, nor does it increase the costs associated with any existing obligation. Participation in the program is optional.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation,

association, governmental entity, or public or private organization of any character other than an **agency**):

There is no new aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

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

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

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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

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

Citation Information

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 63N-3-204		
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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:	10/17/2022
--------------------------------------------	------------

9. This rule change MAY become effective on:	10/24/2022
-----------------------------------------------------	------------

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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	08/23/2022
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R357. Governor, Economic ~~Development~~ Opportunity. ~~R357-11. Technology Commercialization and Innovation Program (TCIP).~~

R357-11-1. Purpose.
~~(1) The purpose of the Technology Commercialization and Innovation Act is to catalyze and enhance growth of technologies by encouraging interdisciplinary research activity and targeted areas, facilitating the transition of technologies out of the higher education to enhance job creation, and to support the commercialization of technologies developed by small businesses to enhance job creation.~~

R357-11-2. Authority.
~~(1) UCA 63N-3-204(2)(b) requires the office to make rules to regulate the Technology Commercialization Innovation Program ("TCIP") grant structure and awards and to recapture awards when a recipient fails to maintain a presence in Utah for at least five years after the award is made, as set forth in these rules.~~

R357-11-3. Definitions.
~~(1) This rule adopts the definitions set forth in 63N-3-203.~~
~~(2) "Board" means the Board of Business Development set forth in 63N-1-301.~~
~~(3) "Derivative Technology" means: Incremental advance or new of application of an existing technology.~~

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

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

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

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

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

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

R357-11-4. General Grant Requirements.

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

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

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

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

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

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

R357-11-5. Matching Funds.

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

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

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

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

R357-11-6. Applicant Specific Requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R357-11-8. Requirements for Grant Recipients.

- ~~(1) Contract~~
 - ~~(a) An applicant who is awarded a TCIP grant must sign a contract with the State of Utah prior to receiving any funds~~
- ~~(2) Sub-Contracts~~
 - ~~(a) Grant Recipients are prohibited from subcontracting with another entity to administer the new technology funded by the Grant.~~
- ~~(3) Time in State~~
 - ~~(a) Grant recipients will be expected to retain their company, and supported technology, and exploit the technology in the State of Utah for a minimum period of five years from the date of their agreement with the State.~~
 - ~~(b) Any applicant who fails to maintain a manufacturing or service location in the state or who fails to exploit the new technology from a location in the state will be subject to recapture of the grant funding, subject to the provisions of Utah Code Section 63N-3-204(2)(d) and R357-11-8.~~
- ~~(4) Authorization to disclose tax information~~
 - ~~(a) Licensee grant recipients will be required to sign an authorization to disclose tax records for up to five years from the date of their agreement with the State.~~
- ~~(5) Mentoring Program~~
 - ~~(a) Grant awardees may be required to participate in the TCIP Mentoring Program in order to secure funding.~~
 - ~~(b) If a grant award is contingent on participation in the TCIP Mentoring Program, an awardee will be required to show active participation in the program prior to receiving any or part of the grant funding as outlined in recipient's contract.~~

R357-11-9. Funding.

- ~~(1) TCIP funding is for developing existing research to the point of commercialization, bridging the "funding gap" between research dollars and manufacturing dollars.~~
- ~~(2) TCIP funding may be used to:~~
 - ~~(a) Purchase equipment;~~
 - ~~(b) Purchase supplies;~~
 - ~~(c) Fund graduate/undergraduate students for time directly applicable to center commercialization activities related to the new technology;~~
 - ~~(d) Fund faculty salaries directly applicable to center commercialization and related to the new technology;~~
 - ~~(e) Fund technology transfer activities (trade shows, brochures, etc.);~~
 - ~~(f) Fund market analysis;~~
 - ~~(g) Pay for consulting fees directly applicable to center commercialization;~~
 - ~~(h) Pay for business manager or marketing manager salaries directly applicable to center commercialization activities; or~~
 - ~~(i) Other purposes approved by GOED in writing.~~
- ~~(3) Carryover Funds~~
 - ~~(a) The budget described in the contract is designated for the particular fiscal year and is an integral part of the contract. Upon the expiration of the contract, residual funds under the contract can only be accessed by amending the contract as described above.~~
- ~~(4) Invoicing Requirement~~
 - ~~(a) To receive funds from the program, an invoice should be submitted by the awardee upon completion of the milestones or the mentor program with verification from the TCIP manager.~~
 - ~~(b) Every invoice must include:~~
 - ~~(i) Contract Number;~~
 - ~~(ii) Name of entity and Principal Investigator;~~

- ~~(iii) Billing Period; and~~
- ~~(iv) Current and Cumulative Amounts.~~

R357-11-10. Reporting Requirements.

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

R357-11-11. Recapture.

- ~~(1) In order to receive grant funding under these provisions, an applicant must commit to maintain a manufacturing location or service location in the State of Utah for at least five years from the date that the grant award letter is issued.~~
- ~~(2) Maintaining a manufacturing and service location means that the applicant will perform at least 51% percent of the grant activities listed above in the State of Utah, will exploit the technology into a commercial project in Utah and will maintain working operations in the State for at least five years from the date the grant award letter is issued.~~
- ~~(3) If the applicant fails to maintain a manufacturing a service location in Utah for at least five years from the date the grant award letter is issued, the entire grant amount may be subject to recapture.~~
- ~~(4) A repayment by an applicant shall be prorated based on the number of full years the applicant operated in the state from the date of the awarded grant.~~
- ~~(5) Should an applicant fail to comply with the requirements to maintain a manufacturing and service location in Utah for the purpose of exploiting the new technology that is the subject of the grant, the Office will issue a Notice of Agency Action for Recapture.~~
- ~~(6) The Notice of Agency Action shall contain the grounds for recapture, and the prorated amount of the recapture, if any.]~~

R357-11. Utah Technology Innovation Funding Rule.

R357-11-101. Purpose.

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

R357-11-102. Definitions.

- ~~(1) The following terms are defined:~~
 - ~~(a) "Micro-grant" means a grant awarded to offset the cost of a SBIR or STTR Phase I proposal;~~
 - ~~(b) "Nonrecourse loan" means a loan awarded to a company that has received Phase I SBIR or STTR funding and has submitted a corresponding Phase II proposal;~~
 - ~~(c) "Rural County" means a county of the third, fourth, fifth, or sixth class;~~

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

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

R357-11-103. Authority.

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

R357-11-104. Award Amounts.

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

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

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

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

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

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

(a) a company must have received a prior SBIR or STTR Phase I award;

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

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

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

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

R357-11-105. Required Contract.

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

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

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

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

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

R357-11-106. Contract Modifications.

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

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

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

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

R357-11-107. Funding Distribution.

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

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

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

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

KEY: technology, innovations, commercialization, small businesses

Date of Last Change: 2022[October 13, 2017]

Notice of Continuation: July 20, 2020

Authorizing, and Implemented or Interpreted Law: 63N-3-204[2]

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Rule or Section Number:	R357-16	Filing ID: 54819

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-16. Utah Outdoor Recreation Infrastructure Grant
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is no longer necessary as a result of the passage of H.B. 305 passed during the 2022 General Session which moved and renumbered provisions related to the Utah Works Program from the Governor's Office of Economic Opportunity. The Department of Natural Resources will file a new rule under the correct title should it determine a rule is required.

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

Fiscal Information

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

A) State budget:
 The repeal 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. 305 (2022).

B) Local governments:
 The repeal is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 305 (2022).

C) Small businesses ("small business" means a business employing 1-49 persons):
 The repeal is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 305 (2022).

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
 The repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 305 (2022).

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 repeal is not expected to have any fiscal impact on other persons' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 305 (2022).

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
 The repeal of this rule requires no action or compliance by any 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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Governor's Office of Opportunity, Dan Hemmert, 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 63N-9-203		
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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:	10/17/2022
--------------------------------------------	------------

9. This rule change MAY become effective on:	10/24/2022
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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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	08/25/2022
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R357. Governor, Economic Development.

[R357-16. Utah Outdoor Recreation Infrastructure Grant.

R357-16-1. Authority.

~~(1) Subsection 63N-9-203 requires the office to make rules establishing the eligibility and reporting criteria for an entity to receive an infrastructure grant.~~

R357-16-2. Definitions.

~~(1) Terms in these rules are defined in Utah Code Section 63N-9-102.~~

R357-16-3. Application Form and Submission Procedure.

~~(1) The application will be provided by the Office and contain the following content:~~

- ~~(a) General submission instructions;~~
- ~~(b) Grants available to be claimed;~~
- ~~(c) Criteria for qualification of a grant;~~
- ~~(d) Instructions regarding a project description including timeline;~~
- ~~(e) Instructions for providing an outlined budget for total project cost, highlight of funds already procured for the project; and an itemized budget showing planned use of the grant funds being requested;~~
- ~~(f) Instructions for reporting project impacts including community and economic impacts;~~
- ~~(g) The application scoring system;~~
- ~~(h) Any required deadlines, reports, and relevant timelines; and~~

~~(i) All required documents and information necessary for verification and approval of the application.~~

~~(2) The application shall be created in an electronic form available to the public at business.utah.gov~~

~~(3) The application shall also be available in paper form for any person or entity that requests it.~~

~~(4) Applications must be submitted to Office of Outdoor Recreation staff on or before the specified deadline in the application.~~

~~(5) Staff will review final applications for completeness and the program manager of the Office of Outdoor Recreation will verify that the documentation is complete and that it meets the program criteria as outlined in statute and this rule.~~

~~(6) All completed documentations will be reviewed and awardees selected via the criteria and method as outlined in this rule.~~

R357-16-4. Eligible Entities.

~~(1) Grants may be awarded to the following entities within the state of Utah:~~

- ~~(a) Non profit corporations physically located within the State with a 501(c)(3) and (c)(6) status;~~
- ~~(b) Municipalities;~~
- ~~(c) Counties; and~~
- ~~(d) Tribal governments.~~

~~(2) The following entities may not receive an infrastructure grant:~~

- ~~(a) a federal government entity;~~
- ~~(b) a state agency; and~~
- ~~(c) a for-profit entity.~~

R357-16-5. Infrastructure Project Eligibility Criteria.

~~(1) Budget/Costs/Matching Requirements: The Office will not fund more than 50% of the proposed project's eligible costs. The grant recipient shall provide matching funds having a value equal to or greater than the amount of the infrastructure grant.~~

~~(a) The maximum grant request is dependent on available funds and will be outlined in the grant application.~~

~~(b) Up to 50% of the grant recipient match may be provided through an in-kind contribution by the grant recipient, if:~~

- ~~(i) approved by the executive director after consultation with the director and the board; and~~
- ~~(ii) the in-kind donation does not include real property.~~

~~(c) Matching requirements, eligible and ineligible matching costs, and other matching funding requirements will be provided in the grant application.~~

~~(d) At least 75% of the matching funds for the project must be secured in order to apply.~~

~~(2) Economic Development or Tourism Endorsement: The infrastructure project shall have an endorsement from the local economic development office and/or local tourism director stating that the project will have the ability to attract growth and retention in the community/area and/or have the potential for increased visitation to the area. Endorsement: The infrastructure project endorsement should be provided in writing at the time of application.~~

~~(a) Statement of Responsibility: The applicant must include a Statement of Responsibility from the entity who will maintain the recreational infrastructure in the future. This will be required by the Office as a condition to receiving a grant.~~

~~(3) Public Lands: If the project is located on public lands, it must have approval from the appropriate public entity.~~

~~(a) The applicant may be required to show approval from the agency that follows the National Environmental Policy Act (NEPA) process as a condition to receiving the grant.~~

~~(4) Property Ownership: All projects must be located on land that is owned by or under the control of the applicant or a partner (e.g. local government or conservancy.)~~

~~(a) If the project crosses private property, as in the case of a trail, a binding agreement must be reached with the property owners for a minimum of 10 years.~~

~~(5) Sensitive Wildlife Areas: Applicant must coordinate with the Utah Division of Wildlife Resources (DWR) to determine if the project is located in a special management area for sensitive species such as the greater sage grouse.~~

~~(a) If the project is in or near a Sage Grouse Management Area (SGMA), the project proponent shall coordinate with DWR to make reasonable accommodations to avoid, minimize or mitigate the impacts to greater sage grouse and their habitats.~~

~~(6) infrastructure projects may include but are not limited to:~~

~~(a) The establishment, construction, or renovation of trails, trail facilities, and trail infrastructure (e.g. trail kiosk, trail wayfinding signage, trailhead parking, restroom facilities, bridge or tunnel);~~

~~(b) The construction of a project for water-related outdoor recreational activities;~~

~~(c) The development of a project for wildlife watching opportunities, including bird watching;~~

~~(d) The development of a project that provides winter recreation amenities;~~

~~(e) the construction or improvement of a community park that has amenities for outdoor recreation;~~

~~(f) The construction or improvement of a naturalistic and accessible playground;~~

~~(g) the construction of a community-owned or sponsored campground; or~~

~~(h) The establishment or construction of a community owned outdoor shooting or archery range.~~

~~(8) Ineligible Infrastructure projects may include but are not limited to:~~

~~(a) A private business such as outdoor service concession, amusement park, tubing park, etc.;~~

~~(b) Outdoor education programming;~~

~~(c) Outdoor swimming pools;~~

~~(d) Golf Courses;~~

~~(e) Athletic fields or courts;~~

~~(f) Outdoor amphitheaters;~~

~~(g) General community wayfinding signage; or~~

~~(h) Harbor dredging projects.~~

~~**R357-16-7. Method and Formula for Determining Grant Recipients.**~~

~~(1) The Office shall use a weighted scoring system to enable the Utah Outdoor Recreation Grant Advisory Committee (pursuant to 63N-9-204) to analyze and advise on the awarding of grant and grant amounts.~~

~~(a) The scoring system shall be made available in the application;~~

~~(b) The scoring system will assess and value general categories including:~~

~~i. Community need;~~

~~ii. Economic impact including the potential to increase area tourism;~~

~~iii. Recreation access and value;~~

~~iv. Project readiness; and~~

~~v.~~

~~vi. Location within an underserved population or area.~~

~~(2) The Office shall distribute the grant applications among the committee members and ensure that each application will be reviewed and scored by members of the advisory committee.~~

~~(3) The Office will use the average of the scores to create a prioritization matrix ranking the applications in ascending order.~~

~~(4) Committee Review Procedure~~

~~(a) The Office shall convene the advisory committee for a meeting for the purpose of selecting the projects which will be recommended for the review~~

~~i. Method and formula for determining grant awards in committee meeting;~~

~~A. A prioritization matrix will be utilized to rank the projects~~

~~B. All but the lowest ranked projects will receive a review during the meeting of the committee~~

~~1. Subject to procedural rules, a member and a second may request a vote to bring a low scored project that was not scheduled for review to receive consideration by the committee~~

~~2. Subject to procedural rules, a member and a second may request a full committee vote for recommendation of an award~~

~~ii. Prioritization may be given to projects that:~~

~~A. Conform to the criteria and eligibility as set forth in the program guide; and~~

~~B. can increase visitation; or~~

~~C. will serve an underprivileged or underserved community; or~~

~~D. will provide geographic parity; or~~

~~E. are trails that are "family friendly" or~~

~~F. are trail segments that complete trail gap; or~~

~~G. will add to connect trails for a larger trail network; or~~

~~H. enhance an outdoor recreation amenity that draws tourists; and~~

~~I. have coordinated with the local tourism office to market the project as a tourism attraction.~~

~~(b) Rules for scoring during Grant scoring meeting~~

~~i. No committee member shall vote on a project in which he/she has substantial interest and shall leave the room while the project is being reviewed and voted on.~~

~~ii. To aid in the meeting evaluation, a synopsis of each of the projects will be provided and each reviewer will have access to all scored evaluations~~

~~(c) In accordance with available funds, the committee will give proposals for funding~~

~~(d) The recommendations for grant awards will be forwarded to the executive director who will consult with the director and the Governor's Office of Economic Development board and give final approval.~~

~~(e) In the event an awardee's project no longer qualifies for the grant, the grant award may be awarded to the highest scored project of the denied applicants.~~

~~(f) The office will notify applicants of the funding decision within two weeks of the final decision~~

~~i. Winning applicants will be notified of expected contractual requirements~~

~~ii. The grant applicants who were unsuccessful in winning a grant award will be notified of the rejection.~~

~~A. A copy of the reviewers written comments with redacted names shall be provided to rejected applicants upon request.~~

~~**R357-16-8. Reporting and Cooperation Requirements.**~~

~~(1) Grant recipient will cooperate with reasonable requests for site visits during and after completion of the Project.~~

~~(2) Grant recipient will provide any additional financial records related to the grant project upon the Office's request. Grant recipient will give a progress report twice yearly until project is completed.~~

~~(3) Grant recipient will provide economic development information and supporting documentation of economic development goals achieved at minimum on an annual basis or upon the Office's request.~~

~~(a) Such information shall be provided for up to 10 years following completion of the Project.~~

~~(4) Grant recipient shall provide a description and an itemized report detailing the expenditure of the grant or the intended expenditure of any grant funds that has not been spent.~~

~~(5) Grant recipient shall provide the Office with a final written itemized report when the entire grant is spent.~~

~~(6) The reports referenced in (4) and (5) shall be provided at least annually, and no later than 60 days after the grant agreement has expired.~~

- ~~(a) Each report shall include:~~
- ~~i. an accounting of project expenditures; and~~
 - ~~ii. assurances that all monies paid to the grant recipient were used for planning, construction, or improvements as describe in the recipient's grant application and grant agreement.~~

R357-16-9. Appeal of Application Denial.

~~(1) A denial of an applicant's request for a grant may be appealed by written request pursuant to Utah Code Section 63G-4-201, and in accordance with this rule.~~

~~(2) Hearings must be requested within 30 calendar days from the date that the Office sends written notice of its denial of grant.~~

~~(3) Failure to submit a timely request for a hearing constitutes a waiver of due process rights. The request must explain why the party is seeking agency relief, and the party must submit the request on the "Request for Hearing/Agency Action" form. The party must mail or email a scanned copy of the form to the address or email address contained on the denial.~~

~~(4) The Office considers a hearing request that a recipient sends via mail to be filed on the date of the postmark. If the postmark date is illegible, erroneous, or omitted, the Office considers the request to be filed on the date that the Office receives it, unless the sender can demonstrate through convincing evidence that it was mailed before the date of receipt.~~

~~(5) The Office shall hold informal adjudicative proceedings in accordance with Utah Code Sections 63G-4-202 and 203. The Office shall notify the petitioner and Office representative of the date, time and place of the hearing at least ten days in advance of the hearing. Continuances of scheduled hearings are not favored, but may be for good cause shown. Failure by any party to appear at the hearing after notice has been given shall be grounds for default and shall waive both the right to contest the allegations and the right to the hearing.~~

~~(6) The Petitioner named in the notice of agency action and the Office shall be permitted to testify, present evidence, and comment on the issues. Formal rules of evidence shall not apply; however,~~

- ~~(a) Testimony may be taken under oath.~~
- ~~(b) All hearings are open to all parties.~~
- ~~(c) Discovery is prohibited; informal disclosures will be ruled on at the pre-hearing conference.~~

~~(d) A respondent shall have access to relevant information contained in the Office's files and to material gathered in the investigation of respondent to the extent permitted by law.~~

~~(e) The Office may cause an official record of the hearing to be made, at the Office's expense.~~

~~(7) Within a reasonable time, not to exceed 60 days after the close of the informal proceeding, the Office shall issue a signed decision in writing that includes a findings of fact and conclusions of law, and time limits for appeals rights, and administrative or judicial review in accordance with Utah Code Subsection 63G-4-203(i).~~

~~**KEY: Outdoor Recreation Infrastructure Grant, outdoor recreation, grants**~~

~~**Date of Last Change: January 17, 2018**~~

~~**Notice of Continuation: March 11, 2021**~~

~~**Authorizing, and Implemented or Interpreted Law: 63N-9-203]**~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Rule or Section Number:	R357-16a	Filing ID: 54820

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-16a. Restoration Recreation Infrastructure Grant Program Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is no longer necessary as a result of the passage of H.B. 305 passed during the 2022 General Session which moved and renumbered provisions related to the Restoration Recreation Infrastructure Grant Program from the Governor's Office of Economic Opportunity. The Department of Natural Resources will file a new rule under the correct title should it determine a rule is required.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is repealed in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The repeal 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. 305 (2022).

B) Local governments:			
The repeal is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 305 (2022).			
C) Small businesses ("small business" means a business employing 1-49 persons):			
The repeal is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 305 (2022).			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
The repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 305 (2022).			
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 repeal is not expected to have any fiscal impact on other persons' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 305 (2022).			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
The repeal of this rule requires no action or compliance by any 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

Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Governor's Office of Opportunity, Dan Hemmert, 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		
63N-9-302(3)		

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:	10/17/2022

9. This rule change MAY become effective on:	10/24/2022
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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	08/25/2022
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R357. Governor, Economic Development.

~~R357-16a. Restoration Recreation Infrastructure Grant Program Rule.~~

~~R357-16a-101. Title.~~

~~This rule is known as the "Restoration Recreation Infrastructure Grant Program Rule."~~

~~R357-16a-102. Definitions.~~

~~In addition to the terms defined in 63N-9-102 and R357-16-3, the following terms are defined as follows:~~

- ~~(1) "Developed campground" includes those which have been improved or developed from a moderate to a highly developed level.~~
- ~~(2) "Developed recreation site" means an area which has been improved or developed for recreation.~~
- ~~(3) "Developed trail" includes those that are considered developed, highly developed or fully developed trails which commonly have constructed features of either native or imported materials and incorporate route identification signage as needed for user reassurance.~~
- ~~(4) "Developed water recreation facilities" includes those with recreational facilities for water based recreation opportunities for the use, enjoyment and safety of visitors.~~
- ~~(5) "OOR" means the Utah Office of Outdoor Recreation.~~
- ~~(6) "Partner" means two or more entities collaborating with a common interest or goal in restoring or rehabilitating recreational infrastructure.~~

~~R357-16a-103. Authority.~~

~~This rule is adopted by OOR under the authority of Subsection 63N-9-302(3).~~

~~R357-16a-104. Application Form and Submission Process.~~

- ~~(1) The application will be provided by OOR and contain the following content:~~
 - ~~(a) general submission instructions;~~
 - ~~(b) grants available to be claimed;~~
 - ~~(c) criteria for qualification of a grant;~~
 - ~~(d) instructions regarding a project description including timeline;~~
 - ~~(e) instructions for providing a budget for total project cost, highlight of funds already procured for the project; and an itemized accounting showing planned use of the grant funds being requested;~~
 - ~~(f) instructions for reporting project impacts including community and economic impacts;~~
 - ~~(g) the application scoring system;~~
 - ~~(h) any required deadlines, reports, and relevant timelines;~~
- ~~(i) all required documents and information necessary for verification and approval of the application.~~
- ~~(2)(a) The application shall be created in an electronic form available to the public on OOR's website; and~~
- ~~(b) shall be available in paper upon request.~~
- ~~(4) To be considered for review an application must be received by OOR on or before the specified deadline in the application.~~
- ~~(5) Staff will review applications for completeness.~~

~~R357-16a-105. Eligible Entities.~~

~~(1) Grants may be awarded to the following entities within the state of Utah:~~

- ~~(a) non-profit corporations physically located within the State classified under 501 (c);~~
- ~~(b) municipalities;~~
- ~~(c) counties; and~~
- ~~(d) tribal governments.~~
- ~~(2) For projects on Federal or State lands, grant applicants must be partnered with the appropriate public land management agency for projects on those lands. Such partners may include.~~
- ~~(3) For-profit entities may not receive a recreation restoration infrastructure grant.~~

~~R357-16a-106. Recreation Restoration Eligibility Criteria.~~

- ~~(1) Budget/Costs/Matching Requirements: The Office will not fund more than 50% of the proposed project's eligible costs. The grant recipient and/or their partners shall provide matching funds having a value equal to or greater than the amount of the infrastructure grant.~~
- ~~(2) The maximum grant request is dependent on available annual funds and will be outlined in the grant application.~~
- ~~(3) Non-profit corporation applicants may provide an in-kind match in lieu of cash, provided applicant partners provide the necessary cash match to qualify for the match requirement.~~
- ~~(4) Up to 50% of the grant recipient's match may be provided through an in-kind contribution by the grant recipient, if:~~
 - ~~(a) approved by the executive director after consultation with the director and the advisory committee;~~
 - ~~(b) the in-kind donation meets the requirements for an eligible match; and~~
 - ~~(d) the in-kind donation is for services or materials that are directly related to the construction of the project.~~
- ~~(5) Matching requirements, eligible and ineligible matching costs, and other matching funding requirements will be provided in the grant application.~~
- ~~(6) At least 75% of the matching funds for the project must be secured in order for the application to be considered.~~
- ~~(7) Recreation restoration infrastructure projects are limited to projects that are for the reconstruction, rehabilitating, replacing, and restoration of existing recreation infrastructure to meet visitor needs.~~
- ~~(8) Projects that are exclusively for the construction of new infrastructure are not eligible, however projects in which a minor portion of project funds are for the construction of new infrastructure in conjunction with a restoration project may be considered.~~
- ~~(9) Project sites that are primitive or semi-primitive are not eligible.~~
- ~~(10) Rehabilitation projects shall include those in which an existing trail is re-routed for sustainability or a campsite is moved.~~
- ~~(11) Eligible recreational infrastructure projects include:~~
 - ~~(a) Trail improvements such as the realignment, rerouting, and reconstruction of existing or destroyed developed trail and trail systems;~~
 - ~~(b) the updating, repair, replacement, or improvement of existing or destroyed developed trailside amenities;~~
 - ~~(c) the restoration or rehabilitation of developed campground infrastructure to meet the needs of visitors and improve their safety;~~
 - ~~(d) the restoration or rehabilitation of developed recreation site for day use sites which shall include such as picnic tables, fire pit/grill areas, shade structures including pavilions for larger groups, and restrooms; and~~

~~(e) The restoration or rehabilitation of developed water recreation facilities include: pier, dock, boat ramp.~~

~~**R357-16a-107. Method and Formula for Determining Grant Recipients.**~~

- ~~(1) OOR shall use a weighted scoring system to enable the advisory committee to analyze and advise on the awarding of grant and grant amounts. The scoring system shall:~~
 - ~~(a) be made available in the application; and~~
 - ~~(b) assess and value general categories.~~
- ~~(2) OOR shall distribute the grant applications among the advisory committee members and ensure that each application will be reviewed and scored by members of the advisory committee.~~
- ~~(3) OOR will use the average of the scores provided by the advisory committee members to create a prioritization matrix ranking the applications in descending order.~~
- ~~(4) OOR will provide a synopsis of each scored project to the advisory committee.~~
- ~~(5) In accordance with available funds, the advisory committee shall prioritize projects that the:~~
 - ~~(a) advisory committee considers to be high demand outdoor recreation amenities or high priority trails; and~~
 - ~~(b) data demonstrates that the project area receives or has received high visitation.~~
- ~~(6) The recommendations for grant awards will be forwarded to the executive director for final approval.~~
- ~~(7) OOR will notify applicants of the funding decision within two weeks of the final decision and:~~
 - ~~(a) successful applicants will be notified of expected contractual requirements; and~~
 - ~~(8) unsuccessful applicants will be notified of the rejection.~~
- ~~(9) Upon request an applicant may receive a redacted copy of the reviewers comments.~~
- ~~(10) An advisory committee member shall redact themselves from a project in which they have substantial interest.~~

~~**R357-16a-108. Reporting and Reimbursement Requirements.**~~

- ~~(1) Awarded entities will be required to submit, at minimum, the following documentation upon reimbursement request:~~
 - ~~(a) a reimbursement request form on a format provided by the Office.~~
 - ~~(b) copies of all invoices and evidence of payment (checks, bank statements or loan agreements) as well as records of volunteer labor or other in kind donations for work completed on the project; and~~
 - ~~(c) several photos that show the project is complete.~~
 - ~~(d) a final report with the description of the project and data requested by the Office.~~
- ~~(2) Partial reimbursement payment may be made through the course of the terms of the contract, not to exceed 50% of expenses incurred during the development of the project. A request for funds form and itemization sheet will be required to be signed and submitted to receive the initial 50% of funds.~~
- ~~(3) Grant recipient shall provide a description and an itemized report detailing the expenditure of the grant or the intended expenditure of any grant funds that has not been spent.~~
- ~~(4) Project reports shall be provided at least every six months, and no later than 60 days after the grant agreement has expired.~~
 - ~~(a) Each project report shall include:~~
 - ~~(i) an accounting of project expenditures; and~~

~~(ii) assurances that all monies paid to the grant recipient were used for planning, construction, or improvements as describe in the recipient's grant application and grant agreement.~~

~~(5) Grant recipients will cooperate with reasonable requests for site visits during and after completion of the project.~~

~~**KEY: economic development, recreation restoration, infrastructure grant, outdoor recreation**~~

~~**Date of Last Change: January 1, 2020**~~

~~**Authorizing, and Implemented or Interpreted Law: 63N-9-302(3)**~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Rule or Section Number:	R357-16b	Filing ID: 54823

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-16b. Utah Children's Outdoor Recreation and Education Grant Program Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is no longer necessary as a result of the passage of H.B. 305 passed during the 2022 General Session which moved and renumbered provisions related to the Utah Children's Outdoor Recreation and Education Grant Program from the Governor's Office of Economic Opportunity. The Department of Natural Resources will file a new rule under the correct title should it determine a rule is required.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is repealed in its entirety.

Fiscal Information

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

A) State budget:

The repeal 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. 305 (2022).

B) Local governments:

The repeal is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 305 (2022).

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

The repeal is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 305 (2022).

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

The repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 305 (2022).

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 repeal is not expected to have any fiscal impact on other persons' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 305 (2022).

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

The repeal of this rule requires no action or compliance by any 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
Total Fiscal Cost	\$0	\$0	\$0

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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Governor's Office of Opportunity, Dan Hemmert, 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		
63N-9-403(1)		

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:	10/17/2022
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9. This rule change MAY become effective on:	10/24/2022
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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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	08/25/2022
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R357. Governor, Economic Development.
~~**R357-16b. Utah Children's Outdoor Recreation and Education Grant Program Rule.**~~

~~**R357-16b-101. Title.**~~

~~This rule is known as the "Utah Children's Outdoor Recreation and Education Grant Program Rule."~~

~~**R357-16b-102. Definitions.**~~

~~In addition to the terms defined in Section 63N-9-102, the following terms are defined for this rule:~~

- ~~(1) "Advisory committee" means the Utah Outdoor Recreation Grant Advisory Committee created in Section 63N-9-204.~~
- ~~(2) "Board" means the Board of Business and Economic Development created in Section 63N-1-401.~~
- ~~(3) "Director" means the director of the Utah Office of Outdoor Recreation.~~
- ~~(4) "Executive director" means the executive director of the Governor's Office of Economic Development.~~
- ~~(5) "Nonprofit corporation" means an entity registered and in good standing with the Internal Revenue Service as a 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), or 501(c)(8).~~
- ~~(6) "Office" means the Utah Office of Outdoor Recreation.~~
- ~~(7) "Participant" means children, as defined in Subsection 63N-9-102(2), who are participating in a UCORE funded program.~~
- ~~(8) "Partner" means two or more entities collaborating with a common interest or goal in providing youth with high quality outdoor recreation or nature based learning programming.~~
- ~~(9) "Recipient" means the organization or entity that is awarded a UCORE grant.~~

~~**R357-16b-103. Authority.**~~

~~This rule is adopted under Subsection 63N-9-403(1) which requires the office to make rules for administration of the UCORE grant program.~~

~~**R357-16b-104. Application Form and Submission Process.**~~

- ~~(1) The application will be provided by the Office and, at minimum, contain the following content:~~
 - ~~(a) general submission instructions including:

 - ~~(i) deadlines~~
 - ~~(ii) reports; and~~
 - ~~(iii) relevant timelines.~~~~
 - ~~(b) grants available to be claimed;~~
 - ~~(c) instructions for providing:

 - ~~(i) a project description;~~
 - ~~(ii) timeline;~~
 - ~~(iii) a budget for total project cost;~~
 - ~~(iv) funds already procured for the project;~~
 - ~~(v) an itemized accounting showing planned use of the grant funds being requested;~~
 - ~~(vi) reporting project impacts including community and economic impacts; and~~
 - ~~(vii) required documents and information necessary for verification and approval of the application; and~~~~
 - ~~(d) the application scoring system.~~
- ~~(2) (a) The application shall be created in an electronic form available to the public on the Office's website; and~~

- ~~(b) be available in paper upon request.~~
- ~~(3) To be considered for review the Office must receive the application on or before the deadline specified in the application.~~

~~**R357-16b-105. Eligible Entities.**~~

- ~~(1) Grants may be awarded to the following entities Utah:

 - ~~(a) nonprofit corporations, as defined in Subsection R357-16b-102(5), physically located within Utah;~~
 - ~~(b) Utah municipalities;~~
 - ~~(c) Utah counties;~~
 - ~~(d) tribal governments; and~~
 - ~~(e) educational institutions, including public colleges, universities, primary and secondary public schools and school districts.~~~~
- ~~(2) For profit entities may not receive a UCORE grant.~~

~~**R357-16b-106. UCORE Grant Eligibility Criteria.**~~

- ~~(1) The Office will not fund more than 50% of the proposed program's eligible costs.~~
- ~~(2) The maximum grant request is dependent on available funds and will be outlined in the grant application.~~
- ~~(3) Applicants and their partners may use both in-kind resources and cash, provided the cash match makes up 50% or more of the match requirement.~~
- ~~(4) Up to 50% of the grant recipient's match may be provided through an in-kind contribution by the grant recipient, if:

 - ~~(a) approved by the executive director after consultation with the director; and~~
 - ~~(b) the in-kind donation is for services or materials that are directly related to the objectives of the program.~~~~
- ~~(5) At least 75% of the matching funds for the project must be secured in order for the application to be considered.~~
- ~~(6) Programs that teach a difficult skill with some inherent risk may begin the skill building in an indoor controlled environment before the program moves the youth into the appropriate outdoor space during the program.~~
- ~~(7) To qualify for participation in UCORE programs shall:

 - ~~(a) maintain any certification or training required by law or facility for all staff members or volunteers supervising participants;~~
 - ~~(b) ensure their program staff and volunteers have received the appropriate screenings or applicable background checks before taking a role interacting with the youth;~~
 - ~~(c) ensure the equipment is in good, working condition and that all safety precautions are being followed to minimize the inherent risks of outdoor activities; and~~
 - ~~(d) carry the appropriate insurance coverage.~~~~

~~**R357-16b-107. Method and Formula for Determining Grant Recipients.**~~

- ~~(1) The Office shall:

 - ~~(a) use a weighted scoring system to enable the advisory committee to analyze and advise on the awarding of grant and grant amounts. The scoring system shall:

 - ~~(i) be made available in the application; and~~
 - ~~(ii) assess and value general categories.~~~~
 - ~~(b) distribute the grant applications among the advisory committee members and ensure that each application will be reviewed and scored by members of the advisory committee.~~
 - ~~(c) use the average of the scores provided by the advisory committee members to create a prioritization matrix ranking the applications in ascending order.~~~~

~~(d) provide a synopsis of each scored program to the advisory committee.~~

~~(2) In awarding UCORE funds, consideration shall be given to entities that implement programs that align with the priorities outlined in Subsection 63N-9-403(5).~~

~~(3) The advisory committee shall make recommendations for grant awards and shall forward the recommendations to the executive director and the board for final approval.~~

~~(4) The Office shall notify applicants of the funding decision within two weeks of the final decision and:~~

~~(a) successful applicants will be notified of expected contractual requirements; and~~

~~(b) unsuccessful applicants will be notified of the rejection.~~

~~(5) Upon request an applicant may receive feedback as to why the application was denied.~~

~~(6) An advisory committee member shall recuse themselves from voting on a program in which they have substantial interest.~~

~~R357-16b-108. Reporting and Reimbursement Requirements.~~

~~(1) A grant recipient who is awarded a UCORE grant must sign a contract with the Utah prior to receiving any funds. After the contract has been signed by both parties, the recipient may receive half of the grant funding in order to cover the initial costs of the program.~~

~~(2) To receive the remaining funds upon completion of the project, the grant recipient shall make the request for reimbursement, using the request form provided by the Office. The remaining funds of the grant award will be given upon completion of the program and the following conditions:~~

~~(a) the program shall provide a detailed final report including required measured data as described in the UCORE Program Guide and application and photos or videos that document the program's highlights.~~

~~(b) invoice from the recipient for the remainder of the funds.~~

~~(c) supporting documentation to show proof of monies spent on programming, as well as documentation of in-kind services or other donations or work on the project~~

~~(3) The contracts for youth programs will limit the applicant to complete the program within 18 months.~~

~~(4) If a recipient has a legitimate reason to amend the contract, a written request should be submitted to the Office. If approved, the contract may be amended at the discretion of the Office.~~

~~(5) A brief program report shall be provided to the Office at least every six months until the completion of the program. The report shall include a description and an itemized report detailing the expenditure of the grant or the intended expenditure of any grant funds that has not been spent, in addition to a description of any work completed and work remaining.~~

~~KEY: outdoor recreation and education~~

~~Date of Last Change: March 11, 2020~~

~~Authorizing, and Implemented or Interpreted Law: 63N-9-403(1)~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R357-21	Filing ID: 54825

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov

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

General Information

2. Rule or section catchline:
R357-21. Rural Jobs Act
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
H.B. 25 passed during the 2022 General Session modified the Rural Jobs Act. The purpose of this rule filing is to align this rule with the statutory modifications.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule filing makes technical changes and clarifies the process for participating in the program.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no new aggregate anticipated cost or savings to the state budget. This rule is merely updating program participation requirements.

B) Local governments:

There is no new aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.

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

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

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

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

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

There is no new aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

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

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

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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

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

Citation Information

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 63N-4-304		
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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:	10/17/2022
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9. This rule change MAY become effective on:

10/24/2022

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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	08/23/2022
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R357. Governor, Economic Opportunity.

R357-21. Rural Jobs Act.

R357-21-1. Purpose.

(1) The purpose of this rule is to define and clarify the standards required to apply for and receive a non-refundable tax credit under the Rural Jobs Act.

R357-21-2. Authority.

(1) Rulemaking authority is provided in Subsection 63N-4-304(4).

R357-21-3. Definitions.

~~Terms used in this rule are defined under Section 63N-4-302.~~

The following terms are defined:

(1) "Same day" means applications received on or before 11:59 p.m. on November 1, 2022.

R357-21-4. Calculation of Time.

(1) For the Utah Rural Jobs Act time will be calculated beginning the business day after the initial or triggering event.

~~(2) If the time within which an act is to be performed is 60 days or less, the calculation of time will include business days and will not include weekends and holidays, unless otherwise indicated.~~

~~(3) If the time in which an act is to be performed is 61 days or more, weekends or holidays are included.~~

~~]~~If the ending day or due date occurs on a weekend day or a state or federal holiday, the due date shall be 11:59 p.m. on the next business day following the weekend day or holiday.

R357-21-5. Applications.

~~(1) Applications received on or before 11:59 pm on November 1, 2017 shall be considered received on November 1, 2017.~~

~~For the evidence required to qualify applicants are encouraged to show at least five individual rural investments, of \$5,000,000 or less, as part of \$50,000,000 total investments in nonpublic companies located in counties with fewer than 50,000 inhabitants.]~~

(1) To qualify applicants shall provide:

(a) at least five individual rural investments of \$5,000,000 or less as part of the \$50,000,000 total investments in nonpublic companies located in counties with fewer than 50,000 inhabitants; and

(b) the most recent Annual Determination letter from the office documenting the creation of at least 117 jobs from the 2017 Rural Jobs Act, if the applicant was approved during the November 1, 2017 application process.

(2) For any applications received on the same day:

(a) If there is additional investment authority to allocate after considering the applications received on the ~~first~~same day of submissions, then those applications will be considered on a first come first served basis until the total investment authority of \$42,000,000 has been allocated, except as outlined in Subsection 63N-4-303(8); and

(b) If there is no additional investment authority to allocate after considering the applications received on the ~~first~~same day of applications, then the applicants who were not considered will be notified of eligibility approval and these applicants will stand in a first come first served basis for any recaptured allocation that may occur during the program, except as outlined in Subsections 63N-4-303(8) and 63N-4-305(4).

(3) Notice of Allocation Approval shall be delivered through electronic mail and be considered received at the time stamp within the electronic mail notice, not when it is read.

~~(4) If, after an allocation is made, an applicant withdraws its request for investment authority, the amount that was allocated to the withdrawing applicant will be redistributed to any approved applicant that has not received the full amount of its requested investment authority on a pro rata basis with any approved applicants that have not received the full amount of their requested investment authority. If there are no approved applicants that have not received the full amount of their requested investment authority then other approved applicants may receive allocations, using the same priority and method as set forth within this rule and the Utah Rural Jobs Act.]~~If an approved applicant withdraws its request for investment authority after an allocation is made, the amount allocated to the withdrawing applicant will be redistributed to approved applicants that have not yet received the full amount of their requested investment authority on a pro rata basis. If all approved applicants have received the full amount of their requested investment authority, then other eligible applicants may be approved and receive allocations:

(a) approved applicants will be notified of an additional investment authority amount in writing. The applicant will have ten days to either accept the additional investment authority or decline the additional investment authority. Failure to accept in writing will be deemed a declination of additional investment authority;

(b) if the additional investment authority is declined, the amount will be redistributed to the remaining approved applicants that have not received the full amount of their requested investment authority and if none then to other approved applicants; and

(c) timing of issuance of additional investment authority: Any additional amounts received by approved applicants who have already received an allocation of investment authority shall have a new independent timeline from the original allocation amount unless the approved applicant requests to aggregate the timelines as set forth in Subsections R357-21-5(4)(c)(i), (ii), and (iii):

(i) an applicant receiving additional investment authority may request to have the additional amount aggregated with the initial allocation by making such a request on official letter head to the office and by agreeing to waive the independent timeline of the additional investment authority amount;

(ii) if aggregation of an original allocation amount with an additional investment authority allocation amount may occur without violating the Utah Rural Jobs Act or this rule, the office will approve the request to aggregate the allocations; and

(iii) ~~]~~if the allocations are aggregated, allocations shall be subject to the deadline for the original investment authority allocation.

(5) Once the maximum amount of funding has been allocated, applicants will be notified that there is no other allocation amount available for the fiscal year unless or until an applicant's certification lapses, an applicant withdraws its request, or if funding is recaptured.

(6) A partnership, limited liability company or S-corporation will be considered a claimant and may file the affidavit set forth in Subsection 63N-4-303(2), provided it includes a list of its partners, members, or shareholders and one of its partners, members, or shareholders has state tax liability. No penalty or fine will be assessed on a claimant that fails to make the investment set forth in an affidavit.

R357-21-6. Annual Fees.

(1) Each applicant will be notified of any recalculation of any annual fee at least ten days before each annual reporting date. If no notice of recalculation is received, then the annual fee will be the same amount as it was the previous year and will be due along with the annual report.

R357-21-7. Full Funded Applicant.

(1) A notice of full funding pursuant to Subsection 63N-4-303(7) shall be provided by the applicant on official letterhead of the applicant and follow the format, documentation, and other requirements in Section R357-21-7:

(a) bank statements, credit instruments, and other supporting documentation to show full funding was achieved under the requirements outlined in Subsection 63N-4-303(7); and

(b) any other documentation the office may request.

(2) If the approved applicant does not meet the requirements found in Subsection 63N-4-303(7) or is found to have lacking documentation as described in Subsection R357-21-7(1), the office shall notify the applicant that its investment authority allocation has lapsed by issuing a Notice of Agency Action for Lapsed Allocation.

(3) The applicant will have ten business days to submit to the executive director a challenge to a Notice of Agency Action for Lapsed Allocation:

(4) Any challenge to a Notice of Agency Action for Lapsed Allocation shall provide documentation that the requirements of Subsection 63N-4-303(7) were met within 65 days of notice of approval for investment authority allocation;

(5) The executive director shall issue a final determination within five business days of receipt of such a challenge.

R357-21-8. Form and Notice for Tax Credits.

(1) An approved applicant that has fully funded its investment authority allocation and has provided the evidence required in Subsection 63N-4-303(7) shall notify the office annually of the entities that are eligible to use tax credits as follows:

(a) by submitting the a "Notification of Investment Authority Allocation for Rural Jobs Act Tax Credits" to the office on official letterhead;

(b) each notice shall be accompanied by documentation of the investment made in the fund raised by the approved applicant with respect to the entity claiming a tax credit including investment amount, entity name, and entity federal employer identification number;

(c) each notice shall be accompanied by any documents requested by the office; and

(d) for tax credits allowed to a partnership, limited liability company or S-corporation, the notice shall be accompanied by any necessary documentation or agreements to demonstrate how the credits will be used by the partners, members, or shareholders.

(2) Each tax credit certificate shall contain the following contingencies:

(a) certification provision requiring the entity receiving the tax credit to certify:

(i) it is subject to the recapture provisions set forth in Section 63N-4-305; and

(ii) it will not sell the tax credit on the open market;

(b) be available for use annually in accordance with the applicable percentages to the entity receiving the tax credit after receipt and acceptance of the approved applicant's annual report to the office; and

(c) ~~[A]~~any event of recapture outlined by the Utah Small Business Jobs Act or this rule shall prevent the use of an annual tax credit certificate to the entity receiving the tax credit.

R357-21-9. Reports.

(1) The annual reports required by Section 63N-4-307 shall include information required in statute and must also include, with respect to the first report for any eligible small business:

(a) a baseline of the number of employees at each eligible small business that receives an investment based on a payroll report of the eligible small business;

(b) new state revenue generated by the eligible small business for the previous taxable year of the annual report;

(c) NAICS Code designations the eligible small business is officially subscribed to; and

(d) a brief description of the eligible small business including general business activities; how investment funds are being utilized by the eligible small business, and any other information the approved applicant feels relevant.

(e) the amount of funding that the eligible small business has received through Title 63N, Chapter 3, Part 8, State Small Business Credit Initiative Program Fund; and

(f) an authorization to disclose tax information for each eligible small business that accurately reports new state revenue.

(2) New annual jobs shall be calculated on an annual basis by subtracting the baseline number of employees reported in Section R357-21-9 from annual employment level of the eligible small business calculated by averaging the monthly payroll reports of the eligible small business for the applicable year, provided that such average with respect to the initial annual report for an eligible small business shall only include payroll reports for the months following the initial growth investment and shall be multiplied by 50% if such initial growth investment occurs after June 30 of the applicable year. New annual jobs reported may not be less than zero.

(3) Within five days of its investment of 100% of its rural investment authority in growth investments in this state with at least 70% invested in rural counties, the approved applicant must notify the office of ~~[the achievement of such]~~ milestone achievements on a report that includes:

(a) the name and location of each eligible small business;

(b) the amount invested in each eligible small business; and

(c) whether the eligible small business is located in a rural county.

~~(4) [For the initial and subsequent annual reports.~~

~~(5)]~~An approved applicant may submit the reports on its own forms, but reports must be presented in plain language and simple to navigate.

(5) The office will apply a proration of job creation for each company that received investment from multiple Rural Jobs Act applicants, determined by investment duration for the year and amount.

R357-21-10. Recapture (Revocation).

(1) If the office determines recapture is necessary pursuant to Section 63N-4-305, the office shall issue a Provisional Notice of Agency Action for Recapture to both the approved applicant and the taxpayer that claimed the tax credit. Such notice shall be delivered to the approved applicant by electronic mail and certified mail, and shall state under Section 63N-4-305 the recapture is sought.

(2) The 90-day cure period provided for in Section 63N-4-305 begins on the day following receipt of the Provisional Notice of Agency Action for Recapture. If the action or omission upon which the recapture is based is cured during the 90 day cure period, the office shall issue a notice of cure to the approved applicant. [~~If the action or omission upon which the recapture is based is not cured within the 90 cure period, the office shall issue a final Notice of Agency Action for Recapture to the approved applicant, the taxpayer that claimed the tax credit, and the Utah Tax Commission.~~]

(3) If after the 90-day cure period, the action or omission upon which the recapture is based is not cured, the office shall issue a final Notice of Agency Action for Recapture.

The Final Notice of Agency Action for Recapture shall also be sent to the Utah Tax Commission.

(4) To remain 100% invested during the compliance period, if fund losses occur due to an eligible small business' inability to meet their investment obligation, the rural investment company shall satisfy the 100% investment requirements of Subsection 63N-4-305(1) by reinvesting any capital that is recovered. Investment amounts not recovered will not have to be reinvested to satisfy the 100% investment requirements of Subsection 63N-4-305(1).

R357-21-11. Exit.

(1) An approved applicant may exit the program pursuant to requirements outlined in Section 63N-4-309.

(2) The request for exit must be made on official letterhead of the approved applicant and contain the following:

(a) the calculation used to determine the state reimbursement amount;

(b) the aggregate new annual jobs reported in earlier annual reports; and

(c) the calculation used to determine the excess return amount including:

(i) relevant documentation used to show the present value of each growth investment made by the approved applicant on the day the approved applicant applies for exit from the program. Relevant documentation must show from verifiable sources how the present value of each growth investment is determined and additional documentation may be requested by the office to verify values provided; and

(ii) relevant documentation that shows how any projected increase in an equity holder's federal or state tax liability including penalties and interest, related to the equity holder's ownership, management, or operation of the rural investment company, was determined. This may include actual tax filings of the equity holder whose increase is utilized in the excess return calculation.

KEY: rural development, rural jobs, tax credit

Date of Last Change: ~~January 21,~~ 2022

Authorizing, and Implemented or Interpreted Law: 63N-4-304(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Rule or Section Number:	R357-24	Filing ID: 54824

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-24. Utah Works Program
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is no longer necessary as a result of the passage of H.B. 333 passed during the 2022 General Session which moved and renumbered provisions related to the Utah Works Program from the Governor's Office of Economic Opportunity. The Utah System of Higher Education will file a new rule under the correct title should it determine a rule is required.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is repealed in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The repeal 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. 333 (2022).
B) Local governments:
The repeal is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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 repeal is not expected to have any fiscal impact on other persons' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal of this rule requires no action or compliance by any 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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Governor's Office of Opportunity, Dan Hemmert, 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 63N-12-505		
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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:	10/17/2022
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9. This rule change MAY become effective on: 10/24/2022

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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	08/25/2022
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R357. Governor, Economic Opportunity.

~~[R357-24. Utah Works Program.~~

~~R357-24-101. Title.~~

~~_____ This rule is known as the "Utah Works Program Rule."~~

~~**R357-24-102. Purpose and Goals.**~~

~~(1) The Talent Ready Utah Center's Utah Works Program promotes partnerships between companies and post-secondary institutions to fill high-demand positions and provide skills training. This program teams industry, post-secondary institutions, and state agencies to address specific workforce gaps identified by companies.~~

~~(2) The goal of UWP is to accelerate hiring and skills training that will lead to economic growth.~~

R357-24-103. Definitions.

~~The following terms are defined:~~

~~(1) "Applicant" means a collaboration between one or more companies and one or more post-secondary institutions for a particular hiring program.~~

~~(2) "Awardee" means an applicant that has been awarded a UWP grant.~~

~~(3) "Collaboration" means the strategic coordination between a company and post-secondary institution to address a skilled labor gap.~~

~~(4) "Company" means a corporation, limited liability company, partnership, association, or other business entity and may include a federal military installation when such entity otherwise meets UWP eligibility requirements and does not include an individual, sole proprietorship, or educational institution.~~

~~(5) "Company representative" means a representative from a company that is designated to support the efforts of the collaboration.~~

~~(6) "High demand position" means a position in which there are hard to fill jobs with a lack of skilled labor employees or a large number of skilled labor positions needed in a short amount of time.~~

~~(7) "Pre hire program" means an applicant's plan to vet potential hires prior to the skills training. The pre hire program will typically consist of a training lasting from two days to two weeks.~~

~~(8) "Post-secondary institution" means an entity under the Utah System of Higher Education.~~

~~(9) "Skilled labor" means jobs that require skills training and a level of skill.~~

~~(10) "Skilled labor gap" means the disparity between a company's existing or future skill needs.~~

~~(11) "Skills training program" means a training plan developed and agreed upon between the post-secondary institution and a company.~~

~~(12) "TRU" means the Talent Ready Utah Center.~~

~~(13) "UWP" means the Utah Works Program.~~

~~(14) "UWP grant" means the competitive grants awarded and administered under this Rule.~~

R357-24-104. Authority.

~~This rule is adopted by the office under the authority of Section 63N-1b-307.~~

R357-24-105. Eligibility Criteria.

~~(1) Proposal must be jointly developed by a company and a post-secondary institution.~~

~~(2) Applicants must submit proposals as outlined in Section R357-24-106, and otherwise specified in TRU.~~

~~(3) A company representative must certify that:~~

~~(a) the company has a skilled labor gap;~~

~~(b) the proposed post-secondary institution partnership will meet that gap need;~~

~~(c) the company has significant one time or ongoing hiring demands; and~~

~~(d) the company commits to provide a cost share contribution as outlined in Subsection R357-24-105(5).~~

~~(4) The company must have a substantial presence in Utah.~~

~~(a) A substantial presence, for purposes of UWP requires:~~

~~(i) the company must be properly registered with the Utah Division of Corporations as an active, for-profit business entity, in good standing; and~~

~~(ii) the company must be properly licensed in the appropriate city or county.~~

~~(b) TRU shall, according to its judgment and discretion, determine whether a company has a substantial presence for purposes of a UWP grant by weighing;~~

~~(i) total workforce and percentage of company's workforce in Utah;~~

~~(ii) amount of business taxes paid to the state;~~

~~(iii) relative size of the company;~~

~~(iv) whether the company's principal place of business is Utah;~~

~~(v) likelihood that the company will maintain a significant presence in the state;~~

~~(vi) a commitment of capital expenditure and new job creation in the state; and~~

~~(vii) the degree to which the company's activities and operations positively impact Utah's economy.~~

~~(5) The company must fulfill the following cost sharing requirements:~~

~~(a) provide a company representative to support the collaboration;~~

~~(b) provide an "in-kind" contribution, approved by TRU, which may include:~~

~~(i) company representative's time spent on the collaboration;~~

~~(ii) materials and equipment;~~

~~(iii) work or research space;~~

~~(iv) travel and other company expenses budgeted for the collaboration; or~~

~~(v) other contributions approved by TRU; and~~

~~(c) make available for audit reported cost share activities.~~

~~(6) Applicants may coordinate with the Department of Workforce Services when building pre-hire program objectives.~~

R357-24-106. Proposal and Submission Process.

~~(1) TRU will accept proposals for UWP grants on an ongoing basis subject to available funds.~~

~~(2) Applicants shall submit proposals in a form and manner specified by TRU.~~

~~(3) The proposal must include:~~

~~(a) a description of the applicant's eligibility;~~

~~(b) a detailed description of pre-hire program, if applicable, and skills training program;~~

~~(c) description of skilled labor positions;~~

~~(d) projected number of individuals who will start the program, finish the program and be successfully hired;~~

~~(e) potential economic impact on the Utah economy;~~

~~(f) an executed collaboration agreement between the company and post-secondary institution; and~~

~~(g) an outlined budget for total program cost, including:~~

~~(i) a description of any funds already secured for activities related to the program;~~

~~(ii) breakdown of costs to complete the scope of work;~~

~~(iii) an itemized budget detailing planned use of grant funds, including how the funding will be allocated, tracked, and reported; and~~

~~(iv) awardee must use grant funds for expenses specific to the program and may include:~~

- ~~_____ (A) instructors;~~
- ~~_____ (B) marketing;~~
- ~~_____ (C) equipment;~~
- ~~_____ (D) equipment maintenance;~~
- ~~_____ (E) tuition reimbursements;~~
- ~~_____ (F) curriculum and program development;~~
- ~~_____ (G) program management;~~
- ~~_____ (H) US security clearances; and~~
- ~~_____ (I) travel for training from rural areas as approved by TRU.~~
- ~~_____ (4) Completed proposals will be reviewed and awardees selected via the criteria and method outlined in this Rule.~~

R357-24-107. Method for Selecting Awardees.

- ~~_____ (1) TRU will evaluate grant proposals and recommend grant amounts.~~
- ~~_____ (2) TRU will, according to its discretion and judgment, review the applicant's proposal by considering:~~
 - ~~_____ (a) statewide or regional importance of the industry to Utah's economy;~~
 - ~~_____ (b) relative size of the sector, its stability, and growth potential;~~
 - ~~_____ (c) characteristics of the state's workforce including education and training;~~
 - ~~_____ (d) the current availability of other sources of funding;~~
 - ~~_____ (e) the potential for the industry to develop new jobs and business opportunities in the state;~~
 - ~~_____ (f) likelihood that skilled labor in this sector will result in the creation of a company in Utah or growth of existing Utah company;~~
 - ~~_____ (g) number of positions to be trained and filled;~~
 - ~~_____ (h) impact on the local economy; and~~
 - ~~_____ (i) any other factor TRU deems relevant, considering the mission of UWP and the purpose of the UWP grant.~~
- ~~_____ (3) The criteria will be designed to assess each proposal and may include:~~
 - ~~_____ (a) completeness of proposal;~~
 - ~~_____ (b) thorough pre-hire program and skills training program;~~
 - ~~_____ (c) reasonableness of proposal;~~
 - ~~_____ (d) reasonableness of the proposed timeline;~~
 - ~~_____ (e) reasonableness of the proposed budget;~~
 - ~~_____ (f) availability of UWP grant funds;~~
 - ~~_____ (g) potential for economic impact, as measured by:~~
 - ~~_____ (i) skilled labor gap mitigation;~~
 - ~~_____ (ii) meeting target head count;~~
 - ~~_____ (iii) potential revenue due to expansion of current business or development of new businesses;~~
 - ~~_____ (iv) projected time to fill job needs;~~
 - ~~_____ (v) market need or industry impact;~~
 - ~~_____ (h) any other factor of the applicant's ability to produce measurable and timely benefits to the state; and~~
 - ~~_____ (i) any factor relating to eligibility requirements.~~
- ~~_____ (4) UWP grants must be used to mitigate gaps and meet company hiring demands. The program proposals referenced in Section R357-24-106 must identify specific pre-hire program and skills training.~~
- ~~_____ (5) In the event of a favorable recommendation by TRU the proposal will be reviewed by the Talent, Education, and Industry Alignment Subcommittee using the same criteria.~~
- ~~_____ (6) An applicant will become an awardee only upon approval by TRU and the Talent, Education, and Industry Alignment Subcommittee.~~

R357-24-108. Grant Amount, Award, and Required Contract.

- ~~_____ (1) TRU will have the discretion to limit the maximum amount of funding that may be awarded for each UWP grant based on available funds, scope of the collaboration, and quality of proposal.~~
- ~~_____ (2) TRU reserves the right to award funding for any proposal in full or in part, to request additional information, or to reject any proposals based on the eligibility and evaluation criteria set forth in these Rules, Utah law, and according to the judgment and discretion of TRU. TRU also reserves the right to certify any agreements between post-secondary institution and company on IP terms and confidentiality.~~
- ~~_____ (3) Upon award of a UWP grant, and prior to disbursement of any funds, awardee must enter into a contract with Go Utah governing the use of UWP grant funding.~~
- ~~_____ (4) Unless addressed in the terms and conditions of the contract between awardee and Go Utah the following provisions shall apply:~~
 - ~~_____ (a) UWP grant funding may not be used to provide a primary benefit to any state other than Utah;~~
 - ~~_____ (b) Subject to TRU approval, TRU may, via supplemental contract, allocate grant funds directly to an awardee company to pay for the cost of US security clearances for UWP grant program hires where a US security clearance is required as a condition of the position; and~~
 - ~~_____ (c) for any other eligibility requirements, awardees must maintain eligibility status for UWP program until the collaboration is complete, scope of work requirements have been met, final disbursement of funding has been made, and first year reporting has been completed.~~
 - ~~_____ (5) Any misrepresentation to TRU or violations of this Rule may result in forfeiture of UWP grant funding and require repayment of the funding received as part of UWP grant or disqualification from continued funding.~~
 - ~~_____ (6) TRU reserves the right to audit the use of any UWP grant funding.~~

R357-24-109. Contract Modifications.

- ~~_____ (1) Awardee may request a modification to the terms of a UWP contract.~~
- ~~_____ (2) TRU may deny a modification request for any reason.~~
- ~~_____ (3) TRU shall have discretion to agree to reasonable, nonsubstantive changes which may include:~~
 - ~~_____ (a) changes to timelines within the scope of work;~~
 - ~~_____ (b) corrections to clerical errors in the proposal materials; and~~
 - ~~_____ (c) technical changes to conditions that do not alter the budget, company's eligibility status, or violate any state or federal law.~~
- ~~_____ (4) Substantive changes must be approved by TRU in consultation with the Talent, Education, and Industry Alignment subcommittee.~~
- ~~_____ (5) Approved changes shall be made in writing and through an amendment modifying the terms of the grant contract.~~
- ~~_____ (6) Awardees refusal or failure to sign the contract within 90 days of receipt of contract constitutes a rejection of the UWP grant and a waiver of any rights and benefits.~~

R357-24-110. Funding Distribution.

- ~~_____ (1) TRU shall reimburse the awardee for no more than the total amount specified in the contract.~~

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

~~(3) After execution of the contract between Go Utah and awardee:~~

~~(a) awardee may receive up to 50% of the total grant amount, subject to TRU approval; and~~

~~(b) remaining funds to be disbursed on a reimbursement basis, as outlined in scope of work and after company provides sufficient evidence of initial expenditures.~~

~~(4) Failure to successfully complete the scope of work requirements may result in a recapture of any of the grant funding and will be grounds to terminate the contract and any future funding.~~

R357-24-111. Reporting and Cooperation Requirements.

~~(1) The awardee shall report to TRU and provide documentation evidencing metrics for inclusion in the annual report described in Section 63N-1a-306:~~

~~(a) the number of participants in the program;~~

~~(b) the number of participants who have completed training offered by the program;~~

~~(c) the number of participants who have been hired by a business participating in the program; and~~

~~(d) any additional data needed as required and outlined in the terms of the contract.~~

~~(2) Awardee shall submit to any audit, by TRU or a third party, to verify reported data.~~

~~**KEY:** economic development, Talent Ready Utah, Utah Works Program~~

~~**Date of Last Change:** December 3, 2021~~

~~**Authorizing, and Implemented or Interpreted Law:** 63N-12-505]~~

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal

Rule or Section Number:	R357-26	Filing ID:	54821
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Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-26. Rural Rapid Manufacturing Grant Program

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

H.B. 333 passed during the 2022 General Session which repealed the Rural Rapid Manufacturing Grant Program. Thus, this rule is no longer necessary.

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

This rule is repealed in its entirety.

Fiscal Information

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

A) State budget:

The repeal 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. 333 (2022).

B) Local governments:

The repeal is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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 repeal is not expected to have any fiscal impact on other persons' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal of this rule requires no action or compliance by any 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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Governor's Office of Opportunity, Dan Hemmert, 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 63N-4-604(1)		
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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:	10/17/2022
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9. This rule change MAY become effective on:	10/24/2022
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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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	08/25/2022
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R357. Governor, Economic Opportunity.

~~[R357-26. Rural Rapid Manufacturing Grant Program. R357-26-101. Title.~~

~~_____ This rule is known as the "Rural Rapid Manufacturing Grant Program Rule."~~

~~**R357-26-102. Definitions.**~~

~~_____ In addition to the definitions in Section 63N-4-602 as defined or used in this rule:~~

~~_____ (1) "Office" means the Governor's Office of Economic Opportunity.~~

~~_____ (2) "Project" means:~~

~~_____ (a) construction or renovation of a rapid manufacturing clothing production laboratory, engineering and computer graphics laboratory, manufacturing systems laboratory, or textile science laboratory designed to train students and employees;~~

~~_____ (b) the building and improvement of equipment to provide opportunities for students and employees to train and participate in rapid manufacturing; or~~

~~_____ (c) training and scholarships for students and employees to participate in rapid manufacturing employment opportunities.~~

~~**R357-26-103. Authority.**~~

~~_____ (1) Subsection 63N-4-604(1) requires the office to make rules establishing the eligibility and reporting criteria for an entity to receive a grant.~~

~~**R357-26-104. Content of Application.**~~

~~_____ The following content shall, at minimum, be included in each entity's application for a grant:~~

~~_____ (1) organizational information including:~~

~~_____ (a) entity name;~~

~~_____ (b) entity address;~~

~~_____ (c) entity telephone number;~~

~~_____ (d) entity Tax ID;~~

~~_____ (e) entity contacts;~~

~~_____ (f) contact email addresses;~~

~~_____ (g) contact telephone numbers; and~~

~~_____ (h) amount of grant funding request.~~

~~(2) Supporting documentation including:~~

- ~~(a) list stakeholders and partners involved in the grant project and the roles they will perform;~~
- ~~(b) letters of support from any entities involved in the project;~~
- ~~(c) letter of support from the community in which the project will take place;~~
- ~~(d) quotes and bids for proposed project;~~
- ~~(e) drafts or renderings of the proposed construction or renovation projects, or pictures of existing property to be modified to accommodate a laboratory;~~
- ~~(f) the entity's W9 form, or the applicant's State if the applicant is currently a state vendor; and~~
- ~~(g) project plan that includes:~~
 - ~~(i) project proposal;~~
 - ~~(ii) scope of work;~~
 - ~~(iii) itemized budget;~~
 - ~~(iv) timeline;~~
 - ~~(v) deliverables and outcomes; and~~
 - ~~(vi) how the deliverable and outcomes will be gathered and tracked.~~

~~(3) In addition to the requirements in this section, non-profit entities that apply for grant funding are required to submit:~~

- ~~(a) IRS designation letter;~~
- ~~(b) non-profit organization W-9;~~
- ~~(c) charitable Solicitation Permit;~~
- ~~(d) certificate of good standing;~~
- ~~(e) Articles of Incorporation;~~
- ~~(f) by laws;~~
- ~~(g) list of board members;~~
- ~~(h) GRAMA form; and~~
- ~~(i) letter of support from the Economic Development Director or County or City Official in the designated area.~~

~~R357-26-105. Application and Approval Procedure.~~

~~(1) The office will use a scoring system to analyze the awarding of grants and grant amounts. The scoring system will be made available in the instructions to the application.~~

~~(2) If, after review of an application provided by an entity the office determines that the application provides reasonable justification for authorizing a grant and if there are available funds for the grant, the office shall enter into a written agreement with the entity for a term no longer than 18 months.~~

~~(3) An entity, without earlier written approval from the office, may not begin performance on the contract until the contract agreement is completely executed.~~

~~R357-26-106. Project Reimbursement.~~

~~(1) Awarded entities will be required to submit, at minimum, the following documentation upon reimbursement request:~~

- ~~(a) a letter of request on entity letterhead specifying the amount requested and certifying that the project is either partially completed, up to 50%, or fully completed and each invoice has been paid. The letter of request shall be signed and the accuracy of the information verified by a company officer;~~
- ~~(b) copies of invoices and evidence of payment for work on the project;~~
- ~~(c) photo evidence that the project is partially completed or fully completed. Provide several photos of the project, the building, expansion, installed and functioning equipment.~~

~~(2) Partial reimbursement payment may be made through the course of the 18 month term of the contract, not to exceed 50% of expenses incurred during the development of the project. A request for funds form and itemization sheet will be required to be signed and submitted to receive the initial 50% of funds.~~

~~**KEY: rural manufacturing, economic development**~~
~~**Date of Last Change: December 29, 2021**~~
~~**Authorizing, and Implemented or Interpreted Law: 63N-4-604(1)**~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Rule or Section Number:	R357-28	Filing ID: 54822

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov

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

General Information

2. Rule or section catchline:
R357-28. Talent Ready Connections Program
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is no longer necessary as a result of the passage of H.B. 333 passed during the 2022 General Session which moved and renumbered provisions related to the Talent Ready Connections Program from the Governor's Office of Economic Opportunity. The Utah System of Higher Education will file a new rule under the correct title should it determine a rule is required.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is repealed in its entirety.

Fiscal Information

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

A) State budget:

The repeal 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. 333 (2022).

B) Local governments:

The repeal is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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 repeal is not expected to have any fiscal impact on other persons' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal of this rule requires no action or compliance by any 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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Governor's Office of Opportunity, Dan Hemmert, 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 63N-1b-306		
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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:	10/17/2022
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9. This rule change MAY become effective on:	10/24/2022
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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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	08/25/2022
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R357. Governor, Economic Opportunity.

~~R357-28. Talent Ready Connections Program.~~

~~R357-28-101. Title.~~

~~This rule is known as the "Talent Ready Connections Program Rule."~~

~~R357-28-102. Purpose.~~

~~(1) Within the Center the Talent Ready Connections Program is created to support a system of youth apprenticeships and work based learning opportunities tailored to the specific workforce needs of high demand industries.~~

~~R357-28-103. Definitions.~~

~~The following terms are defined:~~

~~(1) "Coordinator" means a full time employee who has been authorized by the center under Subsection 63N-1b-306(5).~~

~~(2) "Educational Administration" means any institutional administration percentage costs associated with TRC.~~

~~(3) "Education Partner" means a public high school, technical college, or institution of higher education that partners with a participating employer and has received a TRC grant.~~

~~(4) "Go Utah" means the Governor's Office of Economic Opportunity.~~

~~(5) "High demand Industry" means an industry in which there are hard to fill jobs with a lack of skilled labor employees or a large number of skilled labor positions.~~

~~(6) "TRC" means the Talent Ready Connections Program.~~

~~(7) "TRC grant" means the competitive grants awarded and administered under Section 63N-1b-306 and this rule.~~

~~R357-28-104. Authority.~~

~~This rule is adopted by the office under Section 63N-1b-306.~~

~~R357-28-105. Method for Selecting Education Partners.~~

~~(1) Subject to available funds the center will accept proposals for TRC grants on a rolling basis.~~

~~(2) Proposals shall be submitted in a form and manner specified by the center.~~

~~(3) The center will evaluate grant proposals and recommended grant amounts prior to board review.~~

~~R357-28-106. Grant Amount, Award, and Required Contract.~~

~~(1) The center will have the discretion to limit the maximum amount of funding that may be awarded for each TRC grant.~~

~~(2) Upon award of a TRC grant, and prior to disbursement of any funds, an education partner shall enter into a contract with Go Utah governing the use of TRC grant funding.~~

~~(3) Unless addressed in the terms and conditions of the contract an education partner shall maintain eligibility status for TRC participation until:~~

~~(a) the partnership is complete;~~

~~(b) scope of work requirements have been met;~~

~~(c) final disbursement of funding has been made; and~~

~~(d) reporting requirements have been met.~~

~~(4) Any misrepresentation to the center may result in:~~

~~(a) forfeiture of TRC grant funding;~~

~~(b) repayment of funding received; and~~

~~(c) disqualification from continued funding.~~

~~(5) The center reserves the right to audit the use of any TRC grant funding.~~

~~(6) TRC grant funding may not be used to provide a primary benefit to a participating employer's operations outside the state.~~

~~R357-28-107. Contract Modifications.~~

~~(1) An education partner may request a modification to the terms of a contract.~~

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

~~(3) The center shall have discretion to agree to reasonable, non-substantive changes that may include:~~

~~(a) changes to timelines within the scope of work;~~

~~(b) corrections to clerical errors in the proposal materials; and~~

~~(c) technical changes to conditions that do not alter the budget, participating employer's eligibility status, or violate any state or federal law.~~

~~(4) Substantive changes must be approved by the center in consultation with the board.~~

~~(5) Approved changes shall be made in writing and through an amendment modifying the terms of the contract.~~

~~(6) At the discretion of the center an education partner's refusal or failure to sign the contract within 90 days of receipt of contract may constitute a rejection of the TRC grant and a waiver of any rights and benefits.~~

~~R357-28-108. Funding Distribution.~~

~~(1) The center shall reimburse the education partner for no more than the total amount specified in the contract.~~

~~(2) Payment will only be made for those costs authorized and approved by the center in accordance with the terms and conditions provided in the contract and as reasonably requested.~~

~~(3) After execution of the contract between an education partner and Go Utah an education partner may receive:~~

~~(a) up to 50% of the total grant amount or as specified in the contract; and~~

~~(b) the remaining funds after the education partner provides sufficient evidence of expenditures as outlined in the contract.~~

~~(4) Failure to successfully complete the scope of work requirements may result in:~~

~~(a) repayment of the grant funding received;~~

~~(b) termination of the contract; and~~

~~(c) disqualification of continued funding.~~

~~R357-28-109. Reporting and Cooperation Requirements.~~

~~(1) The education partner shall report to the center annually and on a regular basis as reasonably requested by the center.~~

~~(2) At a minimum, the education partner shall provide documentation of the following:~~

~~(a) the number of participants in the program;~~

~~(b) the number of participants who have completed each phase offered by the program;~~

~~(c) the number of participants who have been hired by a business participating in the program; and~~

~~(d) any additional data as required and outlined in the terms of the contract.~~

~~(3) An education partner shall submit to any audit requested to verify reported data including a third party audit at the request of the center.~~

R357-28-110. Coordinator Duties and Responsibilities.

- ~~(1) A coordinator shall:~~
 - ~~(a) oversee youth apprenticeship program expansion for dedicated career and technical education region;~~
 - ~~(b) coordinate with potential participating employers;~~
 - ~~(c) understand both registered and non-registered apprenticeship efforts in the area;~~
 - ~~(d) hold and convene working group meetings for each partnership;~~
 - ~~(e) prepare marketing materials for featured programs;~~
 - ~~(f) coordinate student outreach efforts between industry and education partners;~~
 - ~~(g) apply for funding opportunities where available;~~
 - ~~(h) learn best practices from other states;~~
 - ~~(i) facilitate memorandum of understanding discussions for local partnerships;~~
 - ~~(j) organize training and marketing events;~~
 - ~~(k) develop strong relationships with education and industry partners; and~~
 - ~~(l) any other duties as determined by the center.~~
- ~~(2) A coordinator is responsible for the following interactions with the center:~~
 - ~~(a) weekly calls with TRC program manager at Go Utah;~~
 - ~~(b) monthly group conversations or training sessions with other TRC coordinators;~~
 - ~~(c) yearly tracking report due at end of fiscal year;~~
 - ~~(d) collaboration on program replication and expansion;~~
 - ~~(e) involving TRC program manager in prospective partnership discussions;~~
 - ~~(f) shared marketing effort;~~
 - ~~(g) using established messaging for program and shared marketing material when applicable; and~~
 - ~~(h) sharing success stories and events with the center.~~

KEY: Talent Ready Utah, apprenticeships, work based learning
Date of Last Change: August 24, 2021
Authorizing, and Implemented or Interpreted Law: 63N-1b-306]

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Rule or Section Number:	R357-41	Filing ID: 54818

Agency Information

1. Department:	Governor
Agency:	Economic Opportunity
Building:	World Trade Center
Street address:	60 E South Temple
City, state and zip:	Salt Lake City, UT 84111

Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-41. Utah Main Street Program Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is no longer necessary as a result of the passage of H.B. 333 passed during the 2022 General Session which moved and renumbered provisions related to the Utah Main Street Program from the Governor's Office of Economic Opportunity. The Utah Department of Cultural and Community Engagement will file a new rule under the correct title should it determine a rule is required.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is repealed in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The repeal 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. 333 (2022).
B) Local governments:
The repeal is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).
C) Small businesses ("small business" means a business employing 1-49 persons):
The repeal is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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 repeal is not expected to have any fiscal impact on other persons' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal of this rule requires no action or compliance by any 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
Total Fiscal Cost	\$0	\$0	\$0
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

Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

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

Citation Information

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 63N-3-702		
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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:	10/17/2022
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9. This rule change MAY become effective on:	10/24/2022
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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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	08/25/2022
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R357. Governor, Economic Opportunity.

~~**R357-41. Utah Main Street Program Rule.**~~

~~**R357-41-101. Title.**~~

~~_____ This rule is known as the "Utah Main Street Program Rule".~~

~~**R357-41-102. Definitions.**~~

~~_____ In addition to the terms defined under Section 63N-3-701 the following terms are defined:~~

~~(1) "UMSP" means the Utah Main Street Program.~~

~~**R357-41-103. Authority.**~~

~~_____ This rule is adopted by the office under the authority of Section 63N-3-702.~~

~~**R357-41-107. Award and Required Contract.**~~

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

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

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

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

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

R357-41-108. Contract Modifications.

~~(1) Awardee may request a modification to the terms of a contract.~~

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

~~(3) The office shall have discretion to agree to:~~

~~(a) changes to timelines within the scope of work;~~

~~(b) corrections to clerical errors in the proposal materials; and~~

~~(c) technical changes to conditions that do not alter the budget, business's eligibility status, or violate any state or federal law.~~

~~(4) Substantive changes shall be approved by the office in consultation with the main street program advisory committee.~~

~~(5) Approved changes shall be made in writing and through an amendment modifying the terms of the contract.~~

~~(6) Awardees refusal or failure to sign the contract within 90 days of receipt of the contract constitutes a rejection of participation in UMSP and a waiver of any rights and benefits.~~

R357-41-109. Funding Distribution.

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

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

~~(3) Misrepresentation to the office or violations of the agreement may result in forfeiture of UMSP participation, repayment of the funding received, or disqualification from continued funding.~~

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

R357-41-110. Reporting and Cooperation Requirements.

~~(1) At a minimum the awardee shall report to the office and provide documentation evidencing the following:~~

~~(a) number of:~~

~~(i) buildings rehabilitated;~~

~~(ii) main street jobs created; and~~

~~(iii) businesses created; and~~

~~(b) amount of:~~

~~(i) private investment; and~~

~~(ii) public investment.~~

KEY: economic opportunity, main street

Date of Enactment or Last Substantive Amendment: September 22, 2021

Authorizing, and Implemented or Interpreted Law: [63N-3-702]

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Rule or Section Number:	R357-43	Filing ID: 54839

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-43. Housing and Transit Reinvestment Zone Act Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
S.B. 140 passed during the 2022 General Session and modified the Housing and Transit Reinvestment Zone Act. The purpose of this rule filing is to define a term used in the new language.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule filing defines Light Rail or Bus Rapid Transit Station.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no new aggregate anticipated cost or savings to the state budget. This amendment is merely defining a term.
B) Local governments:
There is no new aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.

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

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

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

There is no new aggregate anticipated cost or savings to non-small businesses. Participation in the program is optional.

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

There is no new aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

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

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

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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

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

Citation Information

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 63N-1a-303		
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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:	10/17/2022
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9. This rule change MAY become effective on:	10/24/2022
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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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	08/23/2022
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R357. Governor, Economic Opportunity.

R357-43. Housing and Transit Reinvestment Zone Act Rule. R357-43-1. Purpose.

(1) The purpose of this rule is to define and clarify a term relating to the Housing and Transit Reinvestment Zone Act.

R357-43-2. Authority.

(1) Rulemaking authority is provided in Section 63N-1a-303.

R357-43-3. Definitions.

The following term is defined:

(1) "Light Rail or Bus Rapid Transit Station" means an existing or proposed station, stop, or terminal along an existing or proposed light rail or bus rapid transit line and in which the line is included in a metropolitan planning organization's adopted long-range transportation plan.

KEY: housing and transit reinvestment zone, affordable housing

Date of Enactment: 2022

Authorizing, and Implemented or Interpreted Law: 63N-1a-303

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Rule or Section Number:	R357-44	Filing ID: 54855

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-44. State Small Business Credit Initiative Program Fund
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
H.B. 17 passed during the 2022 General Session which moved and renumbered provisions related to the State Small Business Credit Initiative Program Fund from the Department of Workforce Services to the Governor's Office of Economic Opportunity.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule will codify authority, definitions, boards, committees, eligibility, and application requirements.

Fiscal Information

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

A) State budget:

There is no new aggregate anticipated cost or savings to the state budget because any fiscal impact would have been addressed in the fiscal note of H.B. 17 (2022).

B) Local governments:

There is no new aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.

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

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

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

There is no new aggregate anticipated cost or savings to non-small businesses. Participation in the program is optional.

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

There is no new aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

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

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

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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Governor's Office of Economic Opportunity, Dan Hemmert, has reviewed and approved this fiscal analysis.			

Citation Information

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 63N-3-802		

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:	10/17/2022

9. This rule change MAY become effective on:	10/24/2022
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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	08/23/2022
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R357. Governor, Economic Opportunity.

**R357-44. State Small Business Credit Initiative Program Fund.
R357-44-101. Authority.**

This rule is adopted by the office under the authority of Section 63N-3-802.

R357-44-102. Definitions.

- (1) As used in this program:
 - (a) "USBCI" means the State Small Business Credit Initiative Program Fund;
 - (b) "Financial institution" means an organization that meets USBCI requirements to participate as a lending institution;
 - (c)(i) "Annual receipts" means grants made by the federal government and state legislative appropriations;
 - (ii) "Annual receipts" does not include program income;
 - (d) "Program income" means fees and interest income generated by participation in the program;
 - (e) "USBCI Advisory Board" means a Board consisting of members of industry and Go Utah;
 - (f) "USBCI Loan Review Committee" means an operational Committee, consisting of members of the Go Utah operations team and at least one member from industry; and
 - (g) "Red-flag" means an occurrence when a loan, borrower, or lender exceeds a threshold or violates a term and is sent to the USBCI Loan Review Committee for review.

R357-44-103. USBCI Advisory Board.

- (1) The USBCI Advisory Board may review Quarterly and Annual reports drafted by the Office, ensure program objectives are met, and recommend changes
- (2) The USBCI Advisory Board may advise on application processes and procedure of the Fund to ensure program objectives are met and partners are represented.

R357-44-104. USBCI Loan Review Committee.

- (1) The USBCI Loan Review Committee may:
 - (a) evaluate the application and make recommendations to the Office on the size, scope, and participation or loan loss reserve participation amount suitable for the applicant;
 - (b) advise on application processes, underwriting criteria and procedure of the Fund to ensure that program objectives are met; and
 - (c) review all lenders before their approval into the program.

R357-44-105. Lender Eligibility.

- (1) To be eligible for participation in the USBCI Capital Access Program, a lender shall:

- (a) qualify under federal guidelines;
 - (b) demonstrate total losses to their portfolio under 10% over the last 12 months; and
 - (c) demonstrate a reasonable expectation that they will be a responsible steward of public funds and follow both federal and state rules and regulations.
- (2) To be eligible for participation in the USBCI Loan Participation Program, a financial institution must:
- (a) be a CDFI or revolving loan fund;
 - (b) demonstrate total losses to their portfolio of under 10% over the last 12 months; and
 - (c) demonstrate a reasonable expectation that they will be a responsible steward of public funds; and
 - (d) follow both federal and state rules and regulations.

R357-44-106. Lender Application Requirements.

- (1) Applications shall be submitted on forms required by the office and in accordance with the procedures outlined by the Office.
- (2) Completed applications shall be placed on the next available Committee agenda for review and recommendation.

KEY: small business credit initiative, small business

Date of Enactment: 2022

Authorizing, and Implemented or Interpreted Law: 63N-3-802

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Rule or Section Number:	R359-1	Filing ID: 54827

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity, Pete Suazo Utah Athletic Commission	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R359-1. Pete Suazo Utah Athletic Commission Act Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is no longer necessary as a result of the passage of H.B. 333 passed during the 2022 General Session

which moved and renumbered provisions related to the Pete Suazo Utah Athletic Commission Act Rule from the Governor's Office of Economic Opportunity. The Utah Department of Cultural and Community Engagement will file a new rule under the correct title should it determine a rule is required.

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

This rule is repealed in its entirety.

Fiscal Information

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

A) State budget:

The repeal 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. 333 (2022).

B) Local governments:

The repeal is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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 repeal is not expected to have any fiscal impact on other persons revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal of this rule requires no action or compliance by any 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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

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

Citation Information

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 63C-11-101		
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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: 10/17/2022

9. This rule change MAY become effective on: 10/24/2022

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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	08/25/2022
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R359. Governor, Economic Development, Pete Suazo Utah Athletic Commission.

~~**[R359-1. Pete Suazo Utah Athletic Commission Act Rule.**~~

~~**R359-1-101. Title.**~~

~~This Rule is known as the "Pete Suazo Utah Athletic Commission Act Rule."~~

~~**R359-1-102. Definitions.**~~

~~In addition to the definitions in Title 63C, Chapter 11, the following definitions are adopted for the purpose of this Rule:~~

~~(1) "Boxing" means the sport of attack and defense using the fist, covered by an approved boxing glove.~~

~~(2) "Designated Commission member" means a member of the Commission designated as supervisor for a contest and responsible for the conduct of a contest, as assisted by other Commission members, Commission personnel, and others, as necessary and requested by the designated Commission member.~~

~~(3) "Drug" means a controlled substance, as defined in Title 58, Chapter 37, Utah Controlled Substances Act, or alcohol.~~

~~(4) "Elimination Tournament" means a contest involving unarmed combat in which contestants compete in a series of matches until not more than one contestant remains in any weight category.~~

~~(5) "Mandatory count of eight" means a required count of eight that is given by the referee of a boxing contest to a contestant who has been knocked down.~~

~~(6) "Unprofessional conduct" is as defined in Subsection 63C-11-302(25), and is defined further to include the following:~~

~~(a) as a promoter, failing to promptly inform the Commission of all matters relating to the contest;~~

~~(b) as a promoter, substituting a contestant in the 24 hours immediately preceding the scheduled contest without approval of the Commission;~~

~~(c) violating the rules for conduct of contests;~~

~~(d) testing positive for drugs or alcohol in a random body fluid screen before or after participation in any contest;~~

~~(e) testing positive for HIV, Hepatitis B or C;~~

~~(f) failing or refusing to comply with a valid order of the Commission or a representative of the Commission; and~~

~~(g) entering into a secret contract that contradicts the terms of the contract(s) filed with the Commission.~~

~~(h) providing false or misleading information to the Commission or a representative of the Commission;~~

~~(i) behaving at any time or place in a manner which is deemed by the Commission to reflect discredit to unarmed combat;~~

~~(j) engaging in any activity or practice that is detrimental to the best interests of unarmed combat;~~

~~(k) knowing that an unarmed contestant suffered a serious injury prior to a contest or exhibition and failing or refusing to inform the Commission about that serious injury.~~

~~(l) conviction of a felony or misdemeanor, except for minor traffic violations.~~

~~(7) A "training facility" is a location where ongoing, scheduled training of unarmed combat contestants is held.~~

~~R359-1-201. Authority Purpose.~~

~~The Commission adopts this Rule under the authority of Subsection 63C-11-304(1)(b), to enable the Commission to administer Title 63C, Chapter 11, of the Utah Code.~~

~~R359-1-202. Scope and Organization.~~

~~Pursuant to Title 63C, Chapter 11, general provisions codified in Sections R359-1-101 through R359-1-512 apply to all contests or exhibitions of "unarmed combat," as that term is defined in Subsection 63C-11-302(23). The provisions of Sections R359-1-601 through R359-1-623 shall apply only to contests of boxing, as defined in Subsection R359-1-102(1). The provisions of Sections R359-1-701 through R359-1-702 shall apply only to elimination tournaments, as defined in R359-1-102(4). The provisions of Section R359-1-801 shall apply only to martial arts contest and exhibitions. The provisions of Section 859-1-901 shall apply only to "White-Cellar Contests". The provisions of Sections R359-1-1001 through R359-1-1004 shall apply only to grants for amateur boxing.~~

~~R359-1-301. Qualifications for Licensure.~~

~~(1) In accordance with Section 63C-11-308, a license is required for a person to act as or to represent that the person is a promoter, timekeeper, manager, contestant, second, matchmaker, referee, or judge.~~

~~(2) A licensed amateur contestant shall not compete against a professional unarmed combat contestant, or receive a purse, or a percentage of ticket sales, and/or other remuneration (other than for reimbursement for reasonable travel expenses and per diem, consistent with IRS guidelines).~~

~~(3) A licensed manager or contestant shall not referee or judge any event or contestant affiliated with a gym or training facility they have been involved with during the past 12 months.~~

~~(4) A promoter shall not hold a license as a referee, judge, second or contestant.~~

~~R359-1-302. Licensing Procedure.~~

~~In accordance with the authority granted in Section 63C-11-309, the expiration date for licenses issued by the Commission shall be one year from the date of issuance.~~

~~R359-1-401. Designation of Adjudicative Proceedings.~~

~~(1) An adjudicative proceeding before the commission of any of the following proceeding is designated as an informal adjudicative proceeding:~~

~~(a) any action to revoke, suspend, restrict, place on probation or enter a reprimand as to a license;~~

~~(b) approval or denial of applications for:~~

~~(i) initial licensure;~~

~~(ii) reinstatement of a license; and~~

~~(iii) renewal of a license;~~

~~(c) any proceeding conducted subsequent to the issuance of a cease and desist order;~~

~~(d) the withholding of a purse by the Commission under Section 63N-10-313.~~

~~(e) protests against the results of a contest.~~

~~(2) An individual may seek an adjudicated hearing before the Commission for the matters listed in Subsection (1) above by submitting a written request to the Director within 30 days from the date of the action or result.~~

~~(3) Subject to the exception under Subsection 63G-4-202(3) or unless otherwise stipulated by all parties, any other adjudicative proceeding before the Commission not specifically listed in under Subsection (1) above, is designated as an informal adjudicative proceeding.~~

~~R359-1-402. Adjudicative Proceedings in General.~~

~~(1) The procedure for an adjudicative proceeding is under Section 63G-4-201; and this Rule.~~

~~(5) Unless the Commission determines otherwise, the Commission shall be designated as the sole presiding officer in any adjudicative proceeding and where applicable serve as the fact finder in any adjudicative proceeding.~~

~~(6) A majority vote of the Commission shall constitute its decision. Orders of the Commission shall be signed by the Director or, in the Director's absence, the Chair of the Commission.~~

~~R359-1-403. Additional Procedures for Immediate License Suspension.~~

~~(1) Under Subsection 63N-10-303 (7), the designated Commission member, or in the absence of a designated Commission member the Director may issue an order immediately suspending the license of a licensee upon a finding that the licensee presents an immediate and significant danger to the licensee, other licensees, or the public.~~

~~(2) The suspension shall be at such time and for such period as the Commission believes is necessary to protect the health, safety, and welfare of the licensee, other licensees, or the public.~~

~~(3) A licensee whose license has been immediately suspended may, within 30 days after the decision of the designated Commission member, challenge the suspension by submitting a written request for a hearing to the Director. The Commission shall schedule the hearing as soon as is reasonably practical but not later than 30 days from the receipt of the written request, unless the Commission and the party requesting the hearing agree to conduct the hearing at a later date.~~

~~R359-1-405. Reconsideration and Judicial Review.~~

~~Agency review is not available as to any order or decision entered by the Commission. However, any person aggrieved by an adverse determination by the Commission may either seek reconsideration of the order pursuant to Section 63NG-4-302 or seek judicial review of the order pursuant to Section 63G-4-401.~~

~~R359-1-501. Promoter's Responsibilities in Arranging a Contest.~~

~~(1) Before a licensed promoter may hold a contest or single contest as part of a single promotion, the promoter shall file with the Commission an application for a permit to hold the contest not less~~

than 15 days before the date of the proposed contest, or not less than seven days for televised contests.

(2) The application shall include the date, time, and place of the contest as well as information concerning the on-site emergency facilities, personnel, and transportation.

(3) The permit application must be accompanied by a contest registration fee determined by the Department under Section 63-38-32.

(4) Before a permit to hold a contest is granted, the promoter shall post a surety bond with the Commission in the amount of \$10,000, or total sum of the contestant purses, officials fees and estimated commission fees, whichever is greater. Promoters who have held less than 5 unarmed combat events in the state of Utah shall deposit an additional \$10,000 minimum Cashier's Check or Bank Draft with the commission no later than 7 days prior to the event or the event may be cancelled by the commission.

(5) Prior to the scheduled time of the contest, the promoter shall have available for inspection the completed physical facilities which will be used directly or indirectly for the contest. The designated Commission member shall inspect the facilities in the presence of the promoter or the promoter's authorized representative, and all deficiencies cited upon inspection shall be corrected before the contest.

(6) A promoter shall be responsible for verifying the identity, record, and suspensions of each contestant. A promoter shall be held responsible for the accuracy of the names and records of each of the participating contestants in all publicity or promotional material.

(7) A promoter shall be held responsible for a contest in which one of the contestants is disproportionately outclassed.

(8) Before a contest begins, the promoter shall give the designated Commission member the funds necessary for payment of contestants, referees, judges, timekeeper and the attending physician(s). The designated Commission member shall pay each contestant, referee, and judge in the presence of one witness.

(9) A promoter shall be not under the influence of alcohol or controlled substances during the contest and until all purses to the contestants and all applicable fees are paid to the commission, officials and ringside physician.

(10) The promoter shall be responsible for payment of any commission fee(s) deducted from a contestant's purse, if the fees are not collected directly from the contestant at the conclusion of the bout or if the contestant fails to compete in the event.

(11) At the time of an unarmed combat contest weigh-in, the promoter of a contest shall provide primary insurance coverage for each uninsured contestant and secondary insurance for each insured contestant in the amount of \$10,000 for each licensed contestant to provide medical, surgical and hospital care for licensed contestants who are injured while engaged in a contest or exhibition:

(a) The term of the insurance coverage must not require the contestant to pay a deductible, for the medical, surgical or hospital care for injuries he sustains while engaged in a contest or exhibition.

(b) If a licensed contestant pays for the medical, surgical or hospital care for injuries sustained during a contest or exhibition, the insurance proceeds must be paid to the contestant or his beneficiaries as reimbursement for the payment.

(c) The promoter shall also provide life insurance coverage of \$10,000 for each contestant in case of death resulting from injuries sustained during a contest or exhibition.

(d) The required medical insurance and life insurance coverage shall not be waived by the contestant or any other party.

(e) A contestant seeking medical insurance reimbursement for injuries sustained during an unarmed combat event shall obtain medical treatment for their injuries within 72 hours of their bout and maintain written records of their treatment, expenses and correspondence with the insurance provider and promoter to ensure coverage.

(f) The promoter shall not delay or circumvent the timely processing of a claim submitted by a contestant injured during a contest or exhibition.

(12) In addition to the payment of any other fees and money due under this part, the promoter shall pay the following event fees:

(a) The event attendance fee established in the adopted fee schedule on the date of the event.

(b) 3% of the first \$500,000, and one percent of the next \$1,000,000, of the total gross receipts from the sale, lease, or other exploitation of internet, broadcasting, television, and motion picture rights for any contest or exhibition thereof, without any deductions for commissions, brokerage fees, distribution fees, advertising, contestants' purses or any other expenses or charges, except in no case shall the fee be more than \$25,000. These fees shall be paid to the commission within 45 days of the event. The promoter shall notify and provide the commission with certified copies of any contracts, agreements or transfers of any internet, broadcasting, television, and motion picture rights for any contest or exhibition within seven days of any such agreements. The commission may require a surety deposit be provided to the commission to ensure these requirements are met.

(c) the applicable fees assessed by the Association of Boxing Commission designated official record keeper, if not previously paid by the promoter.

(d) the commission may exempt from the payment of all or part of the assessed fees under this section for a special contest or exhibition based on factors which include:

(i) a showcase event promoting a greater interest in contests in the state;

(ii) attraction of the optimum number of spectators;

(iii) costs of promoting and producing the contest or exhibition;

(iv) ticket pricing;

(v) committed promotions and advertising of the contest or exhibition;

(vi) rankings and quality of the contestants; and

(vii) committed television and other media coverage of the contest or exhibition.

(viii) contribution to a 501(c)(3) charitable organization.

R359-1-502. Ringside Equipment.

(1) Each promoter shall provide all of the following:

(a) commission approved gloves in whole, clean and in sanitary condition for each contestant;

(b) stools for use by the seconds;

(c) rubber gloves for use by the referees, seconds, ringside physicians, and Commission representatives;

(d) a stretcher, which shall be available near the ring and near the ringside physician;

(e) a portable resuscitator with oxygen;

(f) an ambulance with attendants on site at all times when contestants are competing. Arrangements shall be made for a replacement ambulance if the first ambulance is required to transport a contestant for medical treatment. The location of the ambulance and

~~the arrangements for the substitute ambulance service shall be communicated to the physician;~~

~~(g) seats at ringside for the assigned officials;~~
~~(h) seats at ringside for the designated Commission member;~~

~~(i) ring (cage) cleaning supplies, including bucket, towels and disinfectant;~~

~~(j) a public address system;~~

~~(k) a separate dressing room for each sex, if contestants of both sexes are participating;~~

~~(l) a separate room for physical examinations;~~

~~(m) a separate dressing room shall be provided for officials, unless the physical arrangements of the contest site make an additional dressing room impossible;~~

~~(n) adequate security personnel; and~~

~~(o) sufficient bout sheets for ring officials and the designated Commission member.~~

~~(2) A promoter shall only hold contests in facilities that conform to the laws, ordinances, and regulations regulating the county, city, town, or village where the bouts are situated.~~

~~(3) Restrooms shall not be used as dressing rooms, for physical examinations or weigh-ins.~~

R359-1-503. Contracts.

~~(1) Pursuant to Section 63C-11-320, a copy of the contract between a promoter and a contestant shall be filed with the Commission before a contest begins. The contract that is filed with the Commission shall embody all agreements between the parties.~~

~~(2) A contestant's manager may sign a contract on behalf of the contestant. If a contestant does not have a licensed manager, the contestant shall sign the contract.~~

~~(3) A contestant shall use his own legal name to sign a contract. However, a contestant who is licensed under another name may sign the contract using his licensed name if the contestant's legal name appears in the body of the contract as the name under which the contestant is legally known.~~

~~(4) The contract between a promoter and a contestant shall be for the use of the contestant's skills in a contest and shall not require the contestant to sell tickets in order to be paid for his services.~~

R359-1-504. Complimentary Tickets.

~~(1) Limitation on issuance, calculation of price, and service charge for payment to contestant working on percentage basis.~~

~~(a) A promoter may not issue complimentary tickets for more than 4 percent of the seats in the house without the Commission's written authorization. The Commission shall not consider complimentary tickets which it authorizes under this Section to constitute part of the total gross receipts from admission fees for the purposes of calculating the license fee prescribed in Subsection 63C-11-311(1).~~

~~(b) If complimentary tickets are issued for more than 4 percent of the seats in the house, each contestant who is working on a percentage basis shall be paid a percentage of the normal price of all complimentary tickets in excess of 4 percent of the seats in the house, unless the contract between the contestant and the promoter provides otherwise and stipulates the number of complimentary tickets which will be issued. In addition, if a service fee is charged for complimentary tickets, the contestant is entitled to be paid a percentage of that service fee, less any deduction for federal taxes and fees.~~

~~(c) Pursuant to Subsection 63C-11-311(3)(a) a promoter shall file, within 10 days after the contest, a report indicating how many complimentary tickets the promoter issued and the value of those tickets.~~

~~(2) Complimentary ticket and tickets at reduced rate, persons entitled or allowed to receive such tickets, duties of promoter, disciplinary action, fees and taxes.~~

~~(a) Each promoter shall provide tickets without charge to the following persons who shall not be liable for the payment of any fees for those tickets:~~

~~(i) the Commission members, Director and representatives;~~

~~(ii) principals and seconds who are engaged in a contest or exhibition which is part of the program of unarmed combat; and~~

~~(iii) holders of lifetime passes issued by the Commission.~~

~~(b) Each promoter may provide tickets without charge or at a reduced rate to the following persons who shall be liable for payment of applicable fees on the reduced amount paid, unless the person is a journalist, police officer or fireman as provided in this Subsection:~~

~~(i) Any of the promoter's employees, and if the promoter is a corporation, to a director or officer who is regularly employed or engaged in promoting programs of unarmed combat, regardless of whether the director or officer's duties require admission to the particular program and regardless of whether the director or officer is on duty at the time of that program;~~

~~(ii) Employees of the Commission;~~

~~(iii) A journalist who is performing a journalist's duties; and~~

~~(iv) A fireman or police officer that is performing the duties of a fireman or police officer.~~

~~(c) Each promoter shall perform the following duties in relation to the issuance of complimentary tickets or those issued at a reduced price:~~

~~(i) Each ticket issued to a journalist shall be clearly marked "PRESS." No more tickets may be issued to journalists than will permit comfortable seating in the press area;~~

~~(ii) Seating at the press tables or in the press area must be limited to journalists who are actually covering the contest or exhibition and to other persons designated by the Commission;~~

~~(iii) A list of passes issued to journalists shall be submitted to the Commission prior to the contest or exhibition;~~

~~(iv) Only one ticket may be sold at a reduced price to any manager, second, contestant or other person licensed by the Commission;~~

~~(v) Any credential issued by the promoter which allows an admission to the program without a ticket, shall be approved in advance by a member of the Commission or the Director. Request for the issuance of such credentials shall be made at least 5 hours before the first contest or exhibition of the program.~~

~~(d) Admission of any person who does not hold a ticket or who is not specifically exempted pursuant to this Section is grounds for suspension or revocation of the promoter's license or for the assessment of a penalty.~~

~~(e) The Commission shall collect all fees and taxes due on any ticket that is not specifically exempt pursuant to this Section, and for any person who is admitted without a ticket in violation of this Section.~~

~~(3) Reservation of area for use by Commission. For every program of unarmed combat, the promoter of the program shall reserve seats at ringside for use by the designated Commission member and Commission representatives.~~

R359 1 505. Physical Examination—Physician.

(1) Not less than one hour before a contest, each contestant shall be given a medical examination by a physician who is appointed by the designated Commission member. The examination shall include a detailed medical history and a physical examination of all of the following:

- (a) eyes;
- (b) teeth;
- (c) jaw;
- (d) neck;
- (e) chest;
- (f) ears;
- (g) nose;
- (h) throat;
- (i) skin;
- (j) scalp;
- (k) head;
- (l) abdomen;
- (m) cardiopulmonary status;
- (n) neurological, musculature, and skeletal systems;
- (o) pelvis; and
- (p) the presence of controlled substances in the body.

(2) If after the examination the physician determines that a contestant is unfit for competition, the physician shall notify the Commission of this determination, and the Commission shall prohibit the contestant from competing.

(3) The physician shall provide a written certification of those contestants who are in good physical condition to compete.

(4) Before a bout, a female contestant shall provide the ringside physician with the results of a pregnancy test performed on the contestant within the previous 14 days. If the results of the pregnancy test are positive, the physician shall notify the Commission, and the Commission shall prohibit the contestant from competing.

(5) A female contestant with breast implants shall be denied a license.

(6) A contestant who has had cardiac surgery shall not be issued a license unless he is certified as fit to compete by a cardiovascular surgeon.

(7) A contest shall not begin until a physician and an attended ambulance are present. The physician shall not leave until the decision in the final contest has been announced and all injured contestants have been attended to.

(8) The contest shall not begin until the physician is seated at ringside. The physician shall remain at that location for the entire fight, unless it is necessary for the physician to attend to a contestant.

R359 1 506. Drug Testing.

In accordance with Section 63C 11 309, the following shall apply to drug testing:

- (1) The administration of or use of any:
 - (a) Alcohol;
 - (b) Illicit drug;
 - (c) Stimulant; or
 - (d) Drug or injection that has not been approved by the Commission, including, but not limited to, the drugs or injections listed R359 1 506(2), in any part of the body, either before or during a contest or exhibition, to or by any unarmed combatant, is prohibited.

(2) The following types of drugs, injections or stimulants are prohibited for any unarmed combatant pursuant to R359 1 506 (1):

(a) Afrinol or any other product that is pharmaceutically similar to Afrinol.

(b) Co Tylenol or any other product that is pharmaceutically similar to Co Tylenol.

(c) A product containing an antihistamine and a decongestant.

(d) A decongestant other than a decongestant listed in R359 1 506 (4).

(e) Any over the counter drug for colds, coughs or sinuses other than those drugs listed in R359 1 506 (4). This paragraph includes, but is not limited to, Ephedrine, Phenylpropanolamine, and Mahuang and derivatives of Mahuang.

(f) Any drug or substance identified on the 2012 edition of the Prohibited List published by the World Anti-Doping Agency, which is hereby incorporated by reference. The 2012 edition of the Prohibited List may be obtained, free of charge, at www.wada-ama.org.

(3) The following types of drugs or injections are not prohibited pursuant to R359 1 506 (1), but their use is discouraged by the Commission for any unarmed combatant:

(a) Aspirin and products containing aspirin.

(b) Nonsteroidal anti-inflammatory.

(4) The following types of drugs or injections are accepted by the Commission:

(a) Antacids, such as Maalox.

(b) Antibiotics, antifungals or antivirals that have been prescribed by a physician.

(c) Antidiarrheals, such as Imodium, Kaopectate or Pepto-Bismol.

(d) Antihistamines for colds or allergies, such as Bromphen, Brompheniramine, Chlorpheniramine Maleate, Chlor-Trimeton, Dimetane, Hismal, PBZ, Seldane, Tavist 1 or Teldrin.

(e) Antinauseants, such as Dramamine or Tigan.

(f) Antipyretics, such as Tylenol.

(g) Antitussives, such as Robitussin, if the antitussive does not contain codeine.

(h) Antiulcer products, such as Carafate, Pepecid, Reglan, Tagamet or Zantac.

(i) Asthma products in aerosol form, such as Brethine, Metaproterenol (Alupent) or Salbutamol (Albuterol, Proventil or Ventolin).

(j) Asthma products in oral form, such as Aminophylline, Cromolyn, Nasalide or Vancerial.

(k) Ear products, such as Auralgan, Cerumenex, Cortisporin, Debrox or Vosol.

(l) Hemorrhoid products, such as Anusol HC, Preparation H or Nupercainal.

(m) Laxatives, such as Correctol, Doxidan, Dulcolax, Efferyllium, Ex-Lax, Metamucil, Modane or Milk of Magnesia.

(n) Nasal products, such as Ayr Saline, HuMist Saline, Ocean or Salinex.

(o) The following decongestants:

(i) Afrin;

(ii) Oxymetazoline HCL Nasal Spray; or

(iii) Any other decongestant that is pharmaceutically similar to a decongestant listed in R359 1 506 (1) or (2).

(5) At the request of the Commission, the designated Commission member, or the ringside physician, a licensee shall submit to a test of body fluids to determine the presence of drugs or other prohibited substances. A licensee shall give an adequate sample or it will deem to be a denial. The promoter shall be responsible for any costs of testing.

~~(6) If the test results in a finding of the presence of a prohibited substance or metabolite or if the licensee is unable or unwilling to provide a sample of body fluids for such a test within 60 minutes of notification, the Commission may take one or more of the following actions:~~

~~(a) immediately suspend the licensee's license in accordance with Section R359-1-403;~~

~~(b) stop the contest in accordance with Subsection 63C-11-316(2);~~

~~(c) initiate other appropriate licensure action in accordance with Section 63C-11-303; or~~

~~(d) withhold the contestant's purse in accordance with Subsection 63C-11-303.~~

~~(7) A contestant who is disciplined pursuant to the provisions of this Rule and who was the winner of a contest shall be disqualified and the decision of the contest shall be changed to "no contest" and shall be fined a minimum of their win bonus.~~

~~(8) Unless the commission determines otherwise at a scheduled meeting, a licensee who tests positive for prohibited substances or their metabolites shall be penalized as follows:~~

~~(a) First offense — 180 day suspension.~~

~~(b) Second offense — 1 year suspension, and mandatory completion of a supervisory treatment program approved by the commission that licensed the event.~~

~~(c) Third offense — 2 year suspension, and mandatory completion of a supervisory treatment program approved by the commission that licensed the event.~~

~~(d) Failure by the contestant to fully disclose all medications taken within 30 days of their pre-fight physical, prior to their bout, shall be deemed unprofessional conduct and double the length of any applicable suspension.~~

~~(10) Therapeutic Use Exemptions (TUEs).~~

~~(a) An applicant or licensee who believes he or she has a therapeutic reason to use a substance described in R359-1-506(2) may request a Therapeutic Use Exemption (TUE) to permit continued use of that substance. Such a request may only be granted by the commission itself after a public hearing. The applicant or licensee shall submit the request in writing to the commission. The request shall be accompanied by supporting medical information sufficient to allow the commission to determine whether to grant their request. In reaching its decision, the commission will, at a minimum, determine whether all of the following criteria have been met:~~

~~(i) The applicant or licensee would experience a significant impairment to health if the prohibited substance were to be withheld in the course of treating an acute or chronic medical condition;~~

~~(ii) The therapeutic use of the prohibited substance would produce no additional enhancement of performance other than that which might be anticipated by a return to a state of normal health following the treatment of a legitimate medical condition;~~

~~(iii) The Use of any Prohibited Substance or Prohibited Method to increase "low-normal" levels of any endogenous hormone is not considered an acceptable Therapeutic intervention;~~

~~(iv) Either reasonable therapeutic alternatives to the use of the otherwise prohibited substance have been tried or no reasonable alternative exists; and~~

~~(v) The necessity for the use of the otherwise prohibited substance is not a consequence, wholly or in part, of a prior non-therapeutic use of any substance described in R359-1-506(2).~~

~~(b) The commission may, in its sole discretion, either grant or deny the request or refer the request to the Voluntary Anti-Doping Association (VADA) or similar evaluating body for a recommendation. The evaluating body shall obtain such evaluation~~

~~and expert consultation as the body deems necessary. The evaluating body shall present the commission with a written recommendation and a detailed basis for that recommendation.~~

~~(c) The applicant shall be responsible to pay any costs associated with the TUE evaluation and all subsequent mandated compliance testing.~~

~~(d) The TUE shall be cancelled, if:~~

~~(i) The contestant does not promptly comply with any requirements or conditions imposed by the commission.~~

~~(ii) The term for which the TUE was granted has expired.~~

~~(iii) The contestant is advised that the TUE has been withdrawn by the commission.~~

~~(11) Failure to disclose the use of a substance described in Rule R359-1-506(2) constitutes unprofessional conduct and subject to additional disciplinary action under Section 63C-11-303.~~

R359-1-507. HIV Testing.

~~In accordance with Section 63C-11-317, contestants shall produce evidence of a clear test for HIV as a condition to participation in a contest as follows:~~

~~(1) All contestants shall provide evidence in the form of a competent laboratory examination certificate verifying that the contestant is HIV negative at the time of the weigh-in.~~

~~(2) The examination certificate shall certify that the HIV test was completed within 180 days prior to the contest.~~

~~(3) Any contestant whose HIV test is positive shall be prohibited from participating in a contest.~~

R359-1-508. Hepatitis B Surface Antigen (HBsAg) and Hepatitis C Virus (HCV) Antibody Testing.

~~In accordance with Section 63C-11-317(d), contestants shall produce evidence of a negative test for HBsAg and HCV antibody as a condition to participation in a contest as follows:~~

~~(1) All contestants shall provide evidence in the form of a competent laboratory examination certificate verifying that the contestant is negative at the time of the weigh-in.~~

~~(2) The examination certificate shall certify that the HBsAg and HCV antibody testing was completed within one year prior to the contest. The period may be reduced by the commission to protect public safety in the event of an outbreak.~~

~~(3) Any contestant whose HBV or HCV result is positive shall be prohibited from participating in a contest.~~

~~(4) In lieu of a negative HBsAg test result, a contestant may present laboratory testing evidence of immunity against Hepatitis B virus based on a positive hepatitis B surface antibody (anti-HBs) test result or of having received the complete hepatitis B vaccine series as recommended by the Advisory Committee on Immunization Practices.~~

R359-1-509. Contestant Use or Administration of Any Substance.

~~(1) The use or administration of drugs, stimulants, or non-prescription preparations by or to a contestant during a contest is prohibited, except as provided by this Rule.~~

~~(2) The giving of substances other than water to a contestant during the course of the contest is prohibited.~~

~~(3) The discretionary use of petroleum jelly may be allowed, as determined by the referee.~~

~~(4) The discretionary use of coagulants, adrenalin 1/1000, avetine, and thrombin, as approved by the Commission, may be allowed between rounds to stop the bleeding of minor cuts and lacerations sustained by a contestant. The use of Monsel solution;~~

silver nitrate, "new skin," flex collodion, or substances having an iron base is prohibited, and the use of any such substance by a contestant is cause for immediate disqualification.

(5) The ringside physician shall monitor the use and application of any foreign substances administered to a contestant before or during a contest and shall confiscate any suspicious foreign substance for possible laboratory analysis, the results of which shall be forwarded to the Commission.

R359-1-510. Weighing In.

(1) Unless otherwise approved by the Commission for a specific contest, the weigh in shall occur not less than six nor more than 24 hours before the start of a contest. The designated Commission member or authorized Commission representative(s), shall weigh in each contestant in the presence of other contestants.

(2) Contestants shall be licensed at the time they are weighed in.

(3) Only those contestants who have been previously approved for the contest shall be permitted to weigh in.

(4) Each contestant must weigh in the presence of his opponent, a representative of the commission and an official representing the promoter, on scales approved by the commission at any place designed by the commission.

(5) The contestant must have all weights stripped from his body before he is weighed in, but may wear shorts. Female contestants are permitted to wear a singlet and/or sports bra for modesty.

(6) The commission may require contestants to be weighted more than once for any cause deemed sufficient by the commission.

(7) A contestant who fails to make the weight agreed upon in his bout agreement forfeits:

(a) Twenty five percent of his purse if no lesser amount is set by the commission's representative; or

(b) A lesser amount set by the secretary and approved by the commission, unless the weight difference is 1 pound or less.

R359-1-511. Event Officials.

(1) Selection and approval of event officials for a contest, bout, program, match, or exhibition.

(a) The event officials are the referee(s), judges, timekeeper and physician(s).

(b) The commission shall approve all event officials.

(c) The number of event officials assigned is dependent on the number of rounds, bouts and/or championship bouts.

(d) The number of event officials required or the substitution of officials for any reason or at any time during the event shall be solely within the power and discretion of the Commission.

(2) Event officials are prohibited from being under the influence of alcohol and/or illicit drugs.

(a) At the request of the Commission, an event official shall submit to a test of body fluids to determine the presence of drugs and/or alcohol. The event official shall give an adequate sample or it will deem to be a denial and prohibited from participating in future events. The promoter shall be responsible for any costs of testing.

(b) Unless the commission determines otherwise at a scheduled meeting, an event official who tests positive for alcohol and/or illegal drugs shall be penalized as follows:

(i) First offense—180 day prohibition from participating in unarmed combat events.

(ii) Second offense—1 year prohibition from participating in unarmed combat events.

(iii) Third offense—2 year prohibition from participating in unarmed combat events.

(3) Event officials shall be stationed at places designated by the Commissioner in Charge or Director.

(4) Referees, judges, timekeepers and physicians shall be deemed to be independent contractors of the Commission.

(5) The Judges, Referee(s) and Timekeeper officiating at any event, bout, program, match, or exhibition shall be paid by the licensed promoter for the event in accordance with the fee schedule approved by the Commission.

(6) The promoter shall pay to the Commission the total fees set by the Commission for all officials whom the Commission approves to officiate in a contest or exhibition.

(7) Event Officials' Minimum Fee Schedule:

TABLE

NUMBER OF BOUTS	REFEREE	JUDGE	TIMEKEEPER
1-5	\$100.00	\$50.00	\$35.00
>5	\$100.00	\$100.00	\$50.00

(8) If any licensee of the Commission protests the assignment of a referee or judge, the matter will be reviewed by two Commissioners or a Commissioner and the Commission Director and/or Chief Inspector in order to make such disposition of the protest as the facts may justify. Protests not made in a timely manner may be denied.

R359-1-512. Announcer.

(1) The promoter may select the event announcer.

(2) At the beginning of a contest, the announcer shall announce that the contest is under the auspices of the Commission.

(3) The announcer shall announce the names of the referee, judges, and timekeeper when the competitions are about to begin, and shall also announce the changes made in officials as the contest progresses.

(4) The announcer shall announce the names of all contestants, their weight, professional record, their city and state of residence, and country of origin if not a citizen.

(3) An announcer shall not engage in unprofessional conduct.

(4) The announcer is prohibited from being under the influence of alcohol and/or illicit drugs.

(a) At the request of the Commission, an announcer shall submit to a test of body fluids to determine the presence of drugs and/or alcohol. The event official shall give an adequate sample or it will deem to be a denial and prohibited from participating in future events. The promoter shall be responsible for any costs of testing.

(b) Unless the commission determines otherwise at a scheduled meeting, an announcer who tests positive for alcohol and/or illegal drugs shall be penalized as follows:

(i) First offense—180 day prohibition from participating in unarmed combat events.

(ii) Second offense—1 year prohibition from participating in unarmed combat events.

(iii) Third offense—2 year prohibition from participating in unarmed combat events.

R359-1-513. Timekeeper.

(1) A timekeeper shall indicate the beginning and end of each round by the gong.

(2) A timekeeper shall possess a whistle and a stopwatch.

~~(3) Ten seconds before the beginning of each round, the timekeeper shall warn the contestants of the time by blowing a whistle.~~

~~(4) If a contest terminates before the scheduled limit of rounds, the timekeeper shall inform the announcer of the exact duration of the contest.~~

~~(5) The timekeeper shall keep track of and record the exact amount of time that any contestant remains on the canvas.~~

R359-1-514. Stopping a Contest.

~~In accordance with Subsections 63C-11-316(2) and 63C-11-302(14)(b), authority for stopping a contest is defined, clarified or established as follows.~~

~~(1) The referee may stop a contest to ensure the integrity of a contest or to protect the health, safety, or welfare of a contestant or the public for any one or more of the following reasons:~~

~~(a) injuries, cuts, or other physical or mental conditions that would endanger the health, safety, or welfare of a contestant if the contestant were to continue with the competition;~~

~~(b) one-sided nature of the contest;~~

~~(c) refusal or inability of a contestant to reasonably compete; and~~

~~(d) refusal or inability of a contestant to comply with the rules of the contest.~~

~~(2) If a referee stops a contest, the referee shall disqualify the contestant, where appropriate, and recommend to the designated Commission member that the purse of that professional contestant be withheld pending an impoundment decision in accordance with Section 63C-11-321.~~

~~(3) The designated Commission member may stop a contest at any stage in the contest when there is a significant question with respect to the contest, the contestant, or any other licensee associated with the contest, and determine whether the purse should be withheld pursuant to Section 63C-11-321.~~

R359-1-515. Competing in an Unsanctioned Unarmed Combat Event.

~~(1) The Commission shall deny issuing a license to a contestant who has competed in an unarmed combat event not sanctioned by an Association of Boxing Commission (ABC) member commission for a period of 60 days from the date of the event.~~

~~(2) Unarmed combat contestants who are currently licensed by the Commission shall not be approved to compete in an unarmed combat event until 60 days from the date of their last competition in an unarmed combat event not sanctioned by an ABC member commission.~~

~~(3) After competing in an unsanctioned unarmed combat event, a contestant must submit new blood tests results drawn within 30 days of their scheduled event.~~

R359-1-601. Boxing - Contest Weights and Classes.

~~(1) Boxing weights and classes are established as follows:~~

~~(a) Strawweight: up to 105 lbs. (47.627 kgs.)~~

~~(b) Light Flyweight: over 105 to 108 lbs. (47.627 to 48.988 kgs.)~~

~~(c) Flyweight: over 108 to 112 lbs. (48.988 to 50.802 kgs.)~~

~~(d) Super Flyweight: over 112 to 115 lbs. (50.802 to 52.163 kgs.)~~

~~(e) Bantamweight: over 115 to 118 lbs. (52.163 to 53.524 kgs.)~~

~~(f) Super Bantamweight: over 118 to 122 lbs. (53.524 to 55.338 kgs.)~~

~~(g) Featherweight: over 122 to 126 lbs. (55.338 to 57.153 kgs.)~~

~~(h) Super Featherweight: over 126 to 130 lbs. (57.153 to 58.967 kgs.)~~

~~(i) Lightweight: over 130 to 135 lbs. (58.967 to 61.235 kgs.)~~

~~(j) Super Lightweight: over 135 to 140 lbs. (61.235 to 63.503 kgs.)~~

~~(k) Welterweight: over 140 to 147 lbs. (63.503 to 66.678 kgs.)~~

~~(l) Super Welterweight: over 147 to 154 lbs. (66.678 to 69.853 kgs.)~~

~~(m) Middleweight: over 154 to 160 lbs. (69.853 to 72.574 kgs.)~~

~~(n) Super Middleweight: over 160 to 168 lbs. (72.574 to 76.204 kgs.)~~

~~(o) Light heavyweight: over 168 to 175 lbs. (76.204 to 79.378 kgs.)~~

~~(p) Cruiserweight: over 175 to 200 lbs. (79.378 to 90.80 kgs.)~~

~~(q) Heavyweight: all over 200 lbs. (90.80 kgs.)~~

~~(2) A contestant shall not fight another contestant who is outside of the contestant's weight classification unless prior approval is given by the Commission.~~

~~(3) A contestant who has contracted to box in a given weight class shall not be permitted to compete if he or she exceeds that weight class at the weigh-in, unless the contract provides for the opposing contestant to agree to the weight differential. If the weigh-in is held the day before the contest and if the opposing contestant does not agree or the contract does not provide for a weight exception, the contestant may have two hours to attempt to lose not more than three pounds in order to be reweighed.~~

~~(4) The Commission shall not allow a contest in which the contestants are not fairly matched. In determining if contestants are fairly matched, the Commission shall consider all of the following factors with respect to the contestant:~~

~~(a) the win-loss record of the contestants;~~

~~(b) the weight differential;~~

~~(c) the caliber of opponents;~~

~~(d) each contestant's number of fights; and~~

~~(e) previous suspensions or disciplinary actions.~~

R359-1-602. Boxing - Number of Rounds in a Bout.

~~(1) A contest bout shall consist of not less than four and not more than twelve scheduled rounds. Three minutes of boxing shall constitute a round for men's boxing, and two minutes shall constitute a round for women's boxing. There shall be a rest period of one minute between the rounds.~~

~~(2) A promoter shall contract with a sufficient number of contestants to provide a program consisting of at least 30 and not more than 56 scheduled rounds of boxing, unless otherwise approved by the Commission.~~

R359-1-603. Boxing - Ring Dimensions and Construction.

~~(1) The ring shall be square, and the sides shall not be less than 16 feet nor more than 22 feet. The ring floor shall extend not less than 18 inches beyond the ropes. The ring floor shall be padded with a base not less than 5/8 of an inch of ensolite or another similar closed-cell foam. The padding shall extend beyond the ring ropes and over the edge of the platform, and shall be covered with canvas, duck, or a similar material that is tightly stretched and laced securely in place.~~

~~_____ (2) The ring floor platform shall not be more than four feet above the floor of the building, and shall have two sets of suitable stairs for the use of contestants, with an extra set of suitable stairs to be used for any other activities that may occur between rounds. Ring posts shall be made of metal and shall be not less than three nor more than four inches in diameter, extending a minimum of 58 inches above the ring floor. Ring posts shall be at least 18 inches away from the ropes.~~

~~_____ (3) The ring shall not have less than four ring ropes which can be tightened and which are not less than one inch in diameter. The ring ropes shall be wrapped in a soft material. The turnbuckles shall be covered with a protective padding. The ring ropes shall have two spacer ties on each side of the ring to secure the ring ropes. The lower ring rope shall be 18 inches above the ring floor. The ring shall have corner pads in each corner.~~

R359-1-604. Boxing—Gloves.

~~_____ (1) A boxing contestant's gloves shall be examined before a contest by the referee and the designated Commission member. If gloves are found to be broken or unclean or if the padding is found to be misplaced or lumpy, they shall be changed before the contest begins.~~

~~_____ (2) A promoter shall be required to have on hand an extra set of gloves that are to be used if a contestant's gloves are broken or damaged during the course of a contest.~~

~~_____ (3) Gloves for a main event may be put on in the ring after the referee has inspected the bandaged hands of both contestants.~~

~~_____ (4) During a contest, male contestants shall wear gloves weighing not less than eight ounces each if the contestant weighs 147 lbs. (66.678 kgs.) or less. Contestants who weigh more than 147 lbs. (66.678 kgs.) shall wear gloves weighing ten ounces each. Female contestants' gloves shall be ten-ounce gloves. The designated Commission member shall have complete discretion to approve or deny the model and style of the gloves before the contest.~~

~~_____ (5) The laces shall be tied on the outside of the back of the wrist of the gloves and shall be secured. The tips of the laces shall be removed.~~

R359-1-605. Boxing—Bandage Specification.

~~_____ (1) Except as agreed to by the managers of the contestants opposing each other in a contest, a contestant's bandage for each hand shall consist of soft gauze not more than 20 yards long and not more than two inches wide. The gauze shall be held in place by not more than eight feet of adhesive tape not more than one and one-half inches wide. The adhesive tape must be white or a light color.~~

~~_____ (2) Bandages shall be adjusted in the dressing room under the supervision of the designated Commission member.~~

~~_____ (3) The use of water or any other substance other than medical tape on the bandages is prohibited.~~

~~_____ (4) The bandages and adhesive tape may not extend to the knuckles, and must remain at least three-fourths of an inch away from the knuckles when the hand is clenched to make a fist.~~

R359-1-606. Boxing—Mouthpieces.

~~_____ A round shall not begin until the contestant's form-fitted protective mouthpiece is in place. If, during a round, the mouthpiece falls out of the contestant's mouth, the referee shall, as soon as practicable, stop the bout and escort the contestant to his corner. The mouthpiece shall be rinsed out and replaced in the contestant's mouth and the contest shall continue. If the referee determines that the contestant intentionally spit the mouthpiece out, the referee may~~

~~direct the judges to deduct points from the contestant's score for the round.~~

R359-1-607. Boxing—Contest Officials.

~~_____ (1) The officials for each boxing contest shall consist of not less than the following:~~

~~_____ (a) one referee;~~

~~_____ (b) three judges;~~

~~_____ (c) one timekeeper; and~~

~~_____ (d) one physician licensed in good standing in Utah.~~

~~_____ (2) A licensed referee, judge, or timekeeper shall not officiate at a contest that is not conducted under the authority or supervision of the designated Commission member.~~

~~_____ (3) A referee or judge shall not participate or accept an assignment to officiate when that assignment may tend to impair the referee's or judge's independence of judgment or action in the performance of the referee's or judge's duties.~~

~~_____ (4) A judge shall be seated midway between the ring posts of the ring, but not on the same side as another judge, and shall have an unimpaired view of the ring.~~

~~_____ (5) A referee shall not be assigned to officiate more than 32 scheduled rounds in one day, except when substituting for another referee who is incapacitated.~~

~~_____ (6) A referee shall not wear jewelry that might cause injury to the contestants. Glasses, if worn, shall be protective athletic glasses or goggles with plastic lenses and a secure elastic band around the back of the head.~~

~~_____ (7) Referees, seconds working in the corners, the designated Commission member, and physicians may wear rubber gloves in the performance of their duties.~~

~~_____ (8) No official shall be under the influence of alcohol or controlled substances while performing the official's duties.~~

R359-1-608. Boxing—Contact During Contests.

~~_____ (1) Beginning one minute before the first round begins, only the referee, boxing contestants, and the chief second may be in the ring. The referee shall clear the ring of all other individuals.~~

~~_____ (2) Once a contest has begun, only the referee, contestants, seconds, judges, Commission representatives, physician, the announcer and the announcer's assistants shall be allowed in the ring.~~

~~_____ (3) At any time before, during or after a contest, the referee may order that the ring and technical area be cleared of any individual not authorized to be present in those areas.~~

~~_____ (4) The referee, on his own initiative, or at the request of the designated Commission member, may stop a bout at any time if individuals refuse to clear the ring and technical area, dispute a decision by an official, or seek to encourage spectators to object to a decision either verbally, physically, or by engaging in disruptive conduct. If the individual involved in disruptive conduct or encouraging disruptive conduct is the manager or second of a contestant, the referee may disqualify the contestant or order the deduction of points from that contestant's score. If the conduct occurred after the decision was announced, the Commission may change the decision, declare no contest, or pursue disciplinary action against any licensed individual involved in the disruptive conduct.~~

R359-1-609. Boxing—Referees.

~~_____ (1) The chief official of a boxing contest shall be the referee. The referee shall decide all questions arising in the ring during a contest that are not specifically addressed in this Rule.~~

_____ (2) The referee shall, before each contest begins, determine the name and location of the physician assigned to officiate at the contest and each contestant's chief second.

_____ (3) At the beginning of each contest, the referee shall summon the contestants and their chief seconds together for final instructions. After receiving the instructions, the contestants shall shake hands and retire to their respective corners.

_____ (4) Where difficulties arise concerning language, the referee shall make sure that the contestant understands the final instructions through an interpreter and shall use suitable gestures and signs during the contest.

_____ (5) No individual other than the contestants, the referee, and the physician when summoned by the referee, may enter the ring or the apron of the ring during the progress of a round.

_____ (6) If a contestant's manager or second steps into the ring or onto the apron of the ring during a round, the fight shall be halted and the referee may eject the manager or second from the ringside working area. If the manager or second steps into the ring or onto the apron a second time during the contest, the fight may be stopped and the decision may be awarded to the contestant's opponent due to disqualification.

_____ (7) A referee shall inspect a contestant's body to determine whether a foreign substance has been applied.

R359-1-610. Boxing—Stalling or Faking.

_____ (1) A referee shall warn a contestant if the referee believes the contestant is stalling or faking. If after proper warning, the referee determines the contestant is continuing to stall or pull his punches, the referee shall stop the bout at the end of the round.

_____ (2) A referee may consult the judges as to whether or not the contestant is stalling or faking and shall abide by a majority decision of the judges.

_____ (3) If the referee determines that either or both contestants are stalling or faking, or if a contestant refuses to fight, the referee shall terminate the contest and announce a no contest.

_____ (4) A contestant who, in the opinion of the referee, intentionally falls down without being struck shall be immediately examined by a physician. After conferring with the physician, the referee may disqualify the contestant.

R359-1-611. Boxing—Injuries and Cuts.

_____ (1) When an injury or cut is produced by a fair blow and because of the severity of the blow the contest cannot continue, the injured boxing contestant shall be declared the loser by technical knockout.

_____ (2) If a contestant intentionally fouls his opponent and an injury or cut is produced, and due to the severity of the injury the contestant cannot continue, the contestant who commits the foul shall be declared the loser by disqualification.

_____ (3) If a contestant receives an intentional butt or foul and the contest can continue, the referee shall penalize the contestant who commits the foul by deducting two points. The referee shall notify the judges that the injury or cut has been produced by an intentional unfair blow so that if in the subsequent rounds the same injury or cut becomes so severe that the contest has to be suspended, the decision will be awarded as follows:

_____ (a) a technical draw if the injured contestant is behind on points or even on a majority of scorecards; and

_____ (b) a technical decision to the injured contestant if the injured contestant is ahead on points on a majority of the scorecards.

_____ (4) If a contestant injures himself trying to foul his opponent, the referee shall not take any action in his favor, and the

injury shall be considered as produced by a fair blow from his opponent.

_____ (5) If a contestant is fouled accidentally during a contest and can continue, the referee shall stop the action to inform the judges and acknowledge the accidental foul. If in subsequent rounds, as a result of legal blows, the accidental foul injury worsens and the contestant cannot continue, the referee shall stop the contest and declare a technical decision with the winner being the contestant who is ahead on points on a majority of the scorecards. The judges shall score partial rounds. If a contestant is accidentally fouled in a contest and due to the severity of the injury the contestant cannot continue, the referee shall rule as follows:

_____ (a) if the injury occurs before the completion of four rounds, declare the contest a technical draw; or

_____ (b) if the injury occurs after the completion of four rounds, declare that the winner is the contestant who has a lead in points on a majority of the scorecards before the round of injury. The judges shall score partial rounds.

_____ (6) If in the opinion of the referee, a contestant has suffered a dangerous cut or injury, or other physical or mental condition, the referee may stop the bout temporarily to summon the physician. If the physician recommends that the contest should not continue, the referee shall order the contest to be terminated.

_____ (7) A fight shall not be terminated because of a low blow. The referee may give a contestant not more than five minutes if the referee believes a foul has been committed. Each contestant shall be instructed to return to his or her respective corner by the referee. The contestants may sit in their respective corners with their mouthpiece removed. After removing their contestant's mouthpiece, the seconds must return to their seats. The seconds may not coach, administer water, or in any other way attend to their contestant, except to replace the mouthpiece when the round is ready to resume.

_____ (8) A physician shall immediately examine and administer aid to a contestant who is knocked out or injured.

_____ (9) When a contestant is knocked out or rendered incapacitated, the referee or second shall not handle the contestant, except for the removal of a mouthpiece, unless directed by the physician to do so.

_____ (10) A contestant shall not refuse to be examined by a physician.

_____ (11) A contestant who has been knocked out shall not leave the site of the contest until one hour has elapsed from the time of the examination or until released by the physician.

_____ (12) A physician shall file a written report with the Commission on each contestant who has been knocked out or injured.

R359-1-612. Boxing—Knockouts.

_____ (1) A boxing contestant who is knocked down shall take a minimum mandatory count of eight.

_____ (2) In the event of a knockdown, the timekeeper shall immediately start the count loud enough to be heard by the referee, who, after waving the opponent to the farthest neutral corner, shall pick up the count from the timekeeper and proceed from there. The referee shall stop the count if the opponent fails to remain in the corner. The count shall be resumed when the opponent has returned to the corner.

_____ (3) The timekeeper shall signal the count to the referee.

_____ (4) If the boxing contestant taking the count is still down when the referee calls the count of ten, the referee shall wave both arms to indicate that the boxing contestant has been knocked out. The referee shall summon the physician and shall then raise the

opponent's hand as the winner. The referee's count is the official count.

~~(5) If at the end of a round a boxing contestant is down and the referee is in the process of counting, the gong indicating the end of the round shall not be sounded. The gong shall only be sounded when the referee gives the command to box indicating the continuation of the bout.~~

~~(6) In the final round, the timekeeper's gong shall terminate the fight.~~

~~(7) A technical knockout decision shall be awarded to the opponent if a boxing contestant is unable or refuses to continue when the gong sounds to begin the next round. The decision shall be awarded in the round started by the gong.~~

~~(8) The referee and timekeeper shall resume their count at the point it was suspended if a boxing contestant arises before the count of ten is reached and falls down again immediately without being struck.~~

~~(9) If both boxing contestants go down at the same time, counting will be continued as long as one of them is still down or until the referee or the ringside physician determines that one or both of the boxing contestants needs immediate medical attention. If both boxing contestants remain down until the count of ten, the bout will be stopped and the decision will be scored as a double knockout.~~

R359 1 613. Boxing—Procedure After Knockout or Contestant Sustaining Damaging Head Blows.

~~(1) A boxing contestant who has lost by a technical knockout shall not fight again for a period of 30 calendar days or until the contestant has submitted to a medical examination. The Commission may require such physical exams as necessary.~~

~~(2) A ringside physician shall examine a boxing contestant who has been knocked out in a contest or a contestant whose fight has been stopped by the referee because the contestant received hard blows to the head that made him defenseless or incapable of continuing immediately after the knockout or stoppage. The ringside physician may order post fight neurological examinations, which may include computerized axial tomography (CAT) scans or magnetic resonance imaging (MRI) to be performed on the contestant immediately after the contestant leaves the location of the contest. Post fight neurological examination results shall be forwarded to the Commission by the ringside physician as soon as possible.~~

~~(3) A report that records the amount of punishment a fighter absorbed shall be submitted to the Commission by the ringside physician within 24 hours of the end of the fight.~~

~~(4) A ringside physician may require any boxing contestant who has sustained a severe injury or knockout in a bout to be thoroughly examined by a physician within 24 hours of the bout. The physician shall submit his findings to the Commission. Upon the physician's recommendation, the Commission may prohibit the contestant from boxing until the contestant is fully recovered and may extend any such suspension imposed.~~

~~(5) All medical reports that are submitted to the Commission relative to a physical examination or the condition of a boxing contestant shall be confidential and shall be open for examination only by the Commission and the licensed contestant upon the contestant's request to examine the records or upon the order of a court of competent jurisdiction.~~

~~(6) A boxing contestant who has been knocked out or who received excessive hard blows to the head that made him defenseless or incapable of continuing shall not be permitted to take part in competitive or noncompetitive boxing for a period of not less than 60 days. Noncompetitive boxing shall include any contact training in~~

~~the gymnasium. It shall be the responsibility of the boxing contestant's manager and seconds to assure that the contestant complies with the provisions of this Rule. Violation of this Rule could result in the indefinite suspension of the contestant and the contestant's manager or second.~~

~~(7) A contestant may not resume boxing after any period of rest prescribed in Subsections R359 1 613(1) and (6), unless following a neurological examination, a physician certifies the contestant as fit to take part in competitive boxing. A boxing contestant who fails to secure an examination prior to resuming boxing shall be automatically suspended until the results of the examination have been received by the Commission and the contestant is certified by a physician as fit to compete.~~

~~(8) A boxing contestant who has lost six consecutive fights shall be prohibited from boxing again until the Commission has reviewed the results of the six fights or the contestant has submitted to a medical examination by a physician.~~

~~(9) A boxing contestant who has suffered a detached retina shall be automatically suspended and shall not be reinstated until the contestant has submitted to a medical examination by an ophthalmologist and the Commission has reviewed the results of the examination.~~

~~(10) A boxing contestant who is prohibited from boxing in other states or jurisdictions due to medical reasons shall be prohibited from boxing in accordance with this Rule. The Commission shall consider the boxing contestant's entire professional record regardless of the state or country in which the contestant's fights occurred.~~

~~(11) A boxing contestant or the contestant's manager shall report any change in the contestant's medical condition which may affect the contestant's ability to fight safely. The Commission may, at any time, require current medical information on any contestant.~~

R359 1 614. Boxing—Waiting Periods.

~~(1) The number of days that shall elapse before a boxing contestant who has competed anywhere in a bout may participate in another bout shall be as follows:~~

TABLE

Length of Bout (In scheduled Rounds)	Required Interval (In Days)
4	3
5-9	5
10-12	7

R359 1 615. Boxing—Fouls.

~~(1) A referee may disqualify or penalize a boxing contestant by deducting one or more points from a round for the following fouls:~~

~~(a) holding an opponent or deliberately maintaining a clinch;~~

~~(b) hitting with the head, shoulder, elbow, wrist, inside or butt of the hand, or the knee;~~

~~(c) hitting or gouging with an open glove;~~

~~(d) wrestling, spinning or roughing at the ropes;~~

~~(e) causing an opponent to fall through the ropes by means other than a legal blow;~~

~~(f) gripping at the ropes when avoiding or throwing punches;~~

~~(g) intentionally striking at a part of the body that is over the kidneys;~~

~~(h) using a rabbit punch or hitting an opponent at the base of the opponent's skull;~~

- ~~_____ (i) hitting on the break or after the gong has sounded;~~
- ~~_____ (j) hitting an opponent who is down or rising after being down;~~
- ~~_____ (k) hitting below the belt line;~~
- ~~_____ (l) holding an opponent with one hand and hitting with the other;~~
- ~~_____ (m) purposely going down without being hit or to avoid a blow;~~
- ~~_____ (n) using abusive language in the ring;~~
- ~~_____ (o) un-sportsmanlike conduct on the part of the boxing contestant or a second whether before, during, or after a round;~~
- ~~_____ (p) intentionally spitting out a mouthpiece;~~
- ~~_____ (q) any backhand blow; or~~
- ~~_____ (r) biting.~~

R359-1-616. Boxing – Penalties for Fouling.

- ~~_____ (1) A referee who penalizes a boxing contestant pursuant to this Rule shall notify the judges at the time of the infraction to deduct one or more points from their scorecards.~~
- ~~_____ (2) A boxing contestant committing a deliberate foul, in addition to the deduction of one or more points, may be subject to disciplinary action by the Commission.~~
- ~~_____ (3) A judge shall not deduct points unless instructed to do so by the referee.~~
- ~~_____ (4) The designated Commission member shall file a complaint with the Commission against a boxing contestant disqualified on a foul. The Commission shall withhold the purse until the complaint is resolved.~~

R359-1-617. Boxing – Contestant Outside the Ring Ropes.

- ~~_____ (1) A boxing contestant who has been knocked, wrestled, pushed, or has fallen through the ropes during a contest shall not be helped back into the ring, nor shall the contestant be hindered in any way by anyone when trying to reenter the ring.~~
- ~~_____ (2) When one boxing contestant has fallen through the ropes, the other contestant shall retire to the farthest neutral corner and stay there until ordered to continue the contest by the referee.~~
- ~~_____ (3) The referee shall determine if the boxing contestant has fallen through the ropes as a result of a legal blow or otherwise. If the referee determines that the boxing contestant fell through the ropes as a result of a legal blow, he shall warn the contestant that the contestant must immediately return to the ring. If the contestant fails to immediately return to the ring following the warning by the referee, the referee shall begin the count that shall be loud enough to be heard by the contestant.~~
- ~~_____ (4) If the boxing contestant enters the ring before the count of ten, the contest shall be resumed.~~
- ~~_____ (5) If the boxing contestant fails to enter the ring before the count of ten, the contestant shall be considered knocked out.~~
- ~~_____ (6) When a contestant has accidentally slipped or fallen through the ropes, the contestant shall have 20 seconds to return to the ring.~~

R359-1-618. Boxing – Scoring.

- ~~_____ (1) Officials who score a boxing contest shall use the 10-point must system.~~
- ~~_____ (2) For the purpose of this Rule, the "10-point must system" means the winner of each round received ten points as determined by clean hitting, effective aggressiveness, defense, and ring generalship. The loser of the round shall receive less than ten points. If the round is even, each boxing contestant shall receive not less than ten points. No fraction of points may be given.~~

- ~~_____ (3) Officials who score the contest shall mark their cards in ink or in indelible pencil at the end of each round.~~
- ~~_____ (4) Officials who score the contest shall sign their scorecards.~~
- ~~_____ (5) When a contest is scored on the individual score sheets for each round, the referee shall, at the end of each round, collect the score sheet for the round from each judge and shall give the score sheets to the designated Commission member for computation.~~
- ~~_____ (6) Referees and judges shall be discreet at all times and shall not discuss their decisions with anyone during a contest.~~
- ~~_____ (7) A decision that is rendered at the termination of a boxing contest shall not be changed without a hearing, unless it is determined that the computation of the scorecards of the referee and judges shows a clerical or mathematical error giving the decision to the wrong contestant. If such an error is found, the Commission may change the decision.~~
- ~~_____ (8) After a contest, the scorecards collected by the designated Commission member shall be maintained by the Commission.~~
- ~~_____ (9) If a referee becomes incapacitated, a time-out shall be called and the other referee who is assigned to the contest shall assume the duties of the referee.~~
- ~~_____ (10) If a judge becomes incapacitated and is unable to complete the scoring of a contest, a time-out shall be called and an alternate licensed judge shall immediately be assigned to score the contest from the point at which he assumed the duties of a judge. If the incapacity of a judge is not noticed during a round, the referee shall score that round and the substitute judge shall score all subsequent rounds.~~

R359-1-619. Boxing – Seconds.

- ~~_____ (1) A boxing contestant shall not have more than four seconds, one of whom shall be designated as the chief second. The chief second shall be responsible for the conduct in the corner during the course of a contest. During the rest period, one second shall be allowed inside the ring, two seconds shall be allowed on the apron and one second shall be allowed on the floor.~~
- ~~_____ (2) All seconds shall remain seated during the round.~~
- ~~_____ (3) A second shall not spray or throw water on a boxing contestant during a round.~~
- ~~_____ (4) A boxing contestant's corner shall not heckle or in any manner annoy the contestant's opponent or the referee, or throw any object into the ring.~~
- ~~_____ (5) A second shall not enter the ring until the timekeeper has indicated the end of a round.~~
- ~~_____ (6) A second shall leave the ring at the timekeeper's whistle and shall clear the ring platform of all obstructions at the sound of the gong indicating the beginning of a round. Articles shall not be placed on the ring floor until the round has ended or the contest has terminated.~~
- ~~_____ (7) A referee may eject a second from a ring corner for violations of the provisions of Subsections R359-1-609(6) and R359-1-608(4) of this Rule (stepping into the ring and disruptive behavior) and may have the judges deduct points from a contestant's corner.~~
- ~~_____ (8) A second may indicate to the referee that the second's boxing contestant cannot continue and that the contest should be stopped. Only verbal notification or hand signals may be used; the throwing of a towel into the ring does not indicate the defeat of the second's boxing contestant.~~
- ~~_____ (9) A second shall not administer alcoholic beverages, narcotics, or stimulants to a contestant, pour excessive water on the~~

body of a contestant, or place ice in the trunks or protective cup of a contestant during the progress of a contest.

R359-1-620. Boxing – Managers.

_____ A manager shall not sign a contract for the appearance of a boxing contestant if the manager does not have the boxing contestant under contract.

R359-1-621. Boxing. Identification – Photo Identification Cards.

_____ (1) Each boxing contestant shall provide two pieces of identification to the designated Commission member before participation in a fight. One of the pieces of identification shall be a recent photo identification card issued or accepted by the Commission at the time the boxing contestant receives his original license.

_____ (2) The photo identification card shall contain the following information:

- _____ (a) the contestant's name and address;
- _____ (b) the contestant's social security number;
- _____ (c) the personal identification number assigned to the contestant by a boxing registry;
- _____ (d) a photograph of the boxing contestant; and
- _____ (e) the contestant's height and weight.

_____ (3) The Commission shall honor similar photo identification cards from other jurisdictions.

_____ (4) Unless otherwise approved by the Commission, a boxing contestant will not be allowed to compete if his or her photo identification card is incomplete or if the boxing contestant fails to present the photo identification card to the designated Commission member prior to the bout.

R359-1-622. Boxing – Dress for Contestants.

_____ (1) Boxing contestants shall be required to wear the following:

_____ (a) trunks that are belted at the contestant's waistline. For the purposes of this Subsection, the waistline shall be defined as an imaginary horizontal line drawn through the navel to the top of the hips. Trunks shall not have any buckles or other ornaments on them that might injure a boxing contestant or referee;

_____ (b) a foul proof protector for male boxing contestants and a pelvic area protector and breast protector for female boxing contestants;

_____ (c) shoes that are made of soft material without spikes, cleats, or heels;

_____ (d) a fitted mouthpiece; and

_____ (e) gloves meeting the requirements specified in Section R359-1-604.

_____ (2) In addition to the clothing required pursuant to Subsections R359-1-622(1)(a) through (e), a female boxing contestant shall wear a body shirt or blouse without buttons, buckles, or ornaments.

_____ (3) A boxing contestant's hair shall be cut or secured so as not to interfere with the contestant's vision.

_____ (4) A boxing contestant shall not wear corrective lenses other than soft contact lenses into the ring. A bout shall not be interrupted for the purposes of replacing or searching for a soft contact lens.

R359-1-623. Boxing – Failure to Compete.

_____ A boxing contestant's manager shall immediately notify the Commission if the contestant is unable to compete in a contest due to

illness or injury. A physician may be selected as approved by the Commission to examine the contestant.

R359-1-701. Elimination Tournaments.

_____ (1) In general. The provisions of Title 63C, Chapter 11, and Rule R359-1 apply to elimination tournaments, including provisions pertaining to licenses, fees, stopping contests, impounding purses, testing requirements for contestants, and adjudicative proceedings. For purposes of identification, an elimination tournament contestant shall provide any form of identification that contains a photograph of the contestant, such as a state driver's license, passport, or student identification card.

_____ (2) Official rules of the sport. Upon requesting the Commission's approval of an elimination tournament in this State, the sponsoring organization or promoter of an elimination tournament may submit the official rules for the particular sport to the Commission and request the Commission to apply the official rules in the contest.

_____ (3) The Commission shall not approve the official rules of the particular sport and shall not allow the contest to be held if the official rules are inconsistent, in any way, with the purpose of the Pete Suazo Utah Athletic Commission Act, Title 63C, Chapter 11, or with the Rule adopted by the Commission for the administration of that Act, Rule R359-1.

R359-1-702. Restrictions on Elimination Tournaments.

_____ Elimination tournaments shall comply with the following restrictions:

_____ (1) An elimination tournament must begin and end within a period of 48 hours.

_____ (2) All matches shall be scheduled for no more than three rounds. A round must be one minute in duration.

_____ (3) A contestant shall wear 16 oz. boxing gloves, training headgear, a mouthpiece and a large abdominal groin protector during each match.

_____ (4) A contestant may participate in more than one match, but a contestant shall not compete more than a total of 12 rounds.

_____ (5) The promoter of the elimination tournament shall be required to supply at the time of the weigh in of contestants, a physical examination on each contestant, conducted by a physician not more than 60 days prior to the elimination tournament in a form provided by the Commission, certifying that the contestant is free from any physical or mental condition that indicates the contestant should not engage in activity as a contestant.

_____ (6) The promoter of the elimination tournament shall be required to supply at the time of the weigh in of the contestants HIV test results for each contestant pursuant to Subsection R359-1-507 of this Rule and Subsection 63C-11-317(1).

_____ (7) The Commission may impose additional restrictions in advance of an elimination tournament.

R359-1-801. Martial Arts Contests and Exhibitions.

_____ (1) In general. All full contact martial arts are forms of unarmed combat. Therefore, the provisions of Title 63C, Chapter 11, and Rule R359-1 apply to contests or exhibitions of such martial arts, including provisions pertaining to licenses, fees, stopping contests, impounding purses, testing requirements for contestants, and adjudicative proceedings. For purposes of identification, a contestant in a martial arts contest or exhibition shall provide any form of identification that contains a photograph of the contestant, such as a state driver's license, passport, or student identification card.

~~(2) Official rules of the art. Upon requesting the Commission's approval of a contest or exhibition of a martial art in this State, the sponsoring organization or promoter may submit the official rules for the particular art to the Commission and request the Commission to apply the official rules in the contest or exhibition.~~

~~(3) The Commission shall not approve the official rules of the particular art and shall not allow the contest or exhibition to be held if the official rules are inconsistent, in any way, with the purpose of the Pete Suazo Utah Athletic Commission Act, Title 63C, Chapter 11, or with the Rule adopted by the Commission for the administration of that Act, Rule R359-1.~~

R359-1-802. Martial Arts Contest Weights and Classes.

~~Martial Arts Contest Weights and Classes:~~

- ~~(a) flyweight is up to and including 125 lbs. (56.82 kgs.);~~
- ~~(b) bantamweight is over 125 lbs. (56.82 kgs.) to 135 lbs. (61.36 kgs.);~~
- ~~(c) featherweight is over 135 lbs. (61.36 kgs.) to 145 lbs. (65.91 kgs.);~~
- ~~(d) lightweight is over 145 lbs. (65.91 kgs.) to 155 lbs. (70.45 kgs.);~~
- ~~(e) welterweight is over 155 lbs. (70.45 kgs.) to 170 lbs. (77.27 kgs.);~~
- ~~(f) middleweight is over 170 lbs. (77.27 kgs.) to 185 lbs. (84.09 kgs.);~~
- ~~(g) light heavyweight is over 185 lbs. (84.09 kgs.) to 205 lbs. (93.18 kgs.);~~
- ~~(h) heavyweight is over 205 lbs. (93.18 kgs.) to 265 lbs. (120.45 kgs.); and~~
- ~~(i) super heavyweight is over 265 lbs. (120.45 kgs.).~~

R359-1-901. "White Collar Contests".

~~Pursuant to Section 63C-11-302 (26), the Commission adopts the following rules for "White Collar Contests":~~

- ~~(1) Contestants shall be at least 21 years old on the day of the contest.~~
- ~~(2) Competing contestants shall be of the same gender.~~
- ~~(3) The heaviest contestant's weight shall be no greater than 15 percent more than their opponent.~~
- ~~(4) A ringside physician (M.D. or D.O.) must be present at the ringside or cageside during each bout and emergency medical response must be within 5 minutes to the training center venue.~~
- ~~(5) Ticket sales, admission fees and/or donations are prohibited.~~
- ~~(6) Concession sales are prohibited.~~
- ~~(7) No more than 4 bouts at an event on a single day are permitted.~~
- ~~(8) Knee strikes to the head to a standing or grounded opponent are prohibited.~~
- ~~(9) Elbow, forearm and triceps strikes to a standing or grounded opponent are prohibited.~~
- ~~(10) Strikes to the head of a grounded opponent are prohibited.~~
- ~~(11) All twisting leg submissions are prohibited.~~
- ~~(12) All spine attacks, including spine strikes and locks are prohibited.~~
- ~~(13) All neck attacks, including strikes, chokes and cranks are prohibited.~~
- ~~(14) Linear kicks to and around the knee joint are prohibited.~~
- ~~(15) Dropping your opponent on his or her head or neck at any time is prohibited.~~

~~(16) Medical insurance coverage for each contest participant that meets the requirements of R359-1-501(10) shall be provided at no expense to the contest participant.~~

~~(17) Full legal names, birthdates and addresses of all contestants shall be provided to the commission no later than 72 hours before the scheduled event.~~

R359-1-1001. Authority Purpose.

~~These rules are adopted to enable the Commission to implement the provisions of Section 63C-11-311 to facilitate the distribution of General Fund monies to Organizations Which Promote Amateur Boxing in the State.~~

R359-1-1002. Definitions.

~~Pursuant to Section 63C-11-311, the Commission adopts the following definitions:~~

- ~~(1) For purposes of Subsection 63C-11-311, "amateur boxing" means a live boxing contest conducted in accordance with the standards and regulations of USA Boxing, Inc., and in which the contestants participate for a non-cash purse.~~
- ~~(2) "Applicant" means an Organization Which Promotes Amateur Boxing in the State as defined in this section.~~
- ~~(3) "Grant" means the Commission's distribution of monies as authorized under Section 63C-11-311(3).~~
- ~~(4) "Organization Which Promotes Amateur Boxing in the State" means an amateur boxing club located within the state, registered with USA Boxing Incorporated.~~
- ~~(5) "State Fiscal Year" means the annual financial reporting period of the State of Utah, beginning July 1 and ending June 30.~~

R359-1-1003. Qualifications for Applications for Grants for Amateur Boxing.

- ~~(1) In accordance with Section 63C-11-311, each applicant for a grant shall:~~
 - ~~(a) submit an application in a form prescribed by the Commission;~~
 - ~~(b) provide documentation that the applicant is an "organization which promotes amateur boxing in the State";~~
 - ~~(c) Upon request from the Commission, document the following:

 - ~~(i) the financial need for the grant;~~
 - ~~(ii) how the funds requested will be used to promote amateur boxing; and~~
 - ~~(iii) receipts for expenditures for which the applicant requests reimbursement.~~~~
 - ~~(2) Reimbursable Expenditures—The applicant may request reimbursement for the following types of eligible expenditures:

 - ~~(a) costs of travel, including meals, lodging and transportation associated with participation in an amateur boxing contest for coaches and contestants;~~
 - ~~(b) Maintenance costs; and~~
 - ~~(c) Equipment costs.~~
 - ~~(3) Eligible Expenditures—In order for an expenditure to be eligible for reimbursement, an applicant must:

 - ~~(a) submit documentation supporting such expenditure to the Commission showing that the expense was incurred during the State Fiscal Year at issue; and~~
 - ~~(b) submit such documentation no later than June 30 of the current State Fiscal Year at issue.~~~~~~

~~(4) the Commission will review applicants and make a determination as to which one(s) will best promote amateur boxing in the State of Utah.~~

R359-1-1004. Criteria for Awarding Grants.

~~The Commission may consider any of the following criteria in determining whether to award a grant:~~

- ~~(1) whether any funds have been collected for purposes of amateur boxing grants under Section 63C-11-311;~~
- ~~(2) the applicant's past participation in amateur boxing contests;~~
- ~~(3) the scope of the applicant's current involvement in amateur boxing;~~
- ~~(4) demonstrated need for the funding; or~~
- ~~(5) the involvement of adolescents including rural and minority groups in the applicant's amateur boxing program.~~

~~**KEY:** licensing, boxing, unarmed combat, white collar contests
Date of Last Change: April 8, 2020
Notice of Continuation: June 29, 2022
Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.]~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R590-164	Filing ID: 54850

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R590-164. Uniform Health Billing Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended. It also updates several standards that are incorporated by reference.

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

The majority of the changes are being done to fix style issues to bring this rule text more in line with current Rulewriting Manual. Other changes make the language of this rule more clear, and update the new Section R590-164-6 to use the Department's current language. The changes do not add, remove, or change any regulations or requirements.

Several standards published by the Utah Health Information Network and incorporated by reference in this rule are also being updated. They are:
999 Implementation Acknowledgement For Health Care Insurance Standard 3.4. Updates the name of the standard.

Adaptive Behavior Services/Applied Behavioral Analysis (ABA) Billing Standard 3.1. Updated to include the permanent national codes published in late 2018.

Benefits Enrollment and Maintenance Standard 3.1. Updates the name of the standard.

Dental Claim Billing Standard -- J430 4.0. Revised to point to external resources as applicable and to ensure the standard does not conflict with those resources.

Eligibility Inquiry and Response Standard 3.3. Updated for readability and to remove an outdated statement.

Health Plan Identifier (HPID) and Other Entity Identifier (OEID) Standard 1.1. Updates the name of the standard.

Home Health Standard 3.1. Updated for readability and accuracy, and makes changes to the implementation section, "Table 2 - Line Item Codes", and "Table 3 - Per Diem Codes".

NPI and Atypical Provider Standard 3.1. Updated for readability and accuracy, and to update the name of the standard.

Transparency Administration Performance Standard 1.8. Updated for readability, and to require that data be submitted directly to the UID rather than through UHIN.

Patient Identification Number 3.0. Updates the name of the standard.

Premium Payment 3.0. Updates the name of the standard.

Transparency Denial Standard 1.8. Updated for readability, and to require that data be submitted directly to the UID rather than through UHIN.

UB04 Form Locator Elements 3.0. Updates the name of the standard.

Fiscal Information

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

A) State budget:

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the Department functions.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.

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

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.

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

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

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

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

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

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) 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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Insurance, Jonathan T. Pike, 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 31A-2-201	Section 31A-22-614.5	
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Incorporations by Reference Information

7. Incorporations by Reference:

A) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	999 Implementation Acknowledgement For Health Care Insurance Standard
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Publisher	Utah Health Information Network
Issue Date	11/06/2013
Issue or Version	3.4

B) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Adaptive Behavior Services/Applied Behavioral Analysis (ABA) Billing Standard
Publisher	Utah Health Information Network
Issue Date	02/02/2019
Issue or Version	3.1

C) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Benefits Enrollment and Maintenance Standard
Publisher	Utah Health Information Network
Issue Date	11/05/2014
Issue or Version	3.1

D) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Dental Claim Billing Standard -- J430
Publisher	Utah Health Information Network
Issue Date	09/07/2019
Issue or Version	4

E) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Eligibility Inquiry and Response Standard
Publisher	Utah Health Information Network
Issue Date	11/03/2021
Issue or Version	3.3

F) This rule adds, updates, or removes the following title of materials incorporated by references :

Official Title of Materials Incorporated (from title page)	Health Care Claim/Encounter Standard
Publisher	Utah Health Information Network
Issue Date	06/18/2011
Issue or Version	3.2

G) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Health Plan Identifier (HPID) and Other Entity Identifier (OEID) Standard
Publisher	Utah Health Information Network
Issue Date	06/06/2015
Issue or Version	1.1

H) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Home Health Standard
Publisher	Utah Health Information Network
Issue Date	06/27/2020
Issue or Version	3.1

I) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	NPI and Atypical Provider Standard
Publisher	Utah Health Information Network
Issue Date	09/07/2019
Issue or Version	3.1

J) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Patient Identification Number
Publisher	Utah Health Information Network
Issue Date	03/02/2011
Issue or Version	3.0

K) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Premium Payment
Publisher	Utah Health Information Network
Issue Date	03/02/2011
Issue or Version	3.0

L) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Transparency Administration Performance Standard
Publisher	Utah Health Information Network
Issue Date	12/03/2021
Issue or Version	1.8

M) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Transparency Denial Standard
Publisher	Utah Health Information Network
Issue Date	12/03/2021
Issue or Version	1.8

N) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	UB04 Form Locator Elements
Publisher	Utah Health Information Network
Issue Date	06/18/2011
Issue or Version	3.0

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:	10/17/2022

9. This rule change MAY become effective on:	10/24/2022
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

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	09/01/2022
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R590. Insurance, Administration.

R590-164. Uniform Health Billing Rule.

R590-164-1. Authority.

This rule is promulgated by the ~~[Insurance C]~~ commissioner pursuant to ~~[Subsection]~~ Sections 31A-2-201 and 31A-22-614.5[which authorizes the commissioner to adopt uniform claim forms, billing codes, and compatible systems of electronic billing].

R590-164-2. Purpose and Scope.

(1) The purpose of this rule is to designate uniform claim forms, billing codes, and compatible electronic data interchange standards for use by health payers and providers.

~~**R590-164-3. Applicability and Scope.**~~

~~(1)2~~ This rule applies to a health claim[s], a health encounter[s], and any electronic data interchange between a payer[s] and a provider[s].

~~(2)3~~ Except as otherwise specifically provided, ~~the requirements of~~ this rule ~~apply~~ applies to a payer[s] and a provider[s].

~~(3)4~~ This rule does not prohibit a payer from requesting additional information ~~required~~ to determine eligibility of ~~the~~ a claim under the terms of the policy or certificate issued to the claimant.

~~(4)5~~ This rule does not prohibit a payer or provider from using alternative forms or procedures specified in a written contract between the payer and provider.

~~(5)6~~ This rule does not exempt a payer or provider from data reporting requirements under state or federal law or regulation.

R590-164-4)3. Definitions.

[As used in this rule:

~~(1) Uniform Claim Forms are defined as:~~
~~(a) "UB 04" means the health insurance claim form maintained by NUBC for use by institutional care providers.~~

~~(b) "Form CMS 1500" means the health insurance claim form maintained by NUCC for use by health care providers.~~

~~(c) "J400" means the uniform dental claim form approved by the American Dental Association for use by dentists.~~

~~(d) "NCPDP" means the National Council for Prescription Drug Program's Claim Form or its electronic counterpart.~~

~~(2) Uniform Claim Codes are defined as:~~

~~(a) "ASA Codes" means the codes contained in the ASA Relative Value Guide developed and maintained by the American Society of Anesthesiologists to describe anesthesia services and related modifiers.~~

~~(b) "CDT Codes" means the current dental terminology prescribed by the American Dental Association.~~

~~(c) "CPT Codes" means the current physicians procedural terminology, published by the American Medical Association.~~

~~(d) "DRG Codes" means Diagnosis Related Group codes. DRG's are universal grouping that are used to clarify the type of inpatient care received. The DRG code, along with a diagnosis code and the length of the inpatient stay, are used to determine payment and reimbursement for claims.~~

~~(e) "HCPCS" means HCFA's Common Procedure Coding System, a coding system that describes products, supplies, procedures and health professional services and includes, the American Medical Association's (AMA's) Physician Current Procedural Terminology, codes, alphanumeric codes, and related modifiers. This includes:~~

~~(i) "HCPCS Level 1 Codes" which are the AMA's CPT codes and modifiers for professional services and procedures.~~

~~(ii) "HCPCS Level 2 Codes" which are national alphanumeric codes and modifiers for health care products and supplies, as well as some codes for professional services not included in the AMA's CPT codes.~~

~~(f) "ICDCM Codes" means the diagnosis and procedure codes in the International Classification of Diseases, clinical modifications published by the U.S. Department of Health and Human Services.~~

~~(g) "NDC" means the National Drug Codes of the Food and Drug Administration.~~

~~(h) "UB04 Rate Codes" means the code structure and instructions established for use by the National Uniform Billing Committee.~~

~~(3) "Electronic Data Interchange Standard" means the:~~

~~(a) ASC X12N standard format developed by the Accredited Standards Committee X12N Insurance Subcommittee of the American National Standards Institute and the ASC X12N implementation guides as modified by the Utah Health Information Network (UHN) Standards Committee;~~

~~(b) other standards developed by the UHN Standards Committee at the request of the commissioner; and~~

~~(c) as adopted by the commissioner by rule.~~

~~(4) "HPID" means Health Plan Identifier. HPID is the national unique health plan identifier assigned to identify individual health plans.~~

~~(5) "NPI" means National Provider Identifier. A NPI is a unique ten digit identification number required by HIPAA for all health care providers in the United States. Providers must use their NPI to identify themselves in all HIPAA transactions.~~

~~(6) "Payer" means an insurer or third party administrator that pays for, or reimburses for the costs of health care expense.~~

~~(7) "Provider" means any person, partnership, association, corporation or other facility or institution that renders or causes to be rendered health care or professional services, and officers, employees or agents of any of the above acting in the course and scope of their employment.~~

~~(8) "UHN Standards Committee" means the Standards Committee of the Utah Health Information Network.~~

~~(9) "CMS" means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services. CMS replaced HCFA.~~

~~(10) "HIPAA" means the federal Health Insurance Portability and Accountability Act.~~

~~(11) "NUBC" means the National Uniform Billing Committee.~~

~~(12) "NUCC" means the National Uniform Claim Committee]Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:~~

(1) "CMS" means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

(2) "Electronic Data Interchange Standard" means:

(a) the ASC X12N standard format developed by the Accredited Standards Committee X12N Insurance Subcommittee of the American National Standards Institute and the ASC X12N implementation guides as modified by the UHN Standards Committee; and

(b) any other standard developed by the UHN Standards Committee at the request of the commissioner and incorporated by the commissioner in rule.

(3) "HIPAA" means the federal Health Insurance Portability and Accountability Act.

(4) "HPID" means Health Plan Identifier, which is the national unique health plan identifier assigned to identify each individual health plan.

(5) "NUBC" means the National Uniform Billing Committee.

(6) "NUCC" means the National Uniform Claim Committee.

(7) "Payer" means an insurer or third-party administrator that pays, or reimburses for, the costs of health care.

(8) "Provider" means any person, partnership, association, corporation, or other facility or institution that renders health care or professional services, and any officer, employee, or agent of any of the above acting in the course and scope of their employment.

(9) "UHN Standards Committee" means the Standards Committee of the Utah Health Information Network.

(10) Uniform Claim Codes are defined as:

(a) "ASA codes" means the codes contained in the ASA Relative Value Guide maintained by the American Society of Anesthesiologists to describe anesthesia services and related modifiers.

(b) "CDT codes" means the Current Dental Terminology published by the American Dental Association.

(c) "CPT codes" means the Current Procedural Terminology published by the American Medical Association.

(d) "DRG codes" means Diagnosis Related Group codes, which are universal grouping codes used to clarify the type of inpatient care received, and, when used with a diagnosis code and the length of the inpatient stay, to determine payment and reimbursement for claims.

(e) "HCPCS" means Healthcare Common Procedure Coding System, a coding system that describes products, supplies, procedures, and health professional services, including:

(i) "HCPCS Level 1 codes," which are CPT codes and modifiers for professional services and procedures; and

(ii) "HCPCS Level 2 codes," which are national alphanumeric codes and modifiers for health care products and supplies, as well as some codes for professional services not included in CPT codes.

(f) "ICD-CM codes" means the diagnosis and procedure codes in the International Classification of Diseases, Clinical Modifications published by the U.S. Department of Health and Human Services.

(g) "NDC" means the National Drug Codes of the Food and Drug Administration.

(h) "UB-04 Rate Codes" means the code structure and instructions established for use by the NUBC.

(12) Uniform Claim Forms are defined as:

(a) "UB-04" means the health insurance claim form maintained by NUBC for use by institutional care providers.

(b) "Form CMS 1500" means the health insurance claim form maintained by NUCC for use by health care providers.

(c) "J400" means the uniform dental claim form approved by the American Dental Association for use by dentists.

(d) "NCPDP" means the National Council for Prescription Drug Program's Claim Form or its electronic counterpart.

R590-164-~~5~~4. Paper Claim Transactions.

~~Payers shall accept and may require the applicable uniform claim forms completed with the uniform claim codes.~~ (1) A payer may require the applicable uniform claim forms completed with the uniform claim codes.

(2) A payer shall accept the applicable uniform claim forms completed with the uniform claim codes.

R590-164-~~6~~5. Electronic Data Interchange Transactions.

(1)(a) The commissioner shall use the UHIN Standards Committee to develop electronic data interchange standards for use by payers and providers transacting health insurance business electronically.

(b) In developing standards for the commissioner, the UHIN Standards Committee shall consult with national standard[-] setting entities including ~~but not limited to Centers for Medicare and Medicaid Services (CMS), the National Uniform Claim Form Committee, ASC X12, NCPDP, and the National Uniform Billing Committee]~~ CMS, NUCC, ASC X12N, NCPDM, and NUBC.

(2) [S]A standard[s developed and] adopted by the UHIN Standards Committee [shall]may not be required for use by payers and providers[-] until [adopted-]incorporated by the commissioner [by-]in rule.

(3) [P]A payer[s] shall accept the applicable electronic data if transmitted in accordance with the [adopted-]electronic data interchange standard that is incorporated in rule.

(4) A payer[-Payers] may reject electronic data if not transmitted in accordance with the [adopted-]electronic data interchange standard that is incorporated in rule.

([4]5) The following HIPAA+ electronic data interchange standards ~~developed and~~ adopted by the UHIN Standards Committee ~~and adopted by the commissioner are hereby-]are~~ incorporated by reference by the commissioner~~[with this rule]~~ and are available ~~[for public inspection at the department during normal business hours or at www.]at https://insurance.utah.gov.~~

(a) "999 Implementation Acknowledgement For Health Care Insurance Standard v3.4." Purpose: To detail the standard transaction for the reporting of transmission receipt and transaction or functional group X12 and implementation guide error[-. This standard]; adopts the use of the ASC X12 999 transaction.

(b) "Adaptive Behavior Services/Applied Behavior Analysis (ABA) Billing Standard" v3.1." Purpose: To detail the billing for the transmission of ABA services.

(c) "Administrative Transaction Acknowledgements Standard v3.1." Purpose: To create a process for acknowledging all electronic transactions between trading partners based on the communication, syntax, semantic, and business process specifications.

[e](d) "Anesthesia Standard v3.1." Purpose: [t]To standardize the transmission of anesthesia data for health care services[-. This standard]; does not alter any contractual agreement between providers and payers.

[-----] (d) "Applied Behavioral Analysis, ABA, Billing Standard V3.0." Purpose: To provide detail of the billing for the transmission of ABA services-.]

(e) "Benefits ~~and~~ Enrollment and Maintenance Standard v3.1." Purpose: To detail the standard transactions for the transmission of health care benefits enrollment and maintenance.

(f) "Claim Acknowledgement Standard v3.2." Purpose: To provide a standardized claim acknowledgement in response to a claim submission[-. This transaction is]; used to report on the status of a claim[-] or encounter at the pre-adjudication processing stage, for example, before the payer is legally required to keep a history of the claim or encounter.

(g) "Claim Status Inquiry and Response Standard v3.2." Purpose: To detail the standard transactions for the transmission of health care claim status inquiries and response[-. The transaction is intended to]; allows the provider to reduce the need for claim follow-up and facilitate the correction of claims.

(h) "CMS 1500 Paper Claim Form Standard v3.3." Purpose: To ~~clearly~~ describe the standard use of each Box, for print images, and its crosswalk to the HIPAA 837 005010X222A1 Professional implementation guide.

(i) "Coordination of Benefits Standard v3.2." Purpose: To streamline the coordination of benefits process between payers and providers or payer to payers[-. The standard is to]; defines the data to be exchanged for coordination of benefits and to increase effective communications.

(j) "Dental Claim Billing Standard -- J430 v[~~3-2~~]4" Purpose: To describe the standard use of each item number, for print images, and its crosswalk to the HIPAA 837 005010x02241A1 dental implementation guide[-. This standard]; adopts the ADA dental Claim Form J340.

(k) "Electronic Remittance Advice Standard v3.5." Purpose: To detail the standard transactions for the transmission of health care remittance advices.

(l) "Eligibility Inquiry and Response Standard v3.[~~2~~]3." Purpose: To detail the standard transactions for the transmission of health care eligibility inquiries and responses.

(m) "Health Care Claim[-]/Encounter Standard v3.2." Purpose: To detail the standard transactions for the transmission of health care claims and encounters and associated transactions.

(n) "Health Identification Card Standard v1.2." Purpose: To standardize the patient health identification card information[-. This identification card]; addresses the human-readable appearance and machine-readable information used by the healthcare industry to obtain eligibility.

(o) "Health Plan Identifier[-] (HPID) [-] and Other Entity Identifier[-] (OEID) [-] Standard v1.1." Purpose: ~~[The purpose of the standard is to-]~~ To inform providers of the HIPD and OEID and their usage within the administrative transactions.

(p) "Home Health Standard v3.[~~0~~]1." Purpose: To provide a uniform standard of billing for home health care claims and encounters.

(q) "ICD-10 Standard v1.2." Purpose: To create the business requirement for payers and providers to implement the International Classification of Diseases 10th Revisions, ICD-10, within the administrative transaction.

(r) "Individual Name Standard v2.1." Purpose: To provide guidance for entering names into provider, payer, or sponsor systems for patients, enrollees, ~~[as well as all]~~ and any other people associated with these records.

(s) "[~~National Provider Identifier Standard v3.0~~] NPI and Atypical Provider Standard v3.1." Purpose: To inform providers of the national provider identifier requirements and the usage within the transactions.

(t) "Pain Management Standard v3.1." Purpose: To provide a uniform method of submitting pain management claims, encounters, pre-authorizations, and notifications.

(u) "Patient Identification Number [Standard]v3.0." Purpose: To describe the standard for the patient identification number.

(v) "Premium Payment [Standard]v3.0." Purpose: To detail the standard transactions for the transmission of premium payments.

(w) "Prior Authorization/Referral Standard v3.0." Purpose: To provide general recommendations to payers and providers about handling electronic prior authorization and referrals.

(x) "Required Unknown Values Standard v3.0." Purpose: To provide guidance for the use of common data values that can be used within the HIPAA transactions when a required data element is not known by the provider, payer, or sponsor for patients, enrollees, [as well as all]and any other people associated with these transactions[-]; these data values should only be used when the data is [truly]not available or known[-. These values should not to-] and may not be used to replace known data.

(y) "Telehealth Standard v3.2." Purpose: To provide a uniform standard of billing for health care claims and encounters delivered via telehealth.

(z) "Transparency Administration Performance Standard v1.[4,]8." Purpose: To establish performance measures that report the average telephone answer time and claim turnaround time.

(aa) "Transparency Denial Standard v1.[4,]8." Purpose: To establish performance measures that report the number and cost of an insurer's denied health claims and to provide guidance pertaining to the reporting method and timeline.

(ab) "UB04 Form Locator Elements [Standard]v3.0." Purpose: To [clearly]describe the use of each form locator in the UB-04 claim billing form and its crosswalk to the HIPAA 837 005010X223A2 institutional implementation guide.

R590-164-[7]6. Severability.

[If any provision of this rule or the application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.]If any provision of this rule, Rule R590-164, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance law

Date of Last Change: 2022|August 14, 2018|

Notice of Continuation: March 6, 2020

Authorizing, and Implemented or Interpreted Law: 31A-22-614.5

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R590-208	Filing ID: 54851

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R590-208. Uniform Application for Certificates of Authority
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The majority of the changes are being done to fix style issues to bring this rule text more in line with Rulewriting Manual. Other changes make the language of this rule more clear, and update the Section R590-208-5 to use the Department's current language. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the Department functions.

B) Local governments:			
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no compliance costs for any affected persons. The changes are largely clerical in nature.			
G) 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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Commissioner of the Department of Insurance, Jonathan T. Pike, 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 31A-2-201	Section 31A-2-202	
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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:	10/17/2022
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9. This rule change MAY become effective on:	10/24/2022
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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

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	09/01/2022
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R590. Insurance, Administration.

R590-208. Uniform Application for Certificates of Authority. R590-208-1. Authority.

This rule is promulgated [~~pursuant to Subsections 31A-2-201(2), 31A-2-201(3)(a), and 31A-2-202(2) wherein the commissioner is empowered to administer and enforce Title 31A; to make administrative rules to implement the provisions of Title 31A; to prescribe forms for information needed to enforce Title 31A and to implement uniformity between states and other jurisdictions as may apply to the admission and organization of insurance companies in~~

Utah] by the commissioner pursuant to Sections 31A-2-201 and 31A-2-202.

R590-208-2. Purpose and Scope.

(1) The purpose of this rule is to ensure [that] consistency between the commissioner's requirements for a domestic, foreign, [and] or alien insurer application[s] to obtain a certificate of authority in Utah [shall be consistent with] and the requirements of:

- (a) other states[-];
- (b) the information included in the Uniform Certificate of Authority Primary Application[-]; and
- (c) the Uniform Certificate of Authority Expansion Application of the [National Association of Insurance Commissioners] NAIC.

(2) This rule applies to each applicant seeking to obtain:

- (a) a certificate of authority for an insurer; or
- (b) an application for an organization permit to organize an insurer under Title 31A, Insurance Code.

R590-208-3. [Applicability and Scope] Definitions.

[This rule shall apply to all applicants seeking to obtain a certificate of authority for an insurer or an application for an organization permit to organize an insurer under Title 31A, Chapters 5, 7, 8, 9, 10, 11 or 14] Terms used in this rule are defined in Section 31A-1-301.

R590-208-4. Uniform Application for Admission as an Insurer.

[In order to promote efficiency and uniformity between the Utah Insurance Department, its sister states and other jurisdictions, the commissioner hereby requires the-] (1) The information included in the Uniform Certificate of Authority Primary Application and Uniform Certificate of Authority Expansion Application of the [National Association of Insurance Commissioners-] NAIC shall be submitted in accordance with [the requirements of-] Sections 31A-5-204, 31A-7-201, 31A-8-205, 31A-9-205, 31A-10-203, 31A-11-105, and 31A-14-201.

[To the extent that the above sections-] (2) If a section specified in Subsection (1) requires [other-] information that is not required in these uniform applications, an applicant for a certificate of authority [and-] or organization permit shall furnish the additional information as a supplement to the information required in the uniform applications.

R590-208-5. Severability.

[If a provision of this rule or its application to any person or circumstance is or for any reason held to be invalid, the remainder of the rule and the application of these provisions shall not be affected.] If any provision of this rule, Rule R590-208, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance certificate of authority
Date of Last Change: 2022[January 24, 2002]
Notice of Continuation: April 16, 2021
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-202

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R590-283	Filing ID: 54852

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R590-283. Defrayal of State-Required Benefits
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being changed to institute additional reporting requirements and change the date that a mandate defrayal payment is made by the state. This will allow the Department of Insurance (Department) to more accurately predict costs to the state for the defrayal payment, and will provide the legislature the ability to budget up front for the costs each fiscal year.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The rule changes update the defrayal request due date, update the information to be included in a request for defrayal, provide more specificity and an example regarding when defrayal payments will be made, and provide specific dates for required reporting.
Virtual Meeting ID: September 19, 2022, 1:00 PM meet.google.com/kte-eogh-msx Phone: 575-904-0792 PIN: 486 569 481#

Fiscal Information

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

A) State budget:

There is no anticipated cost or savings to the state budget. The changes will help the legislature more accurately budget state expenses.

B) Local governments:

There is no anticipated cost or savings to local governments. This rule governs the relationship between the Department and insurers licensed by it. It does not affect local governments in any way.

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

There is no anticipated cost or savings to small businesses. This rule governs the relationship between the Department and insurers licensed by it, of which none have 1 - 49 employees. It does not affect small businesses in any way.

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

There are currently four insurers affected by this rule change. Each insurer will have to compile information and submit two additional filings per year. These filings include the same data that is currently reported. The cost to submit a filing is \$17. The Department estimates that the additional costs for an insurer to compile the reporting information an additional two times per year is \$1,000 since the information is already being collected and the rule change only increases the frequency with which insurers will submit the data (4 x \$1,017 x 2 = \$8,136).

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

There is no anticipated cost or savings to any other person. This rule governs the relationship between the Department and insurers licensed by it. It does not affect any other person in any way.

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

There are currently four insurers affected by this rule change. Each insurer will have to compile information and submit two additional filings per year. These filings include the same data that is currently reported. The cost to submit a filing is \$17. The Department estimate that the additional costs for an insurer to compile the reporting information an additional two times per year is \$1,000 since the information is already being collected and the

rule change only increases the frequency with which insurers will submit the data (4 x \$1,017 x 2 = \$8,136).

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	\$8,136	\$8,136	\$8,136
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$8,136	\$8,136	\$8,136
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	(\$8,136)	(\$8,136)	(\$8,136)

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

The Commissioner of the Department of Insurance, Jonathan T. Pike, 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 31A-2-201	Section 31A-22-642	Section 31A-30-118
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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:		10/17/2022
B) A public hearing (optional) will be held:		
On:	At:	At:
09/19/2022	01:00 PM	See details above in Box 4

9. This rule change MAY become effective on: 10/24/2022

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

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	09/01/2022
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R590. Insurance, Administration.

R590-283. Defrayal of State-Required Benefits.

R590-283-1. Authority.

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201, 31A-22-642, and 31A-30-118.

R590-283-2. Purpose and Scope.

(1) The purpose of this rule is to establish the method and timing for the defrayal of the cost of a state-required benefit enacted on or after January 1, 2012, that is subject to 45 CFR 155.170 of PPACA.

(2) This rule applies to a health benefit plan that:

- (a) is a qualified health plan;
- (b) is offered on the exchange in the individual or small group market;
- (c) has an effective date of coverage on or after January 1, 2020; and
- (d) offers a state-required benefit in excess of the Utah Essential Health Benefits Package.

R590-283-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-30-103, and Rule R590-266. Additional terms are defined as follows:

(1) "Defrayal payment" means the amount payable to a carrier from the state for expenses incurred for a state-required benefit under:

- (a) 45 C.F.R. 155.170(b);
- (b) Section 31A-30-118; and
- (c) this rule.

(2) "EHB" means essential health benefits.

(3) "Exchange" means exchange as defined in 45 CFR 155.20.

(4) "Member month" means a count of one for each month during a calendar year during which an individual has coverage under

a plan subject to this rule where coverage is evaluated on the first of the month.

(5) "Qualified health plan" means a qualified health plan as defined in 45 CFR 155.20.

(6) "State-required benefit" means a benefit required by the state:

- (a) on or after January 1, 2012;
- (b) for a purpose other than compliance with a federal requirement;
- (c) that is in excess of the Utah Essential Health Benefits Package; and
- (d) that is eligible for a defrayal payment.

R590-283-4. Defrayal of a State-Required Benefit.

(1) A health benefit plan offering a state-required benefit that is offered exclusively off-exchange is not eligible for a defrayal payment.

(2) A carrier seeking a defrayal payment shall, on or before ~~April 30~~ September 1 of each year, submit to the commissioner a request that includes the following information:

(a) the state-required benefit for which the carrier is seeking a defrayal payment;

(b) ~~the total member months of individuals who received state-required benefit services during the preceding calendar year; and~~

~~(c) the amount allowed and the amount incurred and paid by the carrier for the state-required benefit services during the preceding calendar year;~~ the Mandate Defrayal Data template with the final data submission tab completed;

(c) an explanation for any increase in the allowable amount in the per unit cost for each CPT code that increased more than 5%;

(d) a description of any treatment plan review under Subsection 31A-22-642(6); and

(e) a certification stating:

(i) any durational limit, amount limit, deductible, copayment, and coinsurance for the treatment of autism spectrum disorder are similar to, or identical to, coverage provided for other illnesses or diseases; and

(ii) the defrayal payment request complies with Subsection 31A-30-118(1)(b).

(3)(a) The total defrayal payments are based on an aggregate of the data received under Subsection (2) from all carriers.

(b) The defrayal payment is calculated based on the sum of the total state-required benefit defrayable costs incurred across all carriers divided by the sum of the total member months of individuals receiving state-required benefit services across all carriers, and the result is multiplied by the sum of the member months of individuals receiving state-required benefit services for each carrier.

(c) A carrier may not receive a defrayal payment in excess of the amount the carrier incurred for a state-required benefit during the preceding calendar year.

(4) A request for defrayal payment shall be submitted via the System for Electronic Rate and Form Filings, SERFF.

(5)(a) Each defrayal payment is paid in arrears ~~for the prior calendar year~~.

(b) The defrayal payment will be paid in the first quarter of the state's fiscal year following the submission of a valid request for a defrayal payment submitted under Subsection (2).

(c) For example, a carrier submits a request for a defrayal payment in August 2023 for claims incurred during calendar year 2022. The defrayal payment will be paid during the first quarter of the state's fiscal year 2025, July 1, 2024, through September 30, 2024.

~~[(6)(a) If legislative funding is less than the total amount of requested defrayal payments, each defrayal payment will be prorated.
(b) A carrier may include an adjustment to the next pricing year's rates to account for a legislative funding deficit.
(c) An adjustment shall be clearly delineated in the actuarial memorandum.]~~

R590-283-5. Unified Rate Review Template, Rate Data Template, and Plans and Benefits Template Modifications.

(1) A carrier that expects to be eligible to receive a defrayal payment shall modify a federal rate filing template as follows:

(a) exclude the expected defrayal payment from the rates submitted on both the Unified Rate Review Template and the Rate Data Template;

(b) indicate in the rate filing's actuarial memorandum:

(i) whether the carrier anticipates a defrayal payment from the state for the cost of an eligible state-required benefit;

(ii) that the cost of the state-required benefit is not included in the premiums; and

(iii) the defrayal payment amount the carrier expects to receive; and

(c) indicate in the "Benefits Information" field on the Plans and Benefits Template that the carrier covers the state-required benefits, selecting the state-required benefit of "Not EHB" for the "EHB Variance Reason" field.

(2)(a) A carrier may not factor a state-required benefit into the calculation for the "EHB Percent of Total Premium" field on the Plans and Benefits Template.

(b) A state-required benefit may not be included in the total premium from which the "EHB Percent of Total Premium" field is calculated.

R590-283-6. Reporting.

(1) This rule incorporates by reference the Utah Health Information Network's (UHIN) "Adaptive Behavior Services—/Applied Behavior Analysis (ABA) Billing Standard" version 3.1, which is available on the department's website at <https://insurance.utah.gov> or on UHIN's website at <https://uhin.org>.

(2) A carrier shall use the UHIN "Adaptive Behavior Services—/Applied Behavior Analysis (ABA) Billing Standard" version 3.1 to identify and report state-required benefit claims subject to defrayal under Subsection R590-283-4(2)(c) and this section.

(3)(a) To project the state's defrayal payments, a carrier anticipating a defrayal payment shall submit to the commissioner on a quarterly basis the Mandate Defrayal Data template for the current reporting period.~~]~~

~~(a) on or before April 15 of each year:
(i) the state required benefit for which the carrier is seeking a defrayal payment;~~

~~(ii) the total member months of individuals who received services for the state required benefit during the current calendar year; and~~

~~(iii) the amount allowed and the amount incurred and paid by the carrier for the state required benefit during the current calendar year.~~

~~(b) on or before November 15 of each year:
(i) the state required benefit for which the carrier is seeking a defrayal payment;~~

~~(ii) the total member months of individuals who received services for the state required benefit during the current calendar year; and~~

~~(iii) the amount allowed and the amount incurred and paid by the carrier for the state required benefit during the current calendar year.]~~

~~[(e)-(b) A report shall be filed:~~

~~(i) on or before April 15 of each year for the period January 1 through March 31;~~

~~(ii) on or before August 15 of each year for the period January 1 through June 30;~~

~~(iii) on or before November 15 of each year for the period January 1 through October 31;~~

~~(iv) on or before February 15 of each year for the period January 1 through December 31 of the previous year; and~~

~~(v) for the purpose of Section R590-283-4, on or before September 1 of each year for the period January 1 through December 31 of the previous year.~~

~~(4) Reports shall be submitted via the System for Electronic Rate and Form Filings, SERFF.~~

R590-283-7. Claims Auditing.

The commissioner may audit a carrier's:

(1) state-required benefit claims that are eligible for a defrayal payment; and

(2) process for determining which state-required benefit claims are eligible for a defrayal payment.

R590-283-8. Severability.

If any provision of this rule, Rule R590-283, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance

Date of Last Change: ~~February 8,~~ 2022

Authorizing, and Implemented or Interpreted Law: 31A-30-118(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Rule or Section Number:	R592-15	Filing ID: 54853

Agency Information

1. Department:	Insurance
Agency:	Title and Escrow Commission
Room number:	Suite 2300
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorville, UT 84129
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901

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

General Information

2. Rule or section catchline:
R592-15. Schedule of Minimum Charges for Escrow Services
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being repealed because it conflicts with proposed Rule R592-18, Cost of Doing the Escrow Business. The Title and Escrow Commission approved the repeal of this rule in its 05/09/2022 meeting by a vote of 4 to 0. (EDITOR'S NOTE: The change in proposed rule (CPR) to Rule R592-18 is under ID 54616 in this issue, September 15, 2022, of the Bulletin.)
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This filing repeals this rule in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. Similar information will continue to be reported to the Department of Insurance (Department) and reviewed by the Department as part of the annual report.
B) Local governments:
There is no anticipated cost or savings to local governments. This rule governs the relationship between the Department and its licensees and has no bearing on local governments in any way.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. Under this rule, licensees only report their minimum escrow service charges when they began performing escrow services, and any time they change their prices for those services. Repealing the rule will mean they will no longer report at those times, but rather as part of the annual report.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no anticipated cost or savings to non-small businesses. Under this rule, licensees only report their minimum escrow service charges when they began performing escrow services, and any time they change their prices for those services. Repealing the rule will mean they will no longer report at those times, but rather as part of the annual report.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
There is no anticipated cost or savings to any other persons. Under this rule, licensees only report their minimum escrow service charges when they began performing escrow services, and any time they change their prices for those services. Repealing the rule will mean they will no longer report at those times, but rather as part of the annual report.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for any affected persons. An affected person will just not report to us when its escrow service charges change.

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

Regulatory Impact Table			
Fiscal Cost	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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Commissioner of the Department of Insurance, Jonathan T. Pike, 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 31A-2-404		
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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:	10/17/2022
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9. This rule change MAY become effective on:	10/24/2022
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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

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	09/01/2022
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R592. Insurance, Title and Escrow Commission.
~~[R592-15. Schedule of Minimum Charges for Escrow Services.~~
R592-15-1. Authority.

~~This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404.~~

R592-15-2. Purpose and Scope.

(1) ~~The purpose of this rule is to establish procedures for filing a Schedule of Minimum Charges for Escrow Services pursuant to Section 31A-19a-209.~~

(2) ~~This rule applies to a title insurer, an agency title insurance producer, and an individual title insurance producer who is not an employee of a title insurer or who is not designated to an~~

~~agency title insurance producer that provides escrow services in Utah.~~

R592-15-3. Definitions.

~~Terms used in this rule are defined in Sections 31A-1-301, 31A-2-402, and 31A-19a-102. Additional terms are defined as follows:~~

~~(1) "Certification" means a statement that a filing complies with Utah laws and rules.~~

~~(2) "Charge" means a dollar amount charged for a service rendered by a title licensee.~~

~~(3) "Document preparation" means preparing or compiling documents in connection with an escrow service.~~

~~(4) "Electronic filing" or "file electronically" means:~~
~~(a) a filing submitted via the internet by a title insurer using the System for Electronic Rate and Forms Filings (SERFF); or~~

~~(b) a filing submitted via an email system by an agency title insurance producer or an individual title insurance producer.~~

~~(5) "Escrow charge" means a dollar amount charged for an escrow service shown in the Schedule of Minimum Charges for Escrow Services.~~

~~(6) "Escrow service" means a service related to a settlement of a real estate transaction.~~

~~(7) "File and use" means a filing can be used, sold, or offered for sale after it has been filed with the department.~~

~~(8) "File before use" means a filing can be used, sold, or offered for sale after it has been filed with the department, and a stated period of time has elapsed from the date filed.~~

~~(9) "Filer" means a person who submits a filing.~~

~~(10)(a) "Filing Objection Letter" means a letter issued by the commissioner when a review determines that the filing fails to comply with Utah laws and rules.~~

~~(b) The Filing Objection Letter may require correction of non-compliant items and request clarification or additional information pertaining to the filing.~~

~~(11) "Letter of Authorization" means a letter signed on behalf of a title licensee that gives an individual filing authority.~~

~~(12) "Minimum escrow fee" means the minimum amount that must be charged for escrow settlement services rendered.~~

~~(13) "Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.~~

~~(14) "Other settlement service" means an additional service not specifically listed in the Schedule of Minimum Charges for Escrow Services.~~

~~(15) "Rejected" means a filing is:~~

~~(a) not submitted in accordance with Utah laws and rules;~~

~~(b) returned to the filer by the department, with the reasons for rejection; and~~

~~(c) not considered filed with the department.~~

~~(16) "Title licensee", for purposes of this rule, means a title insurance company, an agency title insurance producer, or an individual title insurance producer.~~

R592-15-4. Required Documents.

~~The following documents shall be used for each filing and are available on the department's website, <https://insurance.utah.gov>:~~

~~(1) "Transmittal Document for Agency Title Insurance Producer or Individual Title Insurance Producer"; and~~

~~(2) "Schedule of Minimum Charges for Escrow Services.~~

R592-15-5. General Filing Information.

- ~~(1)(a) A filing shall be accurate, consistent, complete, and contain all required documents for the filing to be processed in a timely and efficient manner.~~
- ~~(b) The commissioner may request additional information as necessary.~~
- ~~(2)(a) A filing that does not comply with this rule is rejected and returned to the filer.~~
 - ~~(b) A rejected filing:~~
 - ~~(i) is not considered filed with the department;~~
 - ~~(ii) shall be submitted as a new filing; and~~
 - ~~(iii) will be charged a new filing fee.~~
- ~~(3) Prior filings are not researched to determine the purpose of the filing.~~
- ~~(4) The department does not review or proofread every filing.~~
 - ~~(a) A filing may be reviewed:~~
 - ~~(i) when submitted;~~
 - ~~(ii) as a result of a complaint;~~
 - ~~(iii) during a regulatory examination or investigation; or~~
 - ~~(iv) any time the department determines a review is necessary.~~
 - ~~(b) When a Filing Objection Letter or Order to Prohibit Use is issued, a title licensee may be required to disclose the deficiencies to each affected consumer.~~
- ~~(5) Filing corrections.~~
 - ~~(a) If the filing is in an open status, correction can be made at any time.~~
 - ~~(b) If the filing is in a closed status, a new filing is required.~~
 - ~~(c) The filer must reference the original filing in the filing description.~~
- ~~(6) When responding to a Filing Objection Letter or an Order to Prohibit Use, a filer shall comply with Section R592-15-9.~~
- ~~(7) A filer must notify the department when withdrawing a previous filing.~~

R592-15-6. Filing Requirements.

- ~~(1) The following shall electronically file a Schedule of Minimum Escrow Service Charges:~~
 - ~~(a) a title insurer;~~
 - ~~(b) an agency title insurance producer; and~~
 - ~~(c) an individual title insurance producer who is:~~
 - ~~(i) not an employee of a title insurer; or~~
 - ~~(ii) not designated to an agency title insurance producer.~~
- ~~(2) Only an individual who is authorized to act on behalf of a title licensee may submit a filing.~~
- ~~(3)(a) An initial Schedule of Minimum Charges for Escrow Services filing is a file and use filing and is effective the day it is filed.~~
 - ~~(b) A revised Schedule of Minimum Charges for Escrow Services filing is a file before use filing and is effective:~~
 - ~~(i) 30 calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed; or~~
 - ~~(ii) a date specified by the filer that is later than 30 calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed.~~
- ~~(4) Each filing must be submitted as an electronic filing via:~~
 - ~~(a) email; or~~
 - ~~(b) SERFF.~~

- ~~(5) A complete email filing consists of the following:~~
 - ~~(a) an email naming the filer and stating that it is an escrow rate filing in the title of the email;~~
 - ~~(b) a complete Transmittal Document for Agency Title Insurance Producer or Individual Title Insurance Producer, containing a complete filing description in the following order:~~
 - ~~(i) Certification.~~
 - ~~(A) A filer shall certify that a filing is complete and complies with Utah laws and rules.~~
 - ~~(B) The filing shall include the following statement in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".~~
 - ~~(C) A filing will be rejected if the certification is false, missing, or incomplete.~~
 - ~~(ii) Indicate if the filing is:~~
 - ~~(A) new;~~
 - ~~(B) replacing or modifying a previous submission, describing the changes;~~
 - ~~(C) previously rejected, with reasons for rejection and previous filing's submission date; or~~
 - ~~(D) previously objected to or prohibited, with reasons for resubmission;~~
 - ~~(e) a Schedule of Minimum Charges for Escrow Services, completed as follows:~~
 - ~~(i) each blank field must be completed;~~
 - ~~(ii) if a listed service is not performed by a title licensee, the field must show "N/A" or "Not Applicable"; and~~
 - ~~(iii) the Schedule of Minimum Charges for Escrow Services may not be altered; and~~
 - ~~(d) a Letter of Authorization.~~
 - ~~(i) When the filer is not a title licensee, a Letter of Authorization from the title licensee shall be included with the filing.~~
 - ~~(ii) The title licensee is responsible for ensuring that the filing complies with Utah laws and rules.~~
 - ~~(e) Under Subsection 31A-19a-203(1)(e)(i), a rate filing fee shall be received by the department within five days of the electronic submission or the filing will be rejected.~~
 - ~~(6) A complete SERFF filing consists of the following:~~
 - ~~(a) a complete description section on the general information tab, presented in the following order:~~
 - ~~(i) Certification.~~
 - ~~(A) A filer shall certify that a filing is complete and complies with Utah laws and rules.~~
 - ~~(B) The filing shall include the following statement in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".~~
 - ~~(C) A filing will be rejected if the certification is false, missing, or incomplete.~~
 - ~~(ii) Indicate if the filing is:~~
 - ~~(A) new;~~
 - ~~(B) replacing or modifying a previous submission, describing the changes;~~
 - ~~(C) previously rejected, with reasons for rejection, and previous filing's submission date; or~~

~~(D) previously objected to or prohibited, with reasons for resubmission;~~
~~(b) a Schedule of Minimum Charges for Escrow Services completed as follows:~~
~~(i) attach the filing to the rate and rule schedule tab;~~
~~(ii) each blank field must be completed;~~
~~(iii) if a listed service is not performed by a title licensee, the field must show "N/A" or "Not Applicable"; and~~
~~(iv) the Schedule of Minimum Charges for Escrow Services may not be altered; and~~
~~(e) a Letter of Authorization.~~
~~(i) When the filer is not a title licensee, a Letter of Authorization from the title licensee shall be included with the filing.~~
~~(ii) The title licensee is responsible for ensuring that the filing complies with Utah laws and rules.~~
~~(d) Under Subsection 31A-19a-203(1)(e)(i), a rate filing fee shall be received by the department within five days of the electronic submission or the filing will be rejected.~~

R592-15-7. Charges.

~~(1) Only minimum escrow charges shown in the Schedule of Minimum Charges for Escrow Services shall be filed.~~
~~(2) Other settlement service charges will be used for services not specifically shown in the Schedule of Minimum Charges for Escrow Services.~~
~~(3) Other settlement service charges shall be filed as a per hour charge.~~
~~(4) Only document charges shown in the Schedule of Minimum Charges for Escrow Services shall be filed.~~
~~(5) Other services not specifically listed on the Schedule of Minimum Charges for Escrow Services may be provided if a justifiable charge is filed.~~

R592-15-8. Correspondence and Status Checks.

~~(1) To identify the original filing, the following information shall be provided:~~
~~(a) type of filing;~~
~~(b) date of filing; and~~
~~(c) submission method.~~
~~(2) A filer may request the status of its filing 60 days after the filing date.~~

R592-15-9. Responses.

~~(1) A response to a Filing Objection Letter shall include:~~
~~(a) a cover letter identifying the changes made; and~~
~~(b) revised documents with each change highlighted.~~
~~(2)(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.~~
~~(b) Use of the filing shall be discontinued by the date specified in the Order.~~
~~(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.~~
~~(d) Once the Order to Prohibit Use has been issued, a new filing is required if the title licensee chooses to make the requested changes addressed in the original Filing Objection Letter.~~

R592-15-10. Severability.

~~If any provision of this rule, Rule R592-15, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The~~

~~remainder of this rule shall be given effect without the invalid provision or application.~~

KEY: title escrow filings

Date of Last Change: December 23, 2021

Notice of Continuation: March 30, 2021

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Rule or Section Number:	R653-11	Filing ID: 54854

Agency Information

1. Department:	Natural Resources	
Agency:	Water Resources	
Room number:	310	
Building:	Natural Resources Building	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	Phone:	Email:
Martin Bushman	801-538-7273	martinbushman@agutah.gov
Joel Williams	801-538-7349	joelwilliams@utah.gov
Shelby Ericksen	801-300-1623	shelbyericksen@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R653-11. Water Conservation Requirements and Incentives
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Utah Legislature enacted H.B. 121 in the 2022 General Session establishing new water conservation measures directed at reducing outdoor water use at state government facilities and establishing a program administered by the Division of Water Resources to financially assist private landowners that convert lawn to drought resistant landscaping. This rule is necessary to define terms and specify procedures not fully covered in H.B. 121.

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

The proposed rule language does not amend or repeal existing administrative rule. It is a new rule in an existing Title of the Administrative Code (R653) and is singularly devoted to the purposes identified in the response to Box 3. This rule defines terms, identifies the criteria under which the Division of Water Resources may grant exceptions to the outdoor water use limitations imposed in Subsection 63A-5b-1108(4), establishes a uniform measure for outdoor water use at state facilities under Subsection 63A-5b-1108(3), and specifies the procedures and conditions for obtaining financial assistance from the Division of Water Resources for replacing lawn with drought resistant landscaping under Section 73-10-37. This rule will enable the Division of Water Resources to better perform the responsibilities and administer the program it is charged to undertake in H.B. 121 (2022).

Fiscal Information

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

A) State budget:

The rule implements conservation requirements imposed in Section 63A-5b-1108 on outdoor water use at state facilities. More specifically, it identifies the unit of measurement for water conservation and parameters under which the Division may exempt state facilities from certain water conservation requirements. Reviewing exemption requests will be administered by existing staff at the Division of Water Resources--no new hires or overtime pay will be required.

The Legislature appropriated \$5,000,000 in ARPA one-time funding to the Department of Natural Resources, Division of Water Resources to distribute to private landowners as an incentive to convert existing lawn to drought resistant landscaping (see Section 73-10-37). The rule governs the distribution of that \$5,000,000 to reimburse some costs incurred in converting lawn to drought resistant landscaping. The incentive program will be administered by existing staff at the Division of Water Resources--no new hires or overtime pay will be required.

B) Local governments:

The proposed rule's exemption provisions to outdoor water use restrictions in Section 65A-5b-1108 are exclusive to state facilities and will have no impact on local governments.

The lawn conversion incentive program will not fiscally impact local governments negatively. The program simply makes funding available to private property owners in Utah as an incentive to convert lawns into drought resistant landscaping. The rule does not require private landowners to convert their lawns to drought resistant landscaping or

to seek reimbursement of costs for such conversions from the Division. Participation in the program is completely voluntary under the rule. Those that choose to participate and receive funding, however, must pay whatever portion of the conversion's costs not covered by the incentive award. The cost to convert lawn to drought resistant landscaping varies considerably depending on contractor, region of the state, and actual work performed--but average costs are generally between \$4 and \$12 a square foot. The state incentive provided in the rule is \$1.50 a square foot. A lawn conversion, once completed, will reduce the landowner's outdoor water use and the associated costs, and eliminate lawn maintenance. It will also conserve water supplies in the community, reduce the likelihood of shortages, and delay the need for further water development by water providers.

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

The proposed rule's exemption provisions to outdoor water use restrictions in Section 65A-5b-1108 are exclusive to state facilities and will have no impact on small businesses.

To the extent a private landowner is not a local government and more closely related to a small or non-small business, it will be impacted similarly to that described in the local governments section. A residual benefit of the rule and the incentive program it implements to small and large businesses will be increased demand for: 1) landscaping services by qualified contractors; and 2) organic and inorganic materials (plants, shrubs, trees, gravel, rock, etc.) used in drought resistant landscaping. In total, the incentive program over the next couple years will infuse \$5,000,000 in state incentive money and participant's corresponding cost share into the purchase of landscaping services and associated materials.

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

Impacts to non-small businesses is anticipated to be no different than to small businesses. See small businesses impact response in box 5C.

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

No anticipated impacts to others different than local governments, small businesses, or non-small businesses. See previous responses.

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

The proposed rule's exemption provisions to outdoor water use restrictions in Section 65A-5b-1108 are exclusive to

state facilities and do not cost anything to state facilities that seek an exemption.

This rule does not require private landowners to convert their lawns to drought resistant landscaping or to seek reimbursement of costs for such conversions from the Division. Participation in the program is completely voluntary under this rule. Those that choose to participate and receive funding, however, must pay whatever portion of the conversion's costs not covered by the incentive award. The cost to convert lawn to drought resistant landscaping varies considerably depending on contractor, region of the state, and actual work performed--but average costs are generally between \$4 and \$12 a square foot. The state incentive provided in the rule is \$1.50 a square foot. A lawn conversion, once completed, will reduce the landowner's outdoor water use and the associated costs, and the need for eliminate lawn maintenance. It will also conserve water supplies in the community, reduce the likelihood of shortages, and delay the need for further water development by water providers. Again, participation in the program under the rule is voluntary.

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

Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has approved the regulatory impact analysis provided in this submission.

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 63A-5b-1108	Section 73-10-37	
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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:	10/17/2022
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9. This rule change MAY become effective on: 11/01/2022

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

Agency head or designee and title:	Candice Hasenyager, Director	Date:	08/31/2022
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R653. Natural Resources, Water Resources.

R653-11. Water Conservation Requirements and Incentives.

R653-11-1. Authority and Purpose.

- (1) This rule is promulgated to:
 - (a) define terms, identify exemptions, and further the objectives of Section 63A-5b-1108 in reducing outdoor water use at state government facilities; and
 - (b) clarify terms and further the implementation and administration of the water conservation program created in Section 73-10-37 that financially incentivizes private landowners to replace lawn with drought resistant landscaping.

R653-11-2. Definitions.

- (1) Terms used in this rule and not otherwise defined in this section are defined in Subsections 63A-5b-1108(1) and 73-10-37(1).
- (2) As used in this section:
 - (a) "Division" means the Division of Water Resources.

(b) "Outdoor water use" means water used for outdoor landscape irrigation and ornamental landscape water features.

(c) "Owner" means a person who:

(i) holds legal or rightful title, or a controlling interest in that title, to nonagricultural land;

(ii) is the water end user on the property; and

(iii) whose residence or place of employment is located on the property.

(d) "Drip irrigation system" means a system of narrow distribution tubes or pipes that deliver water from a dedicated low pressure supply valve to individual plants and trees through drip emitters. Drip emitters do not include micro spray, fogger, or bubbler emitters.

(e) "Good standing" means to have no past due water bills with a retail water provider.

(f) "Lawn" means nonagricultural land planted in closely mowed, managed grasses, excluding golf courses, parks, athletic fields, and sod farms.

(g) "Nonagricultural land" means privately owned real property immediately surrounding a home, apartment, business building, or similar structure routinely occupied by people for dwelling, business, employment, or recreation; and that is not used to grow crops or to hold, house, or feed livestock.

(h) "Project area" means the total area of lawn proposed for removal on a given property and replacement with drought resistant landscaping under Sections 73-10-37 and R653-11-6.

(i) "Retail water provider" means a person or entity that supplies culinary water or secondary water to a water end user.

R653-11-3. Lawn Limitations at State Government Facilities.

(1) As provided in Subsection 63A-5b-1108(2), a state agency that owns or occupies a state government facility built or reconstructed on or after May 4, 2022, may not have more than 20% of the grounds of the state government facility be in lawn.

(2) The 20% lawn limitation in Subsection 63A-5b-1108(2) does not apply to state government facilities under construction or reconstruction and incomplete as of May 4, 2022.

(3) Upon written request to the division, the division may exempt a state government facility from the 20% lawn limitations in Subsection 63A-5b-1108(2) where it determines that the purpose of the requesting state agency that occupies the facility requires additional lawn.

R653-11-4. Reductions in Outdoor Water Use at State Government Facilities.

(1) As provided in Subsection 63A-5b-1108(3)(a), a state agency shall reduce its outdoor water use compared to the state agency's outdoor water use for fiscal year 2020:

(a) 5% or more by June 30, 2023; and

(b) 25% or more by June 30, 2026.

(2) The unit of measurement for outdoor water use under Subsection 63A-5b-1108(3) is gallons of use per fiscal year.

R653-11-5. Timing of Landscape Irrigation at State Government Facilities.

(1) As provided in Subsection 63A-5b-1108(4), a state agency may not water outdoor landscaping at a state government facility between the hours of 10 a.m. and 6 p.m.

(2) Upon written request to the division, the division may authorize a state agency to water landscapes at a state government facility between 10 a.m. and 6 p.m. where nighttime watering is:

(a) infeasible due to water availability, insufficient water pressure, landscape use patterns or events, or similar impediments; or

(b) detrimental to establishing and maintaining a landscape or landscape element in a condition that fulfills its fundamental purpose or ensures its perennial survival.

R653-11-6. State Incentives for Drought Resistant Landscaping.

(1) As provided in Subsection 73-10-37(2), the division or its contractor may provide a financial incentive to an owner of private property to remove lawn from the property and replace it with drought resistant landscaping, as described in Subsection R653-11-6(7).

(2) An owner may not receive an incentive under this rule if:

(a) the owner has previously received an incentive under this section for the same property;

(b) the project area is less than 200 square feet; or

(c) the project area is located within a municipality or unincorporated area of a county that has not adopted or imposed water use efficiency standards satisfying the minimum benchmarks in Subsection (8).

(3) To obtain an incentive under this section an applicant must submit an application to the division or its designated contractor that includes the following:

(a) the applicant's name, mailing address, email address, and phone number;

(b) a description of the property where the proposed lawn removal and replacement will occur;

(c) a description of the lawn area proposed for removal and replacement, including its dimensions and location on the property, ie. project area;

(d) the applicant's acknowledgement and verification that:

(i) applicant holds legal or rightful title or a controlling interest in the title to the project area;

(ii) the project area is nonagricultural land;

(iii) the project area consists of lawn that is living, mowed, and actively managed;

(iv) the project area is not part of or located on a golf course, park, athletic field, or sod farm;

(v) applicant's residence or place of employment is located on the property where the project area is located;

(vi) applicant contracts with and is in good standing with a retail water provider for residential, commercial, industrial, or institutional use of water on the project area;

(vii) the project area is currently irrigated with water supplied by the retail water provider under contract with the applicant;

(viii) the applicant has legal authority to authorize lawn removal and replacement on the project area;

(ix) the applicant voluntarily seeks to remove the lawn in the project area and replace it with drought resistant landscaping, and is not required to do so by government code or policy;

(x) the applicant has not previously received an incentive under Section 73-10-37 and this rule for the same property;

(xi) the applicant agrees not to return a project area to lawn after replacing it with drought resistant landscaping and receiving an incentive to do so;

(xii) the lawn conversion project will not violate any applicable law, regulation, ordinance, zoning requirement, contractual obligation, or other legal limitation; and

(xiii) the applicant understands and acknowledges that neither the lawn removal incentive program, its requirements, nor the award of an incentive by the division supersede applicable laws, regulations, ordinances, or contract terms to the contrary; and

(e) submission of the following documents:

(i) billing statement showing that the applicant contracts with and is in good standing with the retail water provider that services the project area; and

(ii) drought resistant landscaping plan for the project area detailing the:

(A) location on the property and square footage of lawn planned for removal and conversion to drought resistant landscaping, including drawings with dimensional measurements, aerial imagery, and photographs of the project area;

(B) types and locations of the inorganic ground cover, weed barriers, plants, shrubs, trees, and irrigation systems satisfying the requirements in Subsection (7); and

(C) projected costs for the project.

(f) Upon request by the division, submission of documentation showing the applicant is the owner of the property and possesses legal authority to authorize the lawn removal and replacement.

(4)(a) The division or its contractors will receive and review lawn conversion incentive applications for completeness and compliance with the requirements of Section 73-10-37 and this rule.

(b) Before approving an incentive application, the division or its contractors will verify the location and eligibility of the project area for an incentive by:

(i) reviewing information submitted with the application; or

(ii) physically or virtually inspecting the project area.

(c) The division or its contractors will approve incentives to qualified applicants under Section 73-10-37 and this rule in the order that eligible applications are filed.

(d) An incentive authorized for any single application under Section 73-10-37 and this rule shall not exceed:

(i) \$50,000 in the aggregate; and

(ii) the lessor of:

(A) 50% of the cost of replacing the lawn with drought resistant landscaping; or

(B) \$1.50 for each square foot of lawn replaced with drought resistant landscaping.

(e) Incentives offered under Section 73-10-37 and this rule are subject to a \$5,000,000 aggregate cap.

(5) Upon approval of an incentive and as a condition to receiving the incentive, the participant shall:

(a) provide the division the information required to complete a federal W-9 tax form;

(b) execute a lawn conversion incentive contract with the division detailing the parties' mutual obligations and responsibilities, including:

(i) terms and conditions for receiving the incentive payment;

(ii) participant's commitment to:

(A) complete the project consistent with the approved drought resistant landscaping plan within 365 days of approval of the application; and

(B) never return the project area to lawn after replacing it with drought resistant landscaping and receiving an incentive to do so;

(iii) other matters determined by the division necessary to effectively administer the incentive program; and

(iv) participant's acknowledgement that incentive payments received may be subject to state and federal taxation.

(6) Before the division disburses any portion of an incentive to a participant, the division or its contractors will visit the project area and verify the lawn conversion to drought resistant landscaping is completed and consistent with:

(a) the requirements of Section 73-10-37 and this rule;

(b) the approved drought resistant landscaping plan; and

(c) the lawn conversion incentive contract between the participant and the division.

(7)(a) Except as otherwise determined by the division, drought resistant landscaping is a mixture of inorganic and organic ground cover that:

(i) controls the invasion of common weeds and grasses;

(ii) includes perennial, drought resistant plants, shrubs, or trees; and

(iii) drought resistant plants and shrubs cover 50% or more of the project area at maturity;

(A) tree canopy may not be used to satisfy the 50% plant and shrub coverage requirement;

(iv) has a drip irrigation system that:

(A) replaces the existing irrigation system servicing the project area;

(B) minimizes evapotranspiration losses; and

(C) maintains the drought resistant plants, shrubs, and trees in the project area in a healthy state; and

(v) is officially approved by the division or its contractors.

(b) All treatment locations in the project area, not otherwise covered in artificial turf, concrete, brick, or stone shall be covered in 3-4 inches of permeable gravel, rock, bark, compost mulch, or similar material to control weeds and improve the appearance of the landscaping.

(c) Drought resistant landscaping may include permeable:

(i) weed barrier fabric;

(ii) configurations of pavers, brick, stone, and similar hard surfaced materials, provided the project area satisfies the 50% plant and shrub cover requirement with the treated area counted as contributing nothing towards that cover; or

(iii) artificial turf, provided the project area satisfies the 50% plant and shrub cover requirement with treated area counted as contributing nothing toward that cover.

(8) For purposes of Subsection (2), water use efficiency standards for counties and municipalities within a county consist of the following outdoor lawn limitations on new residential development.

(a) Statewide requirements:

(i) No lawn on parking strips or areas less than eight feet in width in new residential development.

(b) Regional requirements:

(i) Washington County - no more than 15% of the lot size in new residential development is lawn;

(ii) Salt Lake, Utah, Weber, and Davis counties - no more than 35% of the front and side yard landscaped area in new residential development is lawn; and

(iii) All other counties in Utah - no more than 50% of the front and side yard landscaped area in new residential development is lawn.

(c) The lawn limitations in Subsections (a) and (b) do not apply to small residential lots with less than 250 square feet in landscaped area.

KEY: water conservation measures

Date of Last Change: 2022

Authorizing, and Implemented or Interpreted Law: 63A-5b-1108; 73-10-37

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R884-24P-33	Filing ID: 54829

Agency Information

1. Department:	Tax Commission	
Agency:	Property Tax	
Building:	Utah State Tax Commission	
Street address:	210 N 1950 W	
City, state and zip:	Salt Lake City, UT 84134	
Contact persons:		
Name:	Phone:	Email:
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R884-24P-33. 2022 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-10743
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The valuation guides and schedules contained in this section are reviewed and updated annually by the Property Tax Division. The personal property guides and schedules are used for property tax valuation and assessment of business personal property and certain motor vehicles.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Section 59-2-107 authorizes the State Tax Commission to make rules that define classes of items considered to be personal property and provide valuation percent good schedules to value personal property. County assessors must use the percent good schedules as contained in this section. Any deviation that affects an entire class or type

of personal property requires a written report documenting the schedule change to be submitted to the Tax Commission for approval prior to use. The proposed rule amendment modifies the percent good tables.

Fiscal Information

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

A) State budget:
The amount of savings or cost to state government is not affected by this section. Tax revenue generated by taxing personal property is distributed to local governments to finance public services, programs, school districts and local districts. No tax revenues generated by taxation of personal property will be retained by state government.

B) Local governments:
The amount of saving or cost to local governments is undetermined. Local governmental entities receive tax revenue based on increased or decreased personal property values and the change in the annual property tax rate. Increases or decreases in 2023 property tax revenue cannot be determined, even if there were no changes in the percent good tables, because taxpayer acquisitions and deletions of personal property during 2023 are unknown. The proposed personal property schedules in this amendment are raised, lowered, or remain the same for 2023 based upon the type and age of the personal property assessed. Schedules used to value business personal property increase or decrease based upon the calculation of economic trends from cost indexes published by the Marshall Valuation Service. It is anticipated that the change in the annual property tax rate will have a larger impact on revenue than will the proposed amendments to this section.

C) Small businesses ("small business" means a business employing 1-49 persons):
In the aggregate, the amount of savings or cost to small businesses is undetermined. Affected businesses pay property taxes based on increased or decreased personal property values and the change in the annual property tax rate. The proposed personal property schedules in this rule are raised, lowered, or remain the same for 2023 based upon the type and age of the property. Since some schedules are increased and some decreased, it is not possible to determine the change to affected persons without knowing the 2023 personal property mix compared to the previous year.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
In the aggregate, the amount of savings or cost to non-small businesses is undetermined. Affected non-small businesses pay property taxes based on increased or decreased personal property values and the change in the annual property tax rate. The proposed personal property

schedules in this rule are raised, lowered, or remain the same for 2023 based upon the type and age of the property. Since some schedules are increased and some decreased, it is not possible to determine the change to affected persons without knowing the 2023 personal property mix compared to the previous year.

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

In the aggregate, the amount of savings or cost to persons other than small businesses, non-small businesses, and state or local government entities is undetermined. Affected persons pay property taxes based on increased or decreased personal property values and the change in the annual property tax rate. The proposed personal property schedules in this rule are raised, lowered, or remain the same for 2023 based upon the type and age of the property. Since some schedules are increased and some decreased, it is not possible to determine the change to affected persons without knowing the 2023 personal property mix compared to the previous year.

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

Local business owners and property tax practitioners will be required to be aware of new percent good figures. This is an annual occurrence; therefore, the ongoing compliance cost to complete this assessment process will not change. The change in taxes charged for these persons depends entirely on the owner's mix of personal property since some percent good schedules are increasing and others decreasing. For example, the owner of a business may discard some personal property items and add new equipment or replace equipment which may increase or decrease personal property values. In addition, the personal property percent good schedule percentages often change from the previous year due to current economic conditions.

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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

A Commissioner of the Utah State Tax Commission, Rebecca L. Rockwell, 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 59-2-107		
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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:	10/17/2022
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9. This rule change MAY become effective on:	01/01/2023
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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

Agency head or designee and title:	Rebecca L. Rockwell, Commissioner	Date:	08/29/2022
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R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-33. [2022]2023 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-107.

(1) Definitions.

(a) "Acquisition cost" means the same as that term is defined in Section 59-2-102.

(b)(i) "Actual cost" includes the value of components necessary to complete the vehicle, such as tanks, mixers, special containers, passenger compartments, special axles, installation, engineering, erection, or assembly costs.

(ii) Actual cost does not include sales or excise taxes, maintenance contracts, registration and license fees, dealer charges, tire tax, freight, or shipping costs.

(c) "Cost new" means the actual cost of the property when purchased new.

(i) Except as otherwise provided in this rule, the Tax Commission and assessors shall rely on the following sources to determine cost new:

(A) documented actual cost of the new or used vehicle; or

(B) recognized publications that provide a method for approximating cost new for new or used vehicles.

(ii) For the following property purchased used, the taxing authority may determine cost new by dividing the property's actual cost by the percent good factor for that class:

(A) Class 6 heavy and medium duty trucks;

(B) Class 13 heavy equipment;

(C) Class 17 vessels equal to or greater than 31 feet in length; and

(D) Class 21 commercial trailers.

(d) For purposes of Sections 59-2-108 and 59-2-1115, "item of taxable tangible personal property" means a piece of equipment, machinery, furniture, or other piece of tangible personal property that is functioning at its highest and best use for the purpose it was designed and constructed and is generally capable of performing that function without being combined with other items of personal property. An item of taxable tangible personal property is not an individual component part of a piece of machinery or equipment, but the piece of machinery or equipment. For example, a fully functioning computer is an item of taxable tangible personal property, but the motherboard, hard drive, tower, or sound card are not.

(e) "Percent good" means an estimate of value, expressed as a percentage, based on a property's acquisition cost or cost new, adjusted for depreciation and appreciation.

(i) The percent good factor is applied against the acquisition cost or the cost new to derive taxable value for the property.

(ii) Percent good schedules are derived from an analysis of the Internal Revenue Service Class Life, the Marshall and Swift Cost index, other data sources or research, and vehicle valuation guides such as Penton Price Digests.

(2) Each year the Property Tax Division shall update and publish percent good schedules for use in computing personal property valuation.

(a) Proposed schedules shall be transmitted to county assessors and interested parties for comment before adoption.

(b) A public comment period will be scheduled each year and a public hearing will be scheduled if requested by ten or more interested parties or at the discretion of the Commission.

(c) County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal

property. When a deviation will affect an entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.

(d) A party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value for the property at the retail level of trade on the lien date, including any relevant installation and assemblage value.

(3) This rule does not apply to:

(a) a vehicle subject to the age-based uniform fee under Section 59-2-405.1;

(b) the following personal property subject to the age-based uniform fee under Section 59-2-405.2:

(i) an all-terrain vehicle;

(ii) a camper;

(iii) an other motorcycle;

(iv) an other trailer;

(v) a personal watercraft;

(vi) a small motor vehicle;

(vii) a snowmobile;

(viii) a street motorcycle;

(ix) a tent trailer;

(x) a travel trailer; and

(xi) a vessel, including an outboard motor of the vessel, that is less than 31 feet in length;

(c) a motorhome subject to the uniform statewide fee under Section 59-2-405.3; and

(d) an aircraft subject to the uniform statewide fee under Section 72-10-110.5.

(4) Other taxable personal property that is not included in the listed classes includes:

(a) Supplies on hand as of January 1 at ~~[12:00]~~noon, including office supplies, shipping supplies, maintenance supplies, replacement parts, lubricating oils, fuel and consumable items not held for sale in the ordinary course of business. Supplies are assessed at total cost, including freight-in.

(b) Equipment leased or rented from inventory is subject to ad valorem tax. Refer to the appropriate property class schedule to determine taxable value.

(c) Property held for rent or lease is taxable, and is not exempt as inventory. For entities primarily engaged in rent-to-own, inventory on hand at January 1 is exempt and property out on rent-to-own contracts is taxable.

(5) Personal property valuation schedules may not be appealed to, or amended by, county boards of equalization.

(6) Taxable personal property, other than personal property subject to an age-based uniform fee under Sections 59-2-405.1 through 59-2-405.3, or a uniform statewide fee under Section 59-2-405, is classified by expected economic life as follows:

(a) Class 1 - Short Life Property. Property in this class has a typical life of more than one year and less than four years. It is fungible in that it is difficult to determine the age of an item retired from service.

(i) Examples of property in the class include:

(A) ~~[barricades/warning]~~barricades or warning signs;

(B) library materials;

(C) patterns, jigs and dies;

(D) pots, pans, and utensils;

(E) canned computer software;

(F) hotel linen;

- (G) wood and pallets;
- (H) video tapes, compact discs, and DVDs; and
- (I) uniforms.

(ii) With the exception of video tapes, compact discs, and DVDs, taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(iii) A licensee of canned computer software shall use one of the following substitutes for acquisition cost of canned computer software if no acquisition cost for the canned computer software is stated:

- (A) retail price of the canned computer software;
- (B) if a retail price is unavailable, and the license is a nonrenewable single year license agreement, the total sum of expected payments during that 12-month period; or
- (C) if the licensing agreement is a renewable agreement or is a multiple year agreement, the present value of expected licensing fees paid pursuant to the agreement.

(iv) Video tapes, compact discs, and DVDs are valued at \$15 per tape or disc for the first year and \$3 per tape or disc thereafter.

[TABLE 1]

Year of Acquisition	Percent Good of Acquisition Cost
21	76%
20	44%
19 and prior	11%

Table 1
Short Life Property

Year of Acquisition	Percent Good of Acquisition Cost
2022	79%
2021	49%
2020 and prior	12%

(b) Class 2 - Computer Integrated Machinery.

(i) Machinery shall be classified as computer integrated machinery if the following conditions are met:

(A) The equipment is sold as a single unit. If the invoice breaks out the computer separately from the machine, the computer must be valued as Class 12 property and the machine as Class 8 property.

(B) The machine cannot operate without the computer and the computer cannot perform functions outside the machine.

(C) The machine can perform multiple functions and is controlled by a programmable central processing unit.

(D) The total cost of the machine and computer combined is depreciated as a unit for income tax purposes.

(E) The capabilities of the machine cannot be expanded by substituting a more complex computer for the original.

(ii) Examples of property in this class include:

- (A) CNC mills;
- (B) CNC lathes; or
- (C) high-tech medical and dental equipment such as MRI equipment, CAT scanners, and mammography units.

(iii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

[TABLE 2]

Year of Acquisition	Percent Good of Acquisition Cost
21	96%
20	86%

Year of Acquisition	Percent Good of Acquisition Cost
19	74%
18	62%
17	51%
16	40%
15	26%
14 and prior	13%

Table 2
Computer Integrated Machinery

Year of Acquisition	Percent Good of Acquisition Cost
2022	97%
2021	90%
2020	82%
2019	71%
2018	58%
2017	45%
2016	30%
2015 and prior	15%

(c) Class 3 - Short Life Trade Fixtures. Property in this class generally consists of electronic types of equipment and includes property subject to rapid functional and economic obsolescence or severe wear and tear.

(i) Examples of property in this class include:

- (A) office machines;
- (B) alarm systems;
- (C) shopping carts;
- (D) ATM machines;
- (E) small equipment rentals;
- (F) rent-to-own merchandise;
- (G) telephone equipment and systems;
- (H) music systems;
- (I) vending machines;
- (J) video game machines; and
- (K) cash registers.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

[TABLE 3]

Year of Acquisition	Percent Good of Acquisition Cost
21	90%
20	74%
19	55%
18	37%
17 and prior	18%

Table 3
Short Life Trade Fixtures

Year of Acquisition	Percent Good of Acquisition Cost
2022	94%
2021	81%
2020	61%
2019	42%
2018 and prior	22%

(d) Class 5 - Long Life Trade Fixtures. Class 5 property is subject to functional obsolescence in the form of style changes.

(i) Examples of property in this class include:

- (A) furniture;
- (B) bars and sinks;
- (C) booths, tables and chairs;
- (D) beauty and barber shop fixtures;
- (E) cabinets and shelves;

- (F) displays, cases and racks;
- (G) office furniture;
- (H) theater seats;
- (I) water slides;
- (J) signs, mechanical and electrical; and
- (K) LED component of a billboard.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

[TABLE 5]

Year of Acquisition	Percent Good of Acquisition Cost
21	96%
20	88%
19	78%
18	67%
17	58%
16	47%
15	35%
14	24%
13 and prior	13%

Table 5
Long Life Trade Fixtures

Year of Acquisition	Percent Good of Acquisition Cost
2022	97%
2021	91%
2020	86%
2019	76%
2018	66%
2017	54%
2016	40%
2015	27%
2014 and prior	14%

(e) Class 6 - Heavy and Medium Duty Trucks.

(i) Examples of property in this class include:

- (A) heavy duty trucks;
- (B) medium duty trucks;
- (C) crane trucks;
- (D) concrete pump trucks; and
- (E) trucks with well-boring rigs.

(ii) Taxable value is calculated by applying the percent good factor against the cost new.

(iii) Cost new of vehicles in this class is defined as follows:

(A) the documented actual cost of the vehicle for new vehicles; or

(B) 75% of the manufacturer's suggested retail price.

(iv) For state assessed vehicles, cost new shall include the value of attached equipment.

(v) The ~~2022~~2023 percent good applies to ~~2022~~2023 models purchased in ~~2021~~2022.

(vi) Trucks weighing two tons or more have a residual taxable value of \$1,750.

[TABLE 6]

Model Year	Percent Good of Cost New
22	90%
21	85%
20	79%
19	74%
18	68%
17	62%

16	56%
15	50%
14	44%
13	39%
12	33%
11	27%
10	21%
09 and prior	15%

Table 6
Heavy and Medium Duty Trucks

Model Year	Percent Good of Cost New
2023	98%
2022	96%
2021	94%
2020	91%
2019	88%
2018	83%
2017	78%
2016	65%
2015	59%
2014	54%
2013	48%
2012	42%
2011	36%
2010 and prior	30%

(f) Class 7 - Medical and Dental Equipment. Class 7 has been merged into Class 8.

(g) Class 8 - Machinery and Equipment and Medical and Dental Equipment.

(i) Machinery and equipment is subject to considerable functional and economic obsolescence created by competition as technologically advanced and more efficient equipment becomes available. Examples of machinery and equipment include:

- (A) manufacturing machinery;
- (B) amusement rides;
- (C) bakery equipment;
- (D) distillery equipment;
- (E) refrigeration equipment;
- (F) laundry and dry cleaning equipment;
- (G) machine shop equipment;
- (H) processing equipment;
- (I) auto service and repair equipment;
- (J) mining equipment;
- (K) ski lift machinery;
- (L) printing equipment;
- (M) bottling or cannery equipment;
- (N) packaging equipment; and
- (O) pollution control equipment.

(ii) Medical and dental equipment is subject to a high degree of technological development by the health industry. Examples of medical and dental equipment include:

- (A) medical and dental equipment and instruments;
- (B) exam tables and chairs;
- (C) microscopes; and
- (D) optical equipment.

(iii) Except as provided in Subsection (6)(g)(iv), taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(iv)~~(A)~~ Notwithstanding Subsection (6)(g)(iii), the taxable value of ~~the following oil refinery~~pollution control equipment as defined in Section 59-2-301.9,~~required by the federal~~

Clean Air Act] shall be calculated pursuant to [Subsection (6)(g)(iv)(B)]; Section 59-2-301.9.

- ~~(I) VGO (Vacuum Gas Oil) reactor;~~
- ~~(II) HDS (Diesel Hydrotreater) reactor;~~
- ~~(III) VGO compressor;~~
- ~~(IV) VGO furnace;~~
- ~~(V) VGO and HDS high pressure exchangers;~~
- ~~(VI) VGO, SRU (Sulfur Recovery Unit), SWS (Sour Water Stripper), and TGU; (Tail Gas Unit) low pressure exchangers;~~
- ~~(VII) VGO, amine, SWS, and HDS separators and drums;~~
- ~~(VIII) VGO and tank pumps;~~
- ~~(IX) TGU modules; and~~
- ~~(X) VGO tank and VGO tank air coolers.~~

(B) The taxable value of the oil refinery pollution control equipment described in Subsection (6)(g)(iv)(A) shall be calculated by:

- (I) applying the percent good factor in Table 8 against the acquisition cost of the property; and
- (II) multiplying the product described in Subsection (6)(g)(iv)(B)(I) by 50%.

[TABLE 8

Year of Acquisition	Percent Good of Acquisition Cost
21	97%
20	92%
19	83%
18	75%
17	67%
16	59%
15	49%
14	40%
13	31%
12	22%
11 and prior	12%

Table 8

Machinery and Equipment Including Medical and Dental Equipment

Year of Acquisition	Percent Good of Acquisition Cost
2022	98%
2021	94%
2020	90%
2019	85%
2018	77%
2017	67%
2016	55%
2015	45%
2014	34%
2013	23%
2012 and prior	12%

(h) Class 9 - Off-Highway Vehicles. Because Section 59-2-405.2 subjects off-highway vehicles to an age-based uniform fee, a percent good schedule is not necessary.

(i) Class 10 - Railroad Cars. The Class 10 schedule was developed to value the property of railroad car companies. Functional and economic obsolescence is recognized in the developing technology of the shipping industry. Heavy wear and tear is also a factor in valuing this class of property. Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

[TABLE 10

Year of Acquisition	Percent Good of Acquisition Cost
21	97%
20	95%
19	89%
18	82%
17	77%
16	71%
15	63%
14	57%
13	50%
12	44%
11	37%
10	30%
09	21%
08 and prior	10%

Table 10
Railroad Cars

Year of Acquisition	Percent Good of Acquisition Cost
2022	98%
2021	96%
2020	94%
2019	91%
2018	88%
2017	81%
2016	71%
2015	63%
2014	54%
2013	46%
2012	38%
2011	29%
2010	19%
2009 and prior	10%

(j) Class 11 - Street Motorcycles. Because Section 59-2-405.2 subjects street motorcycles to an age-based uniform fee, a percent good schedule is not necessary.

(k) Class 12 - Computer Hardware.

(i) Examples of property in this class include:

- (A) data processing equipment;
- (B) personal computers;
- (C) main frame computers;
- (D) computer equipment peripherals;
- (E) cad or cam systems; and
- (F) copiers.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

[TABLE 12

Year of Acquisition	Percent Good of Acquisition Cost
21	62%
20	46%
19	21%
18	9%
17 and prior	7%

Table 12
Computer Hardware

Year of Acquisition	Percent Good of Acquisition Cost
2022	62%
2021	46%
2020	21%

<u>2019</u>	<u>9%</u>
<u>2018 and prior</u>	<u>7%</u>

- (l) Class 13 - Heavy Equipment.
 (i) Examples of property in this class include:
 (A) construction equipment;
 (B) excavation equipment;
 (C) loaders;
 (D) batch plants;
 (E) snow cats; and
 (F) pavement sweepers.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(iii) ~~2022~~2023 model equipment purchased in ~~2021~~2022 is valued at ~~100 percent~~100% of acquisition cost.

[TABLE 13]

<u>Year of Acquisition</u>	<u>Percent Good of Acquisition Cost</u>
<u>21</u>	<u>61%</u>
<u>20</u>	<u>59%</u>
<u>19</u>	<u>56%</u>
<u>18</u>	<u>54%</u>
<u>17</u>	<u>52%</u>
<u>16</u>	<u>50%</u>
<u>15</u>	<u>48%</u>
<u>14</u>	<u>46%</u>
<u>13</u>	<u>43%</u>
<u>12</u>	<u>41%</u>
<u>11</u>	<u>39%</u>
<u>10</u>	<u>37%</u>
<u>09</u>	<u>35%</u>
<u>08 and prior</u>	<u>33%</u>

<u>Table 13</u> <u>Heavy Equipment</u>	
<u>Model Year</u>	<u>Percent Good of Acquisition Cost</u>
<u>2022</u>	<u>70%</u>
<u>2021</u>	<u>67%</u>
<u>2020</u>	<u>65%</u>
<u>2019</u>	<u>62%</u>
<u>2018</u>	<u>60%</u>
<u>2017</u>	<u>58%</u>
<u>2016</u>	<u>55%</u>
<u>2015</u>	<u>53%</u>
<u>2014</u>	<u>50%</u>
<u>2013</u>	<u>48%</u>
<u>2012</u>	<u>45%</u>
<u>2011</u>	<u>43%</u>
<u>2010</u>	<u>40%</u>
<u>2009 and prior</u>	<u>38%</u>

(m) Class 14 - Motor Homes. Because Section 59-2-405.3 subjects motor homes to an age-based uniform fee, a percent good schedule is not necessary.

(n) Class 15 - Semiconductor Manufacturing Equipment. Class 15 applies only to equipment used in the production of semiconductor products. Equipment used in the semiconductor manufacturing industry is subject to significant economic and functional obsolescence due to rapidly changing technology and economic conditions.

- (i) Examples of property in this class include:
 (A) crystal growing equipment;
 (B) die assembly equipment;

- (C) wire bonding equipment;
 (D) encapsulation equipment;
 (E) semiconductor test equipment;
 (F) clean room equipment;
 (G) chemical and gas systems related to semiconductor manufacturing;
 (H) deionized water systems;
 (I) electrical systems; and
 (J) photo mask and wafer manufacturing dedicated to semiconductor production.
 (ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

[TABLE 15]

<u>Year of Acquisition</u>	<u>Percent Good of Acquisition Cost</u>
<u>21</u>	<u>47%</u>
<u>20</u>	<u>34%</u>
<u>19</u>	<u>24%</u>
<u>18</u>	<u>15%</u>
<u>17 and prior</u>	<u>6%</u>

<u>Table 15</u> <u>Semiconductor Manufacturing Equipment</u>	
<u>Year of Acquisition</u>	<u>Percent Good of Acquisition Cost</u>
<u>2022</u>	<u>47%</u>
<u>2021</u>	<u>34%</u>
<u>2020</u>	<u>24%</u>
<u>2019</u>	<u>15%</u>
<u>2018 and prior</u>	<u>6%</u>

(o) Class 16 -- Long Life Property. Class 16 property has a long physical life with little obsolescence.

- (i) Examples of property in this class include:
 (A) billboards , excluding LED component;
 (B) sign towers;
 (C) radio towers;
 (D) ski lift and tram towers;
 (E) non-farm grain elevators;
 (F) bulk storage tanks;
 (G) underground fiber optic cable;
 (H) solar panels and supporting equipment; and
 (I) pipe laid in or affixed to land.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

[TABLE 16]

<u>Year of Acquisition</u>	<u>Percent Good of Acquisition Cost</u>
<u>21</u>	<u>97%</u>
<u>20</u>	<u>96%</u>
<u>19</u>	<u>94%</u>
<u>18</u>	<u>89%</u>
<u>17</u>	<u>86%</u>
<u>16</u>	<u>83%</u>
<u>15</u>	<u>77%</u>
<u>14</u>	<u>73%</u>
<u>13</u>	<u>65%</u>
<u>12</u>	<u>64%</u>
<u>11</u>	<u>59%</u>
<u>10</u>	<u>58%</u>
<u>09</u>	<u>54%</u>
<u>08</u>	<u>47%</u>
<u>07</u>	<u>40%</u>
<u>06</u>	<u>32%</u>

05	24%
04	16%
03 and prior	8%

[TABLE 17

Model Year	Percent Good of Cost New
22	90%
21	72%
20	69%
19	67%
18	65%
17	62%
16	60%
15	58%
14	55%
13	53%
12	51%
11	48%
10	46%
09	44%
08	41%
07	39%
06	37%
05	34%
04	32%
03	30%
02	27%
01 and prior	25%

Year of Acquisition	Percent Good of Acquisition Cost
2022	98%
2021	97%
2020	95%
2019	92%
2018	91%
2017	90%
2016	87%
2015	81%
2014	74%
2013	69%
2012	59%
2011	58%
2010	54%
2009	47%
2008	40%
2007	33%
2006	26%
2005	18%
2004 and prior	9%

Model Year	Percent Good of Acquisition Cost
2023	90%
2022	70%
2021	67%
2020	65%
2019	63%
2018	61%
2017	59%
2016	57%
2015	54%
2014	52%
2013	50%
2012	48%
2011	46%
2010	43%
2009	41%
2008	39%
2007	37%
2006	35%
2005	33%
2004	30%
2003	28%
2002 and prior	26%

(p) Class 17 - Vessels Equal to or Greater Than 31 Feet in Length.

(i) Examples of property in this class include:

- (A) houseboats equal to or greater than 31 feet in length;
- (B) sailboats equal to or greater than 31 feet in length; and
- (C) yachts equal to or greater than 31 feet in length.

(ii) A vessel, including an outboard motor of the vessel, under 31 feet in length:

- (A) is not included in Class 17;
- (B) may not be valued using Table 17; and
- (C) is subject to an age-based uniform fee under Section 59-2-405.2.

(iii) Taxable value is calculated by applying the percent good factor against the cost new of the property.

(iv) The Tax Commission and assessors shall rely on the following sources to determine cost new for property in this class:

(A) the following publications or valuation methods:

(I) the manufacturer's suggested retail price listed in the ABOS Marine Blue Book;

(II) for property not listed in the ABOS Marine Blue Book but listed in the NADA Marine Appraisal Guide, the NADA average value for the property divided by the percent good factor; or

(III) for property not listed in the ABOS Marine Blue Book or the NADA Appraisal Guide:

(aa) the manufacturer's suggested retail price for comparable property; or

(bb) the cost new established for that property by a documented valuation source; or

(B) the documented actual cost of new or used property in this class.

(v) The [2022]2023 percent good applies to [2022]2023 models purchased in [2021]2022.

(vi) Property in this class has a residual taxable value of \$1,000.

(q) Class 17a - Vessels Less Than 31 Feet in Length. Because Section 59-2-405.2 subjects vessels less than 31 feet in length to an age-based uniform fee, a percent good schedule is not necessary.

(r) Class 18 - Travel Trailers and Class 18a -- Tent Trailers or Truck Campers. Because Section 59-2-405.2 subjects travel trailers and tent trailers or truck campers to an age-based uniform fee, a percent good schedule is not necessary.

(s) Class 20 - Petroleum and Natural Gas Exploration and Production Equipment. Class 20 property is subject to significant functional and economic obsolescence due to the volatile nature of the petroleum industry.

- (i) Examples of property in this class include:
 - (A) oil and gas exploration equipment;
 - (B) distillation equipment;
 - (C) wellhead assemblies;
 - (D) holding and storage facilities;
 - (E) drill rigs;
 - (F) reinjection equipment;
 - (G) metering devices;
 - (H) cracking equipment;
 - (I) well-site generators, transformers, and power lines;
 - (J) equipment sheds;
 - (K) pumps;
 - (L) radio telemetry units; and
 - (M) support and control equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

[TABLE 20]

Year of Acquisition	Percent Good of Acquisition Cost
21	97%
20	89%
19	84%
18	76%
17	68%
16	63%
15	57%
14	48%
13	42%
12	35%
11	28%
10	20%
09 and prior	11%

Year of Acquisition	Percent Good of Acquisition Cost
2022	98%
2021	96%
2020	94%
2019	91%
2018	85%
2017	77%
2016	68%
2015	58%
2014	49%
2013	39%
2012	30%
2011	20%
2010 and prior	11%

- (t) Class 21 - Commercial Trailers.
 - (i) Examples of property in this class include:
 - (A) dry freight van trailers;
 - (B) refrigerated van trailers;
 - (C) flat bed trailers;
 - (D) dump trailers;
 - (E) livestock trailers; and
 - (F) tank trailers.

(ii) Taxable value is calculated by applying the percent good factor against the cost new of the property. For state assessed vehicles, cost new shall include the value of attached equipment.

(iii) The [2022]2023 percent good applies to [2022]2023 models purchased in [2021]2022.

(iv) Commercial trailers have a residual taxable value of \$1,000.

[TABLE 21]

Model Year	Percent Good of Cost New
22	95%
21	80%
20	77%
19	74%
18	71%
17	67%
16	64%
15	61%
14	57%
13	54%
12	51%
11	48%
10	46%
09	43%
08	40%
07	37%
06 and prior	35%

Model Year	Percent Good of Acquisition Cost
2023	95%
2022	80%
2021	77%
2020	74%
2019	71%
2018	67%
2017	64%
2016	61%
2015	60%
2014	57%
2013	53%
2012	50%
2011	47%
2010	43%
2009	40%
2008	37%
2007 and prior	33%

(u) Class 21a -- Other Non-Commercial Trailers. Because Section 59-2-405.2 subjects this class of trailers to an age-based uniform fee, a percent good schedule is not necessary.

(v) Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans.

(i) Class 22 vehicles fall within four subcategories: domestic passenger cars, foreign passenger cars, light trucks, including utility vehicles, and vans.

(ii) Because Section 59-2-405.1 subjects Class 22 property to an age-based uniform fee, a percent good schedule is not necessary.

(w) Class 22a - Small Motor Vehicles. Because Section 59-2-405.2 subjects small motor vehicles to an age-based uniform fee, a percent good schedule is not necessary.

(x) Class 23 - Aircraft Required to be Registered With the State. Because Section 59-2-404 subjects aircraft required to be registered with the state to a statewide uniform fee, a percent good schedule is not necessary.

(y) Class 24 - Leasehold Improvements on Exempt Real Property.

(i) The Class 24 schedule is to be used only for those leasehold improvements where the underlying real property is owned by an entity exempt from property tax under Section 59-2-1101. See Tax Commission Section R884-24P-32. Leasehold improvements include:

- (A) walls and partitions;
- (B) plumbing and roughed-in fixtures;
- (C) floor coverings other than carpet;
- (D) store fronts;
- (E) decoration;
- (F) wiring;
- (G) suspended or acoustical ceilings;
- (H) heating and cooling systems; and
- (I) iron or millwork trim.

(ii) Taxable value is calculated by applying the percent good factor against the cost of acquisition, including installation.

(iii) The Class 3 schedule is used to value short life leasehold improvements.

[TABLE 24

Year of Installation	Percent of Installation Cost
21	94%
20	88%
19	82%
18	77%
17	71%
16	65%
15	59%
14	54%
13	48%
12	42%
11	36%
10 and prior	30%

Year of Acquisition	Percent Good of Acquisition Cost
2022	94%
2021	88%
2020	82%
2019	77%
2018	71%
2017	65%
2016	59%
2015	54%
2014	48%
2013	42%
2012	36%
2011 and prior	30%

(z) Class 25 - Aircraft Parts Manufacturing Tools and Dies. Property in this class is generally subject to rapid physical, functional, and economic obsolescence due to rapid technological and economic shifts in the airline parts manufacturing industry. Heavy wear and tear is also a factor in valuing this class of property.

(i) Examples of property in this class include:

- (A) aircraft parts manufacturing jigs and dies;
- (B) aircraft parts manufacturing molds;
- (C) aircraft parts manufacturing patterns;
- (D) aircraft parts manufacturing taps and gauges; and
- (E) aircraft parts manufacturing test equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

[TABLE 25

Year of Acquisition	Percent Good of Acquisition Cost
21	90%
20	74%
19	56%
18	38%
17	20%
16 and prior	4%

Year of Acquisition	Percent Good of Acquisition Cost
2022	94%
2021	82%
2020	62%
2019	44%
2018	23%
2017 and prior	4%

(aa) Class 26 - Personal Watercraft. Because Section 59-2-405.2 subjects personal watercraft to an age-based uniform fee, a percent good schedule is not necessary.

(bb) Class 27 - Electrical Power Generating Equipment and Fixtures

(i) Examples of property in this class include:

- (A) electrical power generators; and
- (B) control equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

[TABLE 27

Year of Acquisition	Percent Good of Acquisition Cost
21	97%
20	95%
19	92%
18	90%
17	87%
16	84%
15	82%
14	79%
13	77%
12	74%
11	71%
10	69%
09	66%
08	64%
07	61%
06	58%
05	56%
04	53%
03	51%
02	48%
01	45%
00	43%
99	40%
98	38%
97	35%
96	32%
95	30%
94	27%
93	25%
92	22%
91	19%

90	17%
89	14%
88	12%
87 and prior	9%

Year of Acquisition	Percent Good of Acquisition Cost
2022	97%
2021	95%
2020	92%
2019	90%
2018	87%
2017	84%
2016	82%
2015	79%
2014	77%
2013	74%
2012	71%
2011	69%
2010	66%
2009	64%
2008	61%
2007	58%
2006	56%
2005	53%
2004	51%
2003	48%
2002	45%
2001	43%
2000	40%
1999	38%
1998	35%
1997	32%
1996	30%
1995	27%
1994	25%
1993	22%
1992	19%
1991	17%
1990	14%
1989	12%
1988 and prior	9%

(cc) Class 28 - Noncapitalized Personal Property. The taxable value of noncapitalized personal property as defined in Section 59-2-108, shall be calculated pursuant to Section 59-2-108. Property shall be classified as noncapitalized personal property if the following conditions are met:

- (i) the property is an item of taxable tangible personal property with an acquisition cost of \$1,000 or less; and
- (ii) the property is eligible as a deductible expense under Section 162 or Section 179, Internal Revenue Code, in the year of acquisition, regardless of whether the deduction is actually claimed.

TABLE 28

Year of Acquisition	Percent Good of Acquisition Cost
21	75%
20	50%
19	25%
18 and prior	0%

This rule shall be implemented and become binding on taxpayers beginning January 1, [2022]2023.

KEY: taxation, personal property, property tax, appraisals

Date of Last Change: [July 16,] 2022

Notice of Continuation: November 9, 2021

Authorizing, and Implemented or Interpreted Law: Art. XIII, Sec 2; 9-2-201; 11-13-302; 41-1a-202; 41-1a-301; 59-1-210; 59-2-102; 59-2-103; 59-2-103.5; 59-2-104; 59-2-201; 59-2-210; 59-2-211; 59-2-301; 59-2-301.3; 59-2-302; 59-2-303; 59-2-303.1; 59-2-305; 59-2-306; 59-2-401; 59-2-402; 59-2-404; 59-2-405; 59-2-405.1; 59-2-406; 59-2-508; 59-2-514; 59-2-515; 59-2-701; 59-2-702; 59-2-703; 59-2-704; 59-2-704.5; 59-2-705; 59-2-801; 59-2-918 through 59-2-924; 59-2-1002; 59-2-1004; 59-2-1005; 59-2-1006; 59-2-1101; 59-2-1102; 59-2-1104; 59-2-1106; 59-2-1107 through 59-2-1109; 59-2-1113; 59-2-1115; 59-2-1202; 59-2-1202(5); 59-2-1302; 59-2-1303; 59-2-1308.5; 59-2-1317; 59-2-1328; 59-2-1330; 59-2-1347; 59-2-1351; 59-2-1365; 59-2-1703

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R986-200-239	Filing ID: 54840
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Agency Information

1. Department:	Workforce Services	
Agency:	Employment Development	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact persons:		
Name:	Phone:	Email:
Amanda B. McPeck	801-526-9653	ampeck@utah.gov

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

General Information

2. Rule or section catchline:
R986-200-239. How to Determine the Amount of the Financial Assistance Payment
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The amendment removes the amounts of standard financial assistance from this section, allowing the Department of Workforce Services (Department) flexibility

to update the assistance amount periodically without needing a rule amendment.

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):

Removes Subsection R986-200-239(7), the table of standard financial assistance; also adds definitions and clarifying language, and makes stylistic and organizational changes consistent with the Rulewriting Manual.

Fiscal Information

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

A) State budget:

The rule change will not have any fiscal impact on state revenues or expenditures. Funding for this program is from the Federal government. The amendment requires no action or expenditure by state employees or resources, and does not require additional staff. The method of determining a household's eligibility for assistance has not changed. This amendment allows the Department to establish the amount of standard financial assistance available based on changing circumstances from year to year without needing a rule amendment. The Department made a report to the Social Services Appropriations Subcommittee during the 06/14/2022, interim session regarding proposed increases in the standard financial assistance amount.

B) Local governments:

The rule change will not have any fiscal impact on local governments' revenues or expenditures. This amendment requires no action or expenditure by local governments.

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

There are no anticipated costs or savings to small businesses. This amendment 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 anticipated costs or savings to non-small businesses. This amendment 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 anticipated costs to other persons as the amendment requires no action or expenditure by any

person, and the Department will not decrease the assistance amount as a result of this rule change. There is an anticipated inestimable fiscal benefit to potential financial assistance recipients, as the Department plans to increase the assistance amount during the time period reflected in the regulatory impact table. However, the Department cannot accurately predict the total number of eligible recipients in the future, as the circumstances which lead to the need and eligibility for such assistance is not predictable. Therefore, the Department cannot accurately estimate the fiscal benefit to potential recipients when and if the standard assistance amount increases in the next three years.

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 or requirements for financial assistance recipients.

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

Net Benefits	Fiscal \$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
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:		
Title 35A, Chapter 3, Part 3	PRWORA Pub. L. No. 104-193	

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:	10/17/2022

9. This rule change MAY become effective on:	10/24/22
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

Agency head or designee and title:	Casey Cameron, Executive Director	Date:	08/30/2022
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R986. Workforce Services, Employment Development. R986-200. Family Employment Program. R986-200-239. [How to Determine] Determining the Amount of the Financial Assistance Payment.

(1)(a) ~~[Once the household's size and income have been determined, the]~~ To be eligible for financial assistance, the household's gross countable income must be less than or equal to 185% of the Standard Needs Budget [(SNB)] for the size of the household. ~~[This is referred to as the "gross test".]~~

(b) "Standard Needs Budget" or "SNB" means the budget level determined by the Department based on a survey of basic living expenses.

(2) If the gross countable income is less than or equal to 185% of the SNB, the following deductions are allowed:

(a) a work expense allowance of \$100 for each person in the household unit who is employed;

(b) fifty percent of the remaining earned income after deducting the work expense allowance as provided in Subsection R986-200-239(2)(a) ~~[paragraph (a) of this subsection]~~, if the individual has received a financial assistance payment from the Department for one or more of the immediately preceding four months; and

(c) after deducting the amounts in Subsections R986-200-239(2)(a) and (b) ~~[paragraphs (a) and (b) of this subsection, if appropriate,]~~ the following ~~[deductions can be made]~~ are deducted:

(i) a dependent care deduction as described in S[ubsection R986-200-239(3)] ~~[of this section]~~; and

(ii) child support paid by a household member if legally owed to someone not included in the household.

(3) The amount of the ~~[dependant]~~ dependent care deduction is set by the Department and based on the number of hours worked by the parent and the age of the ~~[dependant]~~ dependent needing care. ~~[It can]~~

(a) Dependent care may only be deducted when each of the following elements can be shown, [if the dependant care:]

~~(a)~~ (i) The care is paid for the care of a child or adult member of the household assistance unit, or a child or adult who would be a member of the household assistance unit ~~[except that this person receives]~~ if the person did not receive SSI. ~~[An adult's need for care must be verified by a doctor; and]~~

~~(b)~~ (ii) The care is not subsidized, in whole or in part, by a CC payment from the Department. ~~[; and]~~

~~(c)~~ (iii) The care is not paid to an individual who is in the household assistance unit.

(b) An adult's need for care must be verified by a doctor.

(4)(a) After deducting the amounts allowed under ~~[paragraph]~~ Subsection R986-200-239 ~~[-](2)~~ ~~[above]~~, the resulting net income must be less than 100% of SNB for the size of the household assistance unit.

(b) If the net income is equal to or greater than the SNB, the household is not eligible.

(5) If the net income is less than 100% of the SNB the following amounts are deducted. ~~[;]~~

(a) Fifty percent of earned countable income for all employed household assistance unit members if the household was not eligible for the 50% deduction under ~~[paragraph]~~ Subsection R986-200-239(2)(b). ~~[above; and/or]~~

(b) All ~~[of the]~~ earned income of all children in the household assistance unit, if not previously deducted, who are:

- (i) in school or training full-time. ~~[;]~~ or
- (ii) in part-time education or training if they are employed less than 100 hours per month.

(c) For the purposes of this section, "[P]art-time education or training" means enrolled for at least one-half the number of hours or periods considered by the institution to be customary to complete the course of study within the minimum time period. If no schedule is set by the school, the course of study must be no less than an average of two class periods or two hours ~~[per]~~ a day, whichever is less.

(6)(a) The amount of the standard financial assistance payment is set by the Department. ~~[The resulting net countable income is compared to the full financial assistance payment for the household size.]~~

(b) If the household's net countable income following all deductions is more than the full financial assistance payment for the household size, the household is not eligible. If it is less, the net countable income is deducted from the financial assistance payment and the household is paid the difference.

(c) The current standard financial assistance payment amounts are available from the Department.

(d) Pursuant to Subsection 35A-3-302(8), the department shall make a report to the Social Services Appropriations Subcommittee on any proposed changes to the amount of cash assistance a family is eligible to receive.

[~~(7) The amount of the standard financial assistance payment is set by the Department. The current amount is in the table that follows:~~

~~8 \$801~~

~~Amounts for household sizes larger than 8 are available at all Department offices.]~~

TABLE

Household Size	Payment Amount
1	\$288
2	\$399
3	\$498
4	\$583
5	\$663
6	\$731
7	\$765

KEY: family employment program, SNAP

Date of Last Change: 2022[~~June 1, 2019~~]

Notice of Continuation: August 21, 2020

Authorizing, and Implemented or Interpreted Law: Title 35A, Chapter 3, Part 3; PRWORA Pub. L. No. 104-193[~~35A-3-301 et seq.~~]

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

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

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

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends October 17, 2022.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through January 13, 2023, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

NOTICES OF CHANGES IN PROPOSED RULES

NOTICE OF CHANGE IN PROPOSED RULE		
Rule or Section Number:	R68-28	Filing ID: 54735
Date of Previous Publication:	07/15/2022	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	4315 S 2700 W, TSOB, South Bldg, Floor 2	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-816-3842	bforsyth@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-28. Cannabis Processing
3. Reason for this change (Why is the agency submitting this filing?):
A change is needed to the filing based on feedback the Department of Agriculture and Food (Department) received from a licensee during the public comment period regarding confusion they had based on our use of the word "derived" when referring to "derivative" cannabinoids. Derivative cannabinoid is a defined term in the statute, so changes are needed to ensure it is referred to consistently in the rule.
4. Summary of this change (What does this filing do?):
The word "derived" is changed to the word "derivative" in Subsection R68-28-13(11) in two locations to ensure consistency with Subsection 4-41a-102(19). (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based

was published in the July 15, 2022, issue of the Utah State Bulletin, on page 12. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This is a clarification to promote understanding of the requirements of the program and will not have a fiscal impact.
B) Local government:
Local governments do not administer the program and are not licensed under the cannabis program so they will not be impacted by this change.
C) Small businesses ("small business" means a business employing 1-49 persons):
This is a clarification to promote understanding of the requirements of the program and will not have a fiscal impact on small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This is a clarification to promote understanding of the requirements of the program and will not have a fiscal impact on non-small businesses.
E) Persons other than small businesses, non-small businesses, or state or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
This is a clarification to promote understanding of the requirements of the program and will not have a fiscal impact on other persons.
F) Compliance costs for affected persons:
Compliance costs will not be affected by this change. The fees charged by the Department will not change.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of Utah Department of Agriculture and Food, Craig W Buttars, 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 4-41a-103	Section 4-41a-302	Section 4-41a-404
Section 4-41a-405		

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:	10/17/2022
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9. This rule change MAY become effective on:	10/24/2022
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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

Agency head or designee and title:	Craig W Buttars, Commissioner	Date:	08/17/2022
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R68. Agriculture and Food, Plant Industry.

R68-28. Cannabis Processing.

R68-28-1. Authority and Purpose.

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

R68-28-2. Definitions.

- 1) "Appealing to children" means:
 - a) has a likeness bearing resemblance to a cartoon character or fictional character; or
 - b) appears to imitate a food or other product that is typically marketed toward or is appealing to children.
- 2) "Applicant" means any person or business entity who applies for a cannabis processing facility license.
- 3) "Batch" means a quantity of:
 - a) cannabis extract produced on a particular date and time, following clean up until the next clean up during which lots of cannabis are used;
 - b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis extract is used; or
 - c) cannabis flower packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.
- 4) "Board" means the Cannabis Production Establishment Licensing Advisory Board, created in Section 4-41a-201.1.
- 5a) "Cannabis" means any part of a marijuana plant.
- b) "Cannabis" does not mean, for the purposes of this rule, industrial hemp.
- 6) "Cannabis concentrate" means the product of any chemical or physical process applied to cannabis biomass that concentrates or isolates the cannabinoids contained in the biomass.
- 7) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.
- 8) "Cannabis cultivation facility" means a person that:
 - a) possesses cannabis;
 - b) grows or intends to grow cannabis; and
 - c) sells or intends to sell cannabis to a cannabis cultivation facility or to a cannabis processing facility.

NOTICES OF CHANGES IN PROPOSED RULES

9) "Cannabis derivative product" means a product made using cannabis concentrate.

10) "Cannabis fact panel" means a part of the label that contains the information described in Subsections R68-28-13(6) and R68-28-13(7).

11) "Cannabis plant product" means any portion of a cannabis plant intended to be sold by a medical cannabis pharmacy in a form that is recognizable as a portion of a cannabis plant.

12) "Cannabis processing facility" means a person that:

a) acquires or intends to acquire cannabis from a cannabis production establishment;

b) possesses cannabis with the intent to manufacture a cannabis product;

c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis concentrate; and

d) sells or intends to sell a cannabis product to a medical cannabis pharmacy.

13) "Cannabis processing facility agent" means an individual who:

a) is an employee of a cannabis processing facility; and

b) holds a valid cannabis production establishment agent registration card.

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

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

b) designates the type of cannabis production establishment for which an individual may act as an agent.

15) "COA" means Certificate of Analysis from an independent cannabis testing laboratory.

16) "Complaint" means any negative feedback received from a medical cannabis patient or medical cannabis or industrial hemp licensee.

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

18) "Label" means a written, printed, or graphic display on the immediate container of a product.

19) "Labeling" means a label and other written, printed, or graphic display:

a) on the product or the product's container or wrapper; or

b) accompanying the product.

20) "Lot" means the quantity of:

a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.

21) "Product face" means the part of a label that is most likely to be displayed, presented, or shown under customary conditions of display for retail sale.

22) "Total THC" means the sum of the determined amounts of delta-9-THC and delta-9-THCA, according to the formula: Total THC = delta-9-THC + (delta-9-THCA x 0.877).

R68-28-3. Cannabis Processing Facility License.

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

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

a) create cannabis concentrate;

b) create cannabis derivative product; and

c) package and label final product.

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

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

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

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

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

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

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

10) A cannabis production establishment license is not transferable or assignable. If the ownership of a cannabis production establishment changes by 50% or more, the requirements of Subsection 4-41a-201(15) shall be followed.

R68-28-4. Cannabis Processing Facility Requirements.

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

a) the square footage of the areas where cannabis is to be extracted;

b) the square footage of the areas where cannabis or cannabis products are to be packaged and labeled;

c) the square footage of the areas where cannabis products are manufactured;

d) the square footage and location of storerooms for cannabis awaiting extraction;

e) the square footage and location of storerooms for cannabis awaiting further manufacturing;

f) the area where finished cannabis and cannabis products are stored;

g) the location of toilet facilities and hand washing facilities;

h) the location of a break room and location of personal belonging lockers;

i) the location of the areas to be used for loading and unloading of cannabis and cannabis products; and

j) the total square footage of the overall cannabis processing facility.

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

a) fire;

b) chemical spill; or

c) other emergency at the facility.

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

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

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

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

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

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

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

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

9) A cannabis processing facility shall keep records of any complaints received and make those records available to the department upon request.

R68-28-5. Separation of Cannabis and Hemp Processed in a Single Facility.

1) Any facility that has both an industrial hemp processing license and a license for medical cannabis processing shall ensure physical separation of medical cannabis and industrial hemp in their facility.

2) Processing of industrial hemp material and cannabis material shall not occur on the same equipment on the same day, unless cleaned between runs.

3) Processing equipment may be considered neutral territory for hemp and cannabis if:

- a) only one material is present in neutral territory at a time;
- b) packaging tables in neutral territory are only used for the material being processed that day; and
- c) if packaging tables are used for another material they shall be moved to the respective side of the facility.

4) If the facility uses the same machinery to process both industrial hemp and medical cannabis:

- a) the machinery shall be cleaned in between hemp and cannabis days;
- b) cleaning logs shall be kept and monitored by the department upon inspection of the facility; and
- c) cleaning logs shall include the machines used, the date cleaned, and the name of the employee that conducted the cleaning.

5) Packaging of medical cannabis and industrial hemp may occur:

- a) in a neutral zone; or
- b) in a designated side of the facility.

6) Freezer separation.

a) Each licensee that processes both medical cannabis and industrial hemp shall have a separate freezer for each material.

b) Cannabis and hemp material shall be clearly labeled pursuant to the requirements of this rule and Rule R68-25 and shall be in sealed containers.

7) Storage separation.

a) Industrial hemp and medical cannabis shall be stored in separate secure locations.

b) Storage shall include storage for:

- i) final product;
- ii) raw material; and
- iii) processed material.

8) Upon request, the licensee shall inform the department of how separation of materials is implemented, including the facility's separation procedures for raw material, extract, and final products.

R68-28-6. Cannabis Extraction Requirements.

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

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

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

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

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

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

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

7) A cannabis processing facility may use an alternative extraction method with prior approval from the department.

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

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

NOTICES OF CHANGES IN PROPOSED RULES

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

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

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

R68-28-7. Security Requirements.

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

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

a) with minimum camera resolution of 1280 x 720 pixels or pixel equivalent for analog; and

b) that retains footage for at least 45 days.

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

4) Controlled areas included:

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

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

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

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

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

5) Each camera shall record continuously.

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

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

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

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

10) At any time, visitors shall be escorted by a cannabis processing facility agent.

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

a) the full name of each visitor entering the facility;

b) badge number issued;

c) the time of arrival;

d) the time of departure; and

e) the purpose of the visit.

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

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

R68-28-8. Inventory Control.

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

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

3) Unique identification numbers may not be reused.

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

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

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

a) date and time material containing cannabis are being transported to a cannabis production establishment or medical cannabis pharmacy;

b) each sample used for testing and the test results;

c) a complete inventory of material containing cannabis;

d) cannabis product by unit count;

e) weight per unit of product;

f) weight and disposal of cannabis waste materials;

g) the identity of who disposed of the cannabis waste and the location of the waste receptacles; and

h) theft or loss or suspected theft or loss of material containing cannabis.

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

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

a) the amount of THC extract received;

b) the name, address, and licensing number of the industrial hemp processor;

c) the weight per unit of product received; and

d) the assigned unique identification number.

R68-28-9. Cannabis Processing Facility Agents.

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

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

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

a) the full name of the agent;

b) the name of the cannabis processing establishment;

c) the job title or position of the agent; and

d) a photograph of the agent.

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

a) the department approved training as specified in Section 4-41a-301; and

b) any task specific training as outlined in the operating plan submitted to the department.

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

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

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

R68-28-10. Minimum Storage and Handling Requirements.

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

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

3) Storage areas shall:

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

4) A cannabis processing facility shall:

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

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

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

R68-28-11. Product Appearance and Flavor.

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

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

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

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

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

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

4) Any container or packaging containing cannabis or cannabis product shall protect the product from contamination and

shall not impart any toxic or deleterious substance to the cannabis or cannabis product.

5) Cannabis cultivation byproduct shall either be:

a) chemically or physically processed to produce a cannabis concentrate for incorporation into cannabis derivative product; or

b) destroyed according to Section 4-41a-405.

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

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

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

R68-28-13. Labeling and Packaging of Cannabis and Cannabis Product.

1) Cannabis product labeling shall contain the following information:

- a) the common or usual name of the product;
- b) the name and license number of the cannabis processing facility;
- c) directions for consumers to contact the department with product complaints by going to medicalcannabis.utah.gov/production;
- d) for products containing THC, a warning symbol provided by the department;
- e) the amount of total THC contained in the package, in milligrams; and
- f) the following warning: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."

2) A cannabis processing facility may include a QR code on the cannabis product labeling that contains a COA from a licensed independent cannabis testing laboratory.

3) Any information appearing on the cannabis product labeling shall be:

- a) displayed in any legible font, that is not a script or decorative font, provided that the lowercase letter "o" is at least one-sixteenth inch in height;
- b) displayed in a color that contrasts conspicuously with its background; and
- c) displayed in English, although a licensee may also choose to display required information in additional languages.

4) A cannabis processing facility shall place a cannabis fact panel on a cannabis product before the sale of the cannabis product to a medical cannabis pharmacy.

5) The cannabis fact panel shall be printed in black and white.

6) The cannabis fact panel shall be securely affixed to the package.

7) The cannabis fact panel for cannabis plant product shall include the following information in the order as listed:

- a) the name of the cannabis cultivation facility;
- b) the lot number;
- c) the date of harvest;

NOTICES OF CHANGES IN PROPOSED RULES

- d) the date of final testing;
e) the batch number;
f) the date on which the product was packaged;
g) the quantity of any cannabinoid listed as present on the COA;
- h) the expiration date; and
i) the net weight.
8) THC potency levels for cannabis flower shall be listed as total THC in milligrams per gram.
9) The cannabis fact panel for cannabis derivative product shall include the following information in the order listed:
a) the batch number;
b) the date of the final testing;
c) the date on which the product was packaged;
d) the quantity of any cannabinoid listed as present on the COA;
e) the expiration date;
f) the total amount of THC measured in milligrams per gram;
g) a list of each ingredient and each major food allergen as identified in 21 U.S.C. 343;
h) the identity and quantity of any derivative or synthetic cannabinoid present in the product;
i) the net weight of the product and number of pieces, if applicable; and
j) a disclosure of the type of extraction process used and any solvent, gas, or other chemical used in the extraction process.
10) The label of a cannabis derivative product may include a flavor name if it is not candy-like or a name the facility knows or should know appeals to children.
11) The label of a cannabis product that contains a ~~derived~~ derivative or synthetic cannabinoid shall clearly display the following text : "This product contains ~~derived~~ derivative or synthetic cannabinoids."
12) Any terpene listed on a cannabis product package shall be verified as present by a licensed independent cannabis testing laboratory and have its quantity listed on the fact panel.
13) A cannabis processing facility may include the licensee's logo and product brand name on the cannabis product label that is exempt from the requirements of Subsection R68-28-13(3) and that:
a) does not exceed 20% of the product face;
b) does not obscure the information required on the label; and
c) does not include:
i) unprofessional terms, slang, phrasing, or verbiage associated with the recreational use of cannabis;
ii) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;
iii) content, symbol, or imagery that the cannabis processing facility knows or should know appeals to children;
iv) imagery featuring a person using the product in any way;
v) any recreationally oriented subject; or
vi) any statement, design, or representation, picture, or illustration that is obscene or indecent.
14) No other information, illustration, or depiction with the exception of directions for use shall appear on the labeling.

15) After January 1, 2023, cannabis product packaging, logos, and brand names shall be pre-approved by the department.

R68-28-14. Transportation.

- 1) A printed transport manifest shall accompany each transport of cannabis.
2) The manifest shall contain the following information:
a) the cannabis production establishment address and license number of the departure location;
b) physical address and license number of the receiving location;
c) strain name, quantities by weight, and unique identification numbers of each cannabis material to be transported;
d) date and time of departure;
e) estimated date and time of arrival; and
f) name and signature of each agent accompanying the cannabis.
3) The transport manifest may not be voided or changed after departing from the original cannabis production establishment.
4) A copy of the transport manifest shall be given to the receiving cannabis production establishment or medical cannabis pharmacy.
5) The receiving cannabis processing facility, independent laboratory, or medical cannabis pharmacy shall ensure that the cannabis material received is as described in the transport manifest and shall:
a) record the amounts received for each strain into the inventory control system; and
b) document any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.
6) During transportation, cannabis shall be:
a) shielded from the public view;
b) secured; and
c) temperature controlled if perishable.
7) A cannabis production facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.
8) Only the registered agents of the cannabis processing facility may occupy a transporting vehicle.

R68-28-15. Recall Protocol.

- 1) The department may initiate a recall of cannabis or cannabis products if:
a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis product;
b) evidence exists that residual solvents are present on or in cannabis or cannabis product;
c) evidence exists that harmful contaminants are present on or in cannabis or cannabis product; or
d) the department believes or has reason to believe the cannabis or cannabis product is unfit for human consumption.
2) The recall plan of a cannabis processing facility shall include, at a minimum:
a) a designation of at least one member of the staff who serves as the recall coordinator;
b) procedures for identifying and isolating product to prevent or minimize distribution to patients;

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

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

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

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

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

R68-28-16. Cannabis Waste Disposal.

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

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

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

4) Cannabis waste shall be rendered unusable before leaving the cannabis processing facility.

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

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

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

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

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

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

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

9) Cannabis waste includes:

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

R68-28-17. Change in Operation Plans.

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

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

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

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

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

5) Before the board's review of a cannabis production establishment license under Subsection 4-41a-201.1(7)(c), the cannabis production establishment shall provide the board with:

a) blueprints that show that there will be physical separation between medical cannabis and industrial hemp produced in their facility, including demonstrating storage and packaging areas on separate sides of the same room; and

b) any information requested by the board that shall allow the board to determine if the requirements of Section R68-28-5 will be met before the medical cannabis production establishment processes industrial hemp or industrial hemp products.

R68-28-18. Renewals.

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

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

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

R68-28-19. Violation Categories.

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

- a) cannabis sold to an unlicensed source;
- b) cannabis purchased from an unlicensed source;
- c) refusal to allow inspection;
- d) failure to comply with testing requirements;
- e) a test result for high pesticide residue in the cannabis produced or cannabis product;
- f) a test result for high residual solvents, heavy metal, microbials, molds, or other harmful contaminants;
- g) failure to maintain required cleanliness and sanitation standards;
- h) unauthorized personnel on the premises;
- i) permitting criminal conduct on the premises;
- j) possessing, manufacturing, or distributing cannabis products that the person knows or should know appeal to children;

NOTICES OF CHANGES IN PROPOSED RULES

k) failure to follow an approved recall protocol; or
 l) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments, which amounts to a public safety violation as described in this subsection.

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

a) failure to maintain alarm and security systems;
 b) failure to keep and maintain records for at least two years;

c) failure to maintain traceability;
 d) failure to follow transportation requirements;
 e) failure to follow the waste and disposal requirements;
 f) failure to maintain separation between cannabis and hemp;

g) failure to follow labeling and packaging requirements;
 h) failure to meet extraction requirements;
 i) distributing a final cannabis product with an actual weight that is lower than the net weight listed on the cannabis fact panel;

j) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule which amounts to a regulatory violation as described in this subsection; or

k) failure to maintain standardized scales.

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

a) an unauthorized change to the operating plan;
 b) failure to notify the department of changes to the operating plan;

c) failure to notify the department of changes to financial or voting interests of greater than 2%;

d) failure to follow the operating plan as approved by the department;

e) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments which amounts to a licensing violation as described in this subsection; or

f) failure to respond to violations.

4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

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

KEY: cannabis processing, cannabis production establishment Date of Last Change: 2022

Authorizing, and Implemented or Interpreted Law: 4-41a-103(5); 4-41a-404(3); 4-41a-701(3); 4-41a-302(3)(b)(ii); 4-2-103(1)(i); 4-41a-405(2)(b)(iv); 4-41a-801(1)

NOTICE OF CHANGE IN PROPOSED RULE		
Rule or Section Number:	R592-18	Filing ID: 54616
Date of Previous Publication:	06/01/2022	

Agency Information

1. Department:	Insurance	
Agency:	Title and Escrow Commission	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule or section catchline:
 R592-18. Cost of Doing the Escrow Business

3. Reason for this change (Why is the agency submitting this filing?):

The Title and Escrow Commission held a rule hearing on 07/11/2022, to accept additional public and industry comment on the proposed rule. The Commission determined that changes were needed. The Commission approved the filing of this change in proposed rule at an 08/26/2022, meeting by a vote of 5 to 0.

4. Summary of this change (What does this filing do?):

The change makes a number of clarifications regarding to whom the rule pertains, what must be reported, when the required report is due, and how the Department of Insurance (Department) will notify title insurance licensees of the results. It also add two definitions, and removes a requirement that would require two separate reports. (EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the June 1, 2022, issue of the Utah State Bulletin, on page 94. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

Fiscal Information

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

A) State budget:

There is no anticipated cost or savings to the state budget. The information required by the CPR is largely the same as what was required by the original filing.

B) Local government:

There is no anticipated cost or savings to local governments. This rule governs the relationship between the Department and its licensees and has no bearing on local governments in any way.

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

There is no anticipated cost or savings to small businesses. The data that agency title insurance producers are required to file under this CPR are the same as under the original filing. The CPR does not change what must be filed, but it does remove the requirement to file a number for the buyer side and another for the seller side. Both sides will be reported in one combined number.

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

There is no anticipated cost or savings to non-small businesses. The data that title insurers are required to file under this CPR are the same as under the original filing. The CPR does not change what must be filed, but it does remove the requirement to file a number for the buyer side and another for the seller side. Both sides will be reported in one combined number.

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

There is no anticipated cost or savings to any other persons. The data that individual title insurance producers are required to file under this CPR are the same as under the original filing. The CPR does not change what must be filed, but it does remove the requirement to file a number for the buyer side and another for the seller side. Both sides will be reported in one combined number.

F) Compliance costs for affected persons:

There are no compliance costs for any affected persons. Title licensees already track the cost of escrow per transaction. Creating an average from that information will not require any additional cost.

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
Total Fiscal Cost	\$0	\$0	\$0
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Commissioner of the Department of Insurance, Jonathan T. Pike, 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 31A-2-404

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:	10/17/2022
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9. This rule change MAY become effective on:	10/24/2022
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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

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	09/01/2022
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R592. Insurance, Title and Escrow Commission.

R592-18. Cost of Doing the Escrow Business.

R592-18-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404.

R592-18-2. Purpose and Scope.

(1) The purpose of this rule is to establish the standard for determining compliance with Subsection 31A-19a-209(3)(a)(ii).

(2) This rule applies to a title insurer ~~and a~~, an agency title insurance producer, and an individual title insurance producer.

R592-18-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 ~~and~~, 31A-2-402, and 31A-19a-102. Additional terms are defined as follows:

(1) "Residential transaction" means the sale or financing of:

(a) a building or structure, or a portion of a building or structure, occupied as, designed as, or intended for occupancy as a one to four family residence; or

(b) vacant land that is offered for sale for the construction or location of a building or structure, or a portion of a building or structure, described in Subsection (1)(a).

(2) "Filer" means a person who submits a filing.

R592-18-4. Calculating the Cost of Doing the Escrow Business Under Subsection 31A-19a-209(3)(a)(ii).

(1)(a) A title insurer, an agency title insurance producer, or an individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer, shall file with the commissioner ~~to be submitted with its annual report,~~ a certified statement of the average residential escrow fee charged by the filer for a residential transaction closed in this state for the prior calendar year.

(b) ~~Submitting the certified statement in Subsection (1)(a) satisfies the requirement of filing with the commissioner a schedule~~

~~of escrow charges in Section 31A-19a-209(i) For the calendar year 2022, the statement referred to in Subsection (1)(a) shall be filed with the commissioner no later than December 1, 2022.~~

(ii) Beginning in 2023, the statement referred to in Subsection (1)(a) shall be filed with the annual report.

(2)(a) The commissioner shall establish an industry average residential escrow fee by calculating the average of the residential escrow fees submitted under Subsection (1).

(b) ~~The industry average residential escrow fee shall be calculated for the buyer side and the seller side of a transaction.~~

~~(e)~~ The industry average residential escrow fee shall include the sum of the fees charged by a filer for conducting escrow services on [any] a residential transaction [involving a dwelling as defined in Section 57-21-2].

~~(d)~~ (c)(i) The industry average residential escrow fee shall [exclude any pass-through] include any cost incurred incident to [the] escrow services [or the issuance of the title insurance] and separately charged to [the consumer] a party to the transaction.

(ii) The industry average residential escrow fee may not include a recording fee or a closing protection letter fee.

(3)(a) On January 1, 2023, the commissioner shall issue a bulletin that notifies title insurers, agency title insurance producers, and individual title insurance producers of the industry average residential escrow fee that is based on the certified statements referred to in Subsection (1)(b)(i).

(b) The average fee referred to in Subsection (3)(a) is effective on February 1, 2023.

~~(3) On~~ (4)(a) Beginning in 2023, on June 1 of each year, the commissioner shall issue a bulletin that notifies title insurers, agency title insurance producers, and individual title insurance producers of the industry average residential escrow fee [for the buyer side and the seller side of a transaction] that is based on the certified statements referred to in Subsection (1)(b)(i).

~~(4) The industry average residential escrow fee calculated under Subsection (2) shall take effect.~~ (b) The average fee referred to in Subsection (4)(a) is effective on September 1 following the issuance of the bulletin.

(5) Under Subsection 31A-19a-209(3)(a)(ii), the Title and Escrow Commission determines that the cost of doing the escrow business is not less than 50% of the industry average residential escrow fee [for the buyer side and the seller side] as calculated under Subsection (2).

R592-18-5. Severability.

If any provision of this rule, Rule R592-18, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: title insurance

Date of Last Change: 2022

Authorizing, and Implemented or Interpreted Law: 31A-2-404(2)(a); 31A-19a-209(2)(a)(iii)

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.utah.gov. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R23-5	Filing ID: 53614
Effective Date:	08/30/2022	

Agency Information

1. Department:	Government Operations	
Agency:	Facilities Construction and Management	
Room number:	Third Floor	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141160	
City, state and zip:	Salt Lake City, UT 84114-1160	
Contact persons:		
Name:	Phone:	Email:
Mike Kelley	801-957-7239	mkelley@agutah.gov
Michelle Adams	801-957-7240	michelledadams@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:	R23-5. Contingency Funds
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3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized under Subsection 63A-5b-305(c), which authorizes the director of the Division of Facilities Construction and Management (DFCM) to make rules necessary for DFCM or the director to perform DFCM's or the director's duties.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule facilitates the director of DFCM's exercise of the director's powers and duties with respect to establishing and administering the statewide contingency reserve required by Section 63A-5b-609. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	James R. Russell, Director	Date: 08/22/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R23-6	Filing ID: 53615
Effective Date:	08/30/2022	

Agency Information

1. Department:	Government Operations	
Agency:	Facilities Construction and Management	
Room number:	Third Floor	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141160	
City, state and zip:	Salt Lake City, UT 84114-1160	
Contact persons:		
Name:	Phone:	Email:
Mike Kelley	801-957-7239	mkelley@agutah.gov
Michelle Adams	801-957-7240	michelledadams@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R23-6. Value Engineering and Life Cycle Costing of State Owned Facilities Rules and Regulations
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized under Subsection 63A-5b-305(c), which authorizes the director of the Division of Facilities Construction and Management (DFCM) to make rules necessary for DFCM or the director to perform DFCM's or the director's duties. This rule is required by Subsection 63A-5b-702(2).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is required by Subsection 63A-5b-702(2). Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	James R. Russell, Director	Date:	08/31/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R23-10	Filing ID: 53618
Effective Date:	08/31/2022	

Agency Information

1. Department:	Government Operations	
Agency:	Facilities Construction and Management	
Room number:	Third Floor	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141160	
City, state and zip:	Salt Lake City, UT 84114-1160	
Contact persons:		
Name:	Phone:	Email:
Mike Kelley	801-957-7239	mkelley@agutah.gov
Michelle Adams	801-957-7240	michelledadams@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R23-10. Naming of State Buildings
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized under Subsection 63A-5b-305(c), which authorizes the director of the Division of Facilities Construction and Management (DFCM) to make rules necessary for DFCM or the director to perform DFCM's or the director's duties.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary to establish a procedure for the naming of State buildings. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	James R. Russell, Director	Date:	08/31/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R23-12	Filing ID:	53619
Effective Date:	08/30/2022		

Agency Information

1. Department:	Government Operations		
Agency:	Facilities	Construction	and Management
Room number:	Third Floor		
Building:	Taylorsville State Office Building		
Street address:	4315 S 2700 W		
City, state and zip:	Taylorsville, UT 84129-2128		
Mailing address:	PO Box 141160		
City, state and zip:	Salt Lake City, UT 84114-1160		
Contact persons:			
Name:	Phone:	Email:	
Mike Kelley	801-957-7239	mkelley@agutah.gov	
Michelle Adams	801-957-7240	michelledadams@agutah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R23-12. Building Code Appeals Process
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized under Subsection 63A-5b-305(c), which authorizes the director of the Division of Facilities Construction and Management (DFCM) to make rules necessary for DFCM or the director to perform DFCM's or the director's duties. This rule is required by Section 15A-1-207.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is required by Section 15A-1-207. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	James R. Russell, Director	Date:	08/31/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R23-14	Filing ID:	53621
Effective Date:	08/30/2022		

Agency Information

1. Department:	Government Operations		
Agency:	Facilities	Construction	and Management
Room number:	Third Floor		
Building:	Taylorsville State Office Building		
Street address:	4315 S 2700 W		
City, state and zip:	Taylorsville, UT 84129-2128		
Mailing address:	PO Box 141160		
City, state and zip:	Salt Lake City, UT 84114-1160		
Contact persons:			
Name:	Phone:	Email:	
Mike Kelley	801-957-7239	mkelley@agutah.gov	
Michelle Adams	801-957-7240	michelledadams@agutah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R23-14. Management of Roofs on State Buildings
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized under Subsection 63A-5b-305(c), which authorizes the director of the Division of Facilities Construction and Management (DFCM) to make rules necessary for DFCM or the director to perform DFCM's or the director's duties.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary for DFCM to manage access to and work on the roofs of state buildings. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	James R. Russell, Director	Date:	08/31/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R23-21	Filing ID:	53624
Effective Date:	08/30/2022		

Agency Information

1. Department:	Government Operations		
Agency:	Facilities Construction and Management		
Room number:	Third Floor		
Building:	Taylorsville State Office Building		
Street address:	4315 S 2700 W		
City, state and zip:	Taylorsville, UT 84129-2128		
Mailing address:	PO Box 141160		
City, state and zip:	Salt Lake City, UT 84114-1160		
Contact persons:			
Name:	Phone:	Email:	
Mike Kelley	801-957-7239	mkelley@agutah.gov	
Michelle Adams	801-957-7240	michelledadams@agutah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R23-21. Division of Facilities Construction and Management Lease Procedures

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized under Subsection 63A-5b-305(c), which authorizes the director of the Division of Facilities Construction and Management (DFCM) to make rules necessary for DFCM or the director to perform DFCM's or the director's duties.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary to implement Section 63A-5b-802 – Leasing Responsibilities of the Director. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	James R. Russell, Director	Date:	08/31/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R23-24	Filing ID:	53627
Effective Date:	08/30/2022		

Agency Information

1. Department:	Government Operations		
Agency:	Facilities Construction and Management		
Room number:	Third Floor		
Building:	Taylorsville State Office Building		
Street address:	4315 S 2700 W		
City, state and zip:	Taylorsville, UT 84129-2128		
Mailing address:	PO Box 141160		
City, state and zip:	Salt Lake City, UT 84114-1160		
Contact persons:			
Name:	Phone:	Email:	
Mike Kelley	801-957-7239	mkelley@agutah.gov	
Michelle Adams	801-957-7240	michelledadams@agutah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R23-24. Capital Projects Utilizing Non-Appropriated Funds
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized under Subsection 63A-5b-305(c), which authorizes the director of the Division of Facilities Construction and Management (DFCM) to make rules necessary for DFCM or the director to perform DFCM's or the director's duties.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary to implement Section 63A-5b-404 – Exceptions to requirement of legislative approval for capital development projects. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	James R. Russell, Director	Date:	08/31/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R65-13	Filing ID:	52631
Effective Date:	08/31/2022		

Agency Information

1. Department:	Agriculture and Food		
Agency:	Marketing and Economic Development		
Street address:	4315 S 2700 W, TSOB, South Bldg, Floor 2		
City, state and zip:	Taylorsville, UT 84129-2128		
Mailing address:	PO Box 146500		
City, state and zip:	Salt Lake City, UT 84114		
Contact persons:			
Name:	Phone:	Email:	
Amber Brown	385-245-5222	ambermbrown@utah.gov	

Caroline Hargraves	801-982-2353	carolinehargraves@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R65-13. Utah's Own
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized pursuant to Subsection 4-8-104(5) which gives the Department of Agriculture and Food authority to make rules to create a program dedicated to the promotion of local agriculture.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it provides guidelines under which the Utah's Own Program is able to operate, including membership eligibility requirements, requirements surrounding the use of the Utah's Own logo, and termination and revocation rules. Having these set forth in rule and subject to public comment provides transparency. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Craig W Buttars, Commissioner	Date:	08/31/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R317-8	Filing ID:	53244
Effective Date:	08/29/2022		

Agency Information

1. Department:	Environmental Quality
Agency:	Water Quality
Room number:	DEQ, Third Floor
Building:	Multi Agency State Office Building (MASOB)
Street address:	195 N 1950 W

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144870	
City, state and zip:	Salt Lake City, UT 84114-4870	
Contact persons:		
Name:	Phone:	Email:
Jeanne Riley	801-536-4369	jriley@utah.gov
Judy Etherington	801-536-4344	jetherington@utah.gov
Please address questions regarding information on this notice to the agency.		

Utah was delegated primacy for implementation of the federal Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) in 1989. This rule is required by the Utah Water Quality Board to implement Utah's Pollutant Discharge Elimination System (UPDES). It provides the general framework and requirements for the UPDES surface water discharge permits. This rule is essential to controlling the discharge of pollutants to waters of the state under the Utah Water Quality Act and compliance with the federal Clean Water Act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	John K. Mackey, Director	Date:	08/29/2022
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General Information

2. Rule catchline:
R317-8. Utah Pollutant Discharge Elimination System (UPDES)
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 19-5-107 authorizes the Utah Water Quality Board to require discharge permits to control the management of sewage sludge and to prevent or control the discharge of pollutants into the Waters of the state. Section 19-5-108 authorizes the Utah Water Quality Board to make rules and require the submission of plans, specifications, and other information to the director in connection with the issuance of discharge permits.
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:
This rule has been amended three times since the last five-year review. All amendments are subject to public comment. Public comments received during those rulemaking actions since the last five-year review addressed technical issues specific to those amendments. Comments received during hearings and the public comment period for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.
The Division of Water Quality has not received written comments since the last five-year review supporting or opposing this rule on the whole.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R333-7	Filing ID: 50807
Effective Date:	08/29/2022	

Agency Information

1. Department:	Financial Institutions	
Agency:	Banks	
Room number:	201	
Street address:	324 S State St	
City, state and zip:	Salt Lake City, UT 84111-2393	
Mailing address:	PO Box 146800	
City, state and zip:	Salt Lake City, UT 84114-6800	
Contact persons:		
Name:	Phone:	Email:
Paul Allred	801-538-8855	pallred@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R333-7 Investment by a State-Chartered Bank in Shares of Open-End Investment Companies
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 7-1-301(8)(b)(i) authorizes the Commissioner to establish eligible classes and types of investments for the deposits and funds for financial institutions if the restrictions or requirements are not more stringent than

those applicable under federal law or regulation to federally-chartered institutions of the same class.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No supporting or opposing written comments have been received by the agency concerning 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 permits a state-chartered bank to purchase for its own account shares of open-end investment companies subject to certain restrictions. This rule expands eligible classes and types of investments for state-chartered banks and gives them rights, privileges, and powers granted to national banks. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Darryle Rude, Commissioner	Date:	08/29/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R337-2	Filing ID:	50828
Effective Date:	08/28/2022		

Agency Information

1. Department:	Financial Institutions		
Agency:	Credit Unions		
Room number:	201		
Street address:	324 S State St		
City, state and zip:	Salt Lake City, UT 84111-2393		
Mailing address:	PO Box 146800		
City, state and zip:	Salt Lake City, UT 84114-6800		
Contact persons:			
Name:	Phone:	Email:	
Paul Allred	801-538-8855	pallred@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R337-2. Conversion from a Federal to a State-Chartered Credit Union

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 7-1-301 authorizes rulemaking authority to the Commissioner; Section 7-1-706 grants the Commissioner authority to exercise procedural power; and Subsection 7-1-713(4) authorizes the conversion of financial institutions from federal to state-chartered.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No supporting or opposing written comments have been received by the agency concerning this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule establishes the requirements and procedures for converting from a federally-chartered credit union to a state-chartered credit union. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Darryle Rude, Commissioner	Date:	08/29/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R337-5	Filing ID:	50819
Effective Date:	08/29/2022		

Agency Information

1. Department:	Financial Institutions		
Agency:	Credit Unions		
Room number:	201		
Street address:	324 S State St		
City, state and zip:	Salt Lake City, UT 84111-2393		
Mailing address:	PO Box 146800		
City, state and zip:	Salt Lake City, UT 84114-6800		

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Contact persons:		
Name:	Phone:	Email:
Paul Allred	801-538-8855	pallred@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R337-5. Allowance for Loan and Lease Losses -- Credit Unions
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 7-9-29 states that credit unions shall establish an allowance account for loan losses subject to regulation as the commissioner may prescribe.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No supporting or opposing written comments have been received by the agency concerning this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it requires an allowance account for loan losses and prescribes the optional methods of determining the required amount. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Darryle Rude, Commissioner	Date:	08/29/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R362-1	Filing ID:	50867
Effective Date:	08/22/2022		

Agency Information

1. Department:	Governor
Agency:	Energy Development (Office of)
Street address:	60 E. South Temple St, Suite 300
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 144845

City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	Phone:	Email:
Chris Reisinger	801-538-8682	creisinger@utah.gov
Matt Anderson	801-538-8724	manderson2@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R362-1. Qualification for the Alternative Energy Development Tax Credit
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 Office of Energy Development is required by Subsection 79-6-503(1)(a) to make rules establishing standards an alternative energy entity shall meet to qualify for a tax credit. Section 79-6-503 provides eligibility guidelines for alternative energy entities to receive the tax credit.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Office of Energy Development has not received any written comments either 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:
As the tax credit still exists and the Office of Energy Development is statutorily required to make rules regarding the tax credit, this rule is still necessary. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Greg Todd, Director	Date:	08/22/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R362-2	Filing ID:	52672
Effective Date:	08/22/2022		

Agency Information

1. Department:	Governor	
Agency:	Energy Development (Office of)	
Street address:	60 E. South Temple St, Suite 300	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144845	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	Phone:	Email:
Chris Reisinger	801-538-8682	creisinger@utah.gov
Matt Anderson	801-538-8724	manderson2@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R362-2. Renewable Energy Systems Tax Credits
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 Office of Energy Development is required by Subsection 59-7-614(8)(c) to make rules establishing standards a taxpaying entity shall meet to qualify for a tax credit. Section 59-7-614 provides eligibility guidelines for taxpaying entities to receive the tax credit.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Office of Energy Development has not received any written comments either 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:
As the tax credit still exists and the Office of Energy Development is statutorily required to make rules regarding the tax credit, this rule is still necessary. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Greg Todd, Director	Date:	08/22/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R362-3	Filing ID: 50880
Effective Date:	08/22/2022	

Agency Information

1. Department:	Governor	
Agency:	Energy Development (Office of)	
Street address:	60 E. South Temple St, Suite 300	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144845	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	Phone:	Email:
Chris Reisinger	801-538-8682	creisinger@utah.gov
Matt Anderson	801-538-8724	manderson2@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R362-3. Energy Efficiency Fund
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 Office of Energy Development is required by Subsection 11-45-204(1) to make rules determining the eligibility for a loan and priorities among energy efficiency projects. Section 11-45 provides eligibility guidelines for political subdivisions to receive the loan.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Office of Energy Development has not received any written comments either 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:
As the loan program still exists and the Office of Energy Development is statutorily required to make rules regarding the loan program, this rule is still necessary. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Greg Todd, Director	Date:	08/22/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R414-29	Filing ID:	53836
Effective Date:	08/22/2022		

Agency Information

1. Department:	Health and Human Services	
Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R414-29. Client Review and Restriction Policy
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 26-18-3 requires the Department of Health and Human Services (Department) to implement Medicaid policy through administrative rules. In addition, 42 CFR 431.54(e) authorizes restrictions on Medicaid members who overutilize Medicaid services, and 42 CFR 456.3 requires the Department to implement safeguards that prevent unnecessary or inappropriate use of Medicaid services.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department did not receive any written comments regarding this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Department has determined this rule is necessary because it implements a restriction program for Medicaid members who overutilize Medicaid services, and allows the Department to provide cost effective and medically necessary services. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	08/20/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R414-70	Filing ID:	51021
Effective Date:	08/22/2022		

Agency Information

1. Department:	Health and Human Services	
Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R414-70. Medical Supplies, Durable Medical Equipment, and Prosthetic Devices

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 26-18-3 requires the Department of Health and Human Services (Department) to implement Medicaid policy through administrative rules, and 42 CFR 440.70 authorizes the use of medical supplies and durable medical equipment (DME) as home health services.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department did not receive any written comments regarding this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The Department has determined this rule is necessary because it allows Medicaid members to receive medical supplies, DME, and prosthetic devices as either optional services, mandatory services, or services provided in long-term care facilities. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	08/20/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R590-96	Filing ID: 53876
Effective Date:	08/17/2022	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule catchline:
R590-96. Mortality Tables for Determining Reserve Liabilities for Annuities
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-17-505 authorizes the insurance commissioner to make rules to approve mortality tables used in determining the minimum standard of valuation for an annuity contract. This rule approves specific mortality tables for an individual group annuity or pure endowment contract.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it sets reserving standards. In the absence of this rule, an insurer would be able to hold lower, inadequate reserves that could result in the insolvency of the insurance company. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	08/17/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R590-216	Filing ID: 51403
Effective Date:	08/17/2022	

Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W

City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-216. Standards for Safeguarding Customer Information
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Subsection 31A-23a-417(3) authorizes the insurance commissioner to adopt rules to implement Title V, Section 501(b) of the Gramm-Leach-Bliley Act of 1999 (15 U.S.C. 6801 through 6820). Title V, Section 505 (15 U.S.C. 6805) authorizes the insurance commissioner to enforce Subtitle A of Title V of the federal act, and to issue rules to implement Title V, Section 501(b) of the federal act.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule implements the requirements of federal law regarding the disclosure of nonpublic personal information. It establishes standards applicable to department licensees to help them develop and implement administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information. As long as the federal law regarding the privacy of non-public personal information is in force, and as long as the insurance industry continues to collect this type of information regarding their customers, this rule will be necessary. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	08/17/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-274	Filing ID:	53381
Effective Date:	08/23/2022		

Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901
Contact persons:	
Name:	Phone:
Steve Gooch	801-957-9322
Email:	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.	

General Information

2. Rule catchline:
R590-274. Submission and Required Disclosures of Public Adjuster Contracts
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-26-401 authorizes the insurance commissioner to write rules governing prominent display requirements for notices. Section 31A-26-403 authorizes the insurance commissioner to write rule addressing forms, notice, and contracts used by public adjusters.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it provides guidance to public adjusters regarding disclosures that must be contained in a consumer contract. These required disclosures ensure that consumers understand their rights and outlines what a public adjuster can and cannot do regarding a public adjuster's conduct and compensation. Without this rule, public adjusters may not display vital disclosures in a way that informs and protects consumers. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	08/23/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R652-121	Filing ID:	51705
Effective Date:	08/24/2022		

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Room number:	352	
Building:	DNR	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO BOX 145703	
City, state and zip:	Salt Lake City, UT 84114-5703	
Contact persons:		
Name:	Phone:	Email:
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R652-121. Wildland Fire Suppression Fund
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule implements Article XVIII of the Utah Constitution and Section 65A-8-204 and provides for administration of the

Wildland Fire Suppression Fund under the authority of Section 65A-8-207.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule implements Article XVIII of the Utah Constitution and Section 65A-8-204 and provides for administration of the Wildland Fire Suppression Fund under the authority of Section 65A-8-207, which allows for the payment of costs of wildland fire suppression on state-owned land and for wildland fire suppression costs except initial attack costs on non-federal land within the jurisdiction of a county, municipality, or other eligible entity that has entered into a cooperative agreement with the Division of State Parks and is complying with the terms of the cooperative agreement. It also outlines the terms participation as a cooperating entity. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jamie Barnes, Director and State Forester	Date:	08/29/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R657-13	Filing ID:	54396
Effective Date:	08/24/2022		

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room number:	Suite 2110	
Building:	DNR – Salt Lake Complex	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84114-6301	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R657-13. Taking Fish and Crayfish
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under Sections 23-14-8 and 23-14-19, the Wildlife Board is authorized to provide standards and procedures for taking fish and crayfish.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments supporting or opposing Rule R657-13 were received since October 2017, when this rule was last reviewed.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R657-13 provides the procedures, standards, and requirements for taking fish and crayfish in the state of Utah. The provisions adopted in this rule are effective. This rule is necessary for continued success for allowing anglers of Utah to take fish and to protect the resource. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	J Shirley, Director	Date:	08/22/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R657-52	Filing ID:	52554
Effective Date:	08/24/2022		

Agency Information

1. Department:	Natural Resources
Agency:	Wildlife Resources
Room number:	Suite 2110
Building:	DNR – Salt Lake Complex
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 146301
City, state and zip:	Salt Lake City, UT 84114-6301

Contact persons:		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R657-52. Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under Sections 23-14-3, 23-14-18, and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments supporting or opposing Rule R657-52 were received since 2017, when this rule was last reviewed.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R657-52, provides the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs. The provisions adopted in this rule are effective. This rule is necessary for continued success in protecting, conserving, and managing the brine shrimp resource. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	J Shirley, Director	Date:	08/24/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R671-313	Filing ID:	51830
Effective Date:	08/30/2022		

Agency Information

1. Department:	Pardons (Board of)
Agency:	Administration

Street address:	448 E Winchester, Suite 300	
City, state and zip:	Murray, UT 84107	
Contact persons:		
Name:	Phone:	Email:
Mike Haddon	801-261-6467	mikehaddon@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R671-313. Commutation Hearings (Non-Death Penalty Cases)
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 Utah Constitution in Article VII, Section 12, establishes the Board of Pardons and Parole (Board) and provides for its authority. Section 77-27-5 outlines the Board's statutory authority associated with commutation, and Section 77-27-9 outlines the Board's parole proceeding processes associated with commutation.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received by the Board regarding Rule R671-205 during or 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:
Although not frequently used, the Board is given authority to commute punishments in the Utah Constitution in Article VII, Section 12. Within rule, the Board's commutation processes are different between non-death penalty cases and death penalty cases. This rule outlines the Board's commutation processes when the case being considered for commutation is a non-death penalty case. This rule provides necessary information regarding commutation application requirements, an individual's commutation eligibility, Board's considerations when reviewing a commutation petition, commutation hearing processes if a hearing is granted, and the Board's decision process as it relates to commutation in non-death penalty cases. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mike Haddon, Director	Date:	08/29/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R914-1	Filing ID: 52105
Effective Date:	08/23/2022	

Agency Information

1. Department:	Transportation	
Agency:	Operations, Aeronautics	
Room no.:	Administrative Suite, 1st Floor	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 148455	
City, state and zip:	Salt Lake City, UT 84114-8455	
Contact person(s):		
Name:	Phone:	Email:
Leif Elder	801-580-8296	lelder@utah.gov
Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R914-1. Rules and Regulations
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 72-10-103 requires the Department of Transportation (Department) to make rules: (a) governing the establishment, location, and use of air navigation facilities; (b) regulating the use, licensing, and supervision of airports; (c) establishing minimum standards with which all air navigation facilities, flying clubs, aircraft, gliders, pilots, and airports must comply; and (d) safeguarding from accidents and protecting the safety of persons operating or using aircraft and persons and property on the ground. Rule R914-1 is to satisfy that requirement.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has not received any written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule satisfies the requirements of Section 72-10-103. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Carlos M. Braceras, PE, Executive Director	Date:	08/23/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R914-2	Filing ID:	52115
Effective Date:	08/23/2022		

Agency Information

1. Department:	Transportation	
Agency:	Operations, Aeronautics	
Room no.:	Administrative Suite, 1st Floor	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 148455	
City, state and zip:	Salt Lake City, UT 84114-8455	
Contact person(s):		
Name:	Phone:	Email:
Leif Elder	801-580-8296	lelder@utah.gov
Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R914-2. Safety Rules and Procedures for Aircraft Operations on Roads

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 72-10-117 requires the Department of Transportation (Department) to make rules for the landing and taking off of aircraft to which permits have been issued under this section, which may include annual reports of activities of the aircraft. This rule satisfies that mandate.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has not received any written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule satisfies the requirements of Section 72-10-117. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Carlos M. Braceras, PE, Executive Director	Date:	08/23/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R930-7	Filing ID:	52146
Effective Date:	08/23/2022		

Agency Information

1. Department:	Transportation
Agency:	Preconstruction
Room no.:	Administrative Suite, 1st Floor
Building:	Calvin Rampton
Street address:	4501 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 148455
City, state and zip:	Salt Lake City, UT 84114-8455

Contact person(s):		
Name:	Phone:	Email:
Leif Elder	801-580-8296	lelder@utah.gov
Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov

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

General Information

2. Rule catchline:
R930-7. Utility Accommodation
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is enacted under the authority of Subsection 72-6-116(2), which authorizes the Department of Transportation (Department) to regulate and make rules for the installation, construction, maintenance, repair, renewal, system upgrade, and relocation of utility facilities within state-owned and administered highway rights of

way, including ordering their relocation as may become necessary.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has not received written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Subsection 72-6-116(2)(a) requires the Department may maintain rules to regulate the installation, construction, maintenance, repair, renewal, system upgrade, and relocation of all utilities within highway rights of way. This rule satisfies that mandate. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Carlos M. Braceras, PE, Executive Director	Date:	08/23/2022
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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		
Rule Number:	R23-4	Filing ID: 53613
New Deadline Date:	01/05/2023	

Agency Information

1. Department:	Government Operations	
Agency:	Facilities Construction and Management	
Room number:	Third Floor	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141160	
City, state and zip:	Salt Lake City, UT 84114-1160	
Contact persons:		
Name:	Phone:	Email:
Mike Kelley	801-957-7239	mkelley@agutah.gov
Michelle Adams	801-957-7240	michelledadams@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R23-4. Suspension/Debarment
3. Reason for requesting the extension:
The Division of Facilities Construction and Management (DFCM) needs an extension so DFCM can file a repeal and make the repeal effective before the rule expired.

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Agency Authorization Information

Agency head or designee and title:	James R. Russell, Director	Date:	08/31/2022
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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Rule Number:	R23-9	Filing ID: 53617
New Deadline Date:	01/05/2023	

Agency Information

1. Department:	Government Operations	
Agency:	Facilities Construction and Management	
Room number:	Third Floor	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141160	
City, state and zip:	Salt Lake City, UT 84114-1160	
Contact persons:		
Name:	Phone:	Email:
Mike Kelley	801-957-7239	mkelley@agutah.gov
Michelle Adams	801-957-7240	michelledadams@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R23-9. Cooperation with Local Government Planning
3. Reason for requesting the extension:
The Division of Facilities Construction and Management (DFCM) needs an extension so DFCM can file a repeal and make the repeal effective before the rule expired.

Agency Authorization Information

Agency head or designee and title:	James R. Russell, Director	Date:	08/31/2022
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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Rule Number:	R277-420	Filing ID: 50413
New Deadline Date:	01/11/2023	

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R277-420. Aiding Financially Distressed School Districts
3. Reason for requesting the extension:
This rule's five-year review is currently due on 09/13/2022. The Utah State Board of Education (USBE) meeting when this rule will be presented will be held on 09/08/2022. An extension is therefore needed in order to have adequate time to prepare and then file possible amendments and/or other changes to this rule status that may be approved by the USBE, before this rule is due to expire.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/22/2022
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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Rule Number:	R277-422	Filing ID: 50411
New Deadline Date:	01/11/2023	

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R277-422. State Supported Voted Local Levy, Board Local Levy and Reading Improvement Program
3. Reason for requesting the extension:
This rule's five-year review is currently due on 09/13/2022. The Utah State Board of Education (USBE) meeting when this rule will be presented will be held on 09/08/2022. An extension is therefore needed in order to have adequate time to prepare and then file possible amendments and/or other changes to this rule status that may be approved by the USBE, before this rule is due to expire.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/22/2022
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NOTICE OF FIVE-YEAR REVIEW EXTENSION

Rule Number:	R277-426	Filing ID: 50420
New Deadline Date:	01/11/2023	

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:	
R277-426. Definition of Private and Non-Profit Schools for Federal Program Services	
3. Reason for requesting the extension:	
This rule's five-year review is currently due on 09/13/2022. The Utah State Board of Education (USB E) meeting when this rule will be presented will be held on 09/08/2022. An extension is therefore needed in order to have adequate time to prepare and then file possible amendments and/or other changes to this rule status that may be approved by the USB E, before this rule is due to expire.	

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/22/2022
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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Rule Number:	R277-454	Filing ID: 50429
New Deadline Date:	01/11/2023	

Agency Information

1. Department:	Education
Agency:	Administration

Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:	
R277-454. Construction Management of School Building Projects	
3. Reason for requesting the extension:	
This rule's five-year review is currently due on 09/13/2022. The Utah State Board of Education (USB E) meeting when this rule will be presented will be held on 09/08/2022. An extension is therefore needed in order to have adequate time to prepare and then file possible amendments and/or other changes to this rule status that may be approved by the USB E, before this rule is due to expire.	

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/22/2022
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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Rule Number:	R277-474	Filing ID: 53786
New Deadline Date:	01/11/2023	

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200
Contact persons:	

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R277-474. School Instruction and Sex Education

3. Reason for requesting the extension:
This rule's five-year review is currently due on 09/13/2022. The Utah State Board of Education (USBE) meeting when this rule will be presented will be held on 09/08/2022. An extension is therefore needed in order to have adequate time to prepare and then file possible amendments and/or other changes to this rule status that may be approved by the USBE, before this rule is due to expire.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/22/2022
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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Rule Number:	R277-496	Filing ID: 50453
New Deadline Date:	01/19/2023	

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R277-496. K-3 Reading Software Licenses

3. Reason for requesting the extension:
This rule's five-year review is currently due on 09/21/2022. The Utah State Board of Education (USBE) meeting when this rule will be presented will be held on 09/08/2022. An extension is therefore needed in order to have adequate time to prepare and then file possible amendments and/or other changes to this rule status that may be approved by the USBE, before this rule is due to expire.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	08/22/2022
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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Rule Number:	R277-522	Filing ID: 50476
New Date:	Deadline	01/11/2023

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R277-522. Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers
3. Reason for requesting the extension:
This rule's five-year review is currently due on 09/13/2022. The Utah State Board of Education (USBE) meeting when this rule will be presented will be held on 09/08/2022. An extension is therefore needed in order to have adequate time to prepare and then file possible amendments and/or other changes to this rule status that may be approved by the USBE, before this rule is due to expire.

Agency Authorization Information

Agency head or designee	Angie Stallings,	Date:	08/22/2022
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and title:	Deputy Superintendent of Policy		
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End of the Notices of Five-Year Review Extensions Section

NOTICES OF FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR EXTENSION (EXTENSION)** with the Office. However, if the agency fails to file either the **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION** or the **EXTENSION** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **NOTICE OF FIVE-YEAR EXPIRATION (EXPIRATION)** to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

NOTICE OF EXPIRED RULE		
Rule Number:	R651-227	Filing ID: 51631
Effective Date:	08/29/2022	

Agency Information

1. Department:	Natural Resources	
Agency:	State Parks	
Street address:	1594 W North Temple, Suite 100	
City, state, and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Nancy L. Lancaster	801-957-7102	rulesonline@utah.gov

General Information

2. Title of rule (catchline):
R651-227. Boating Safety Course Fees
3. Summary:
The five-year review and notice of continuation was not filed for this rule by the deadline. This rule has expired and will be removed from the Utah Administrative Code.

NOTICE OF EXPIRED RULE

Rule Number:	R856-7	Filing ID: 52058
Effective Date:	08/16/2022	

Agency Information

1. Department:	Science Technology and Research Governing Authority (Utah)	
Agency:	Administration	
Street address:	Not Applicable	
City, state, and zip:	Not Applicable	
Contact person(s):		
Name:	Phone:	Email:
Nancy L. Lancaster	801-957-7102	rulesonline@utah.gov

General Information

2. Title of rule (catchline):
R856-7. USTAR Definition of High-Quality Job
3. Summary:
The Utah Science Technology and Research Governing Authority (USTAR) was repealed by S.B. 95 in the 2020 General Session. Since there is no entity to repeal this rule and there is not a mechanism in the Utah Administrative Rulemaking Act that allows the Office of Administrative Rules (OAR) to remove this rule, OAR is letting it expire as the five-year review and notice of continuation comes due. This rule has now expired and will be removed from the Utah Administrative Code.

End of the Notices of Notices of Five Year Expirations Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

Plant Industry

No. 54754 (Amendment) R68-7: Utah Pesticide Control Rule

Published: 08/01/2022

Effective: 09/07/2022

No. 54706 (Amendment) R68-25: Industrial Hemp Program - Cannabinoid Product Processors

Published: 07/15/2022

Effective: 08/23/2022

No. 54705 (Amendment) R68-26: Cannabinoid Product Registration and Labeling

Published: 07/15/2022

Effective: 08/23/2022

No. 54700 (Amendment) R68-29: Quality Assurance Testing on Cannabis

Published: 07/15/2022

Effective: 08/23/2022

Commerce

Administration

No. 54753 (Amendment) R151-4: Department of Commerce Administrative Procedures Act Rule

Published: 08/01/2022

Effective: 09/07/2022

Education

Administration

No. 54716 (New Rule) R277-125: Small School District Capital Projects

Published: 07/15/2022

Effective: 08/22/2022

No. 54710 (Amendment) R277-309: Appropriate Licensing and Assignment of Teachers

Published: 07/15/2022

Effective: 08/22/2022

No. 54711 (Amendment) R277-415: School Nurses Matching Funds

Published: 07/15/2022

Effective: 08/22/2022

No. 54712 (Amendment) R277-609: Standards for LEA Discipline Plans and Emergency Safety Interventions

Published: 07/15/2022

Effective: 09/09/2022

No. 54722 (Amendment) R277-726: Statewide Online Education Program

Published: 07/15/2022

Effective: 08/22/2022

No. 54713 (New Rule) R277-918: Education Innovation Program

Published: 07/15/2022

Effective: 08/22/2022

No. 54714 (Amendment) R277-922: Digital Teaching and Learning Grant Program

Published: 07/15/2022

Effective: 08/22/2022

Environmental Quality

Air Quality

No. 54500 (Amendment) R307-508: Oil and Gas Industry: VOC Control Devices

Published: 05/01/2022

Effective: 09/06/2022

NOTICES OF RULE EFFECTIVE DATES

No. 54500 (Change in Proposed Rule) R307-508: Oil and Gas Industry: VOC Control Devices
Published: 08/01/2022
Effective: 09/06/2022

No. 54501 (Amendment) R307-509: Oil and Gas Industry: Leak Detection and Repair Requirements
Published: 05/01/2022
Effective: 09/06/2022

No. 54501 (Change in Proposed Rule) R307-509: Oil and Gas Industry: Leak Detection and Repair Requirements
Published: 08/01/2022
Effective: 09/06/2022

Government Operations

Fleet Operations

No. 54618 (Amendment) R27-1: Definitions
Published: 06/15/2022
Effective: 08/15/2022

Health and Human Services

Administration (Health)

No. 54662 (New Rule) R380-65: Public Health Emergency Protocols
Published: 06/15/2022
Effective: 08/24/2022

No. 54664 (New Rule) R380-66: Medical Rationing Procedures
Published: 06/15/2022
Effective: 08/24/2022

Health Care Financing, Coverage and Reimbursement Policy
No. 54619 (Amendment) R414-40: Private Duty Nursing Services
Published: 06/01/2022
Effective: 08/24/2022

No. 54720 (Amendment) R414-49: Dental, Oral and Maxillofacial Surgeons and Orthodontia
Published: 07/15/2022
Effective: 09/08/2022

Center for Health Data, Health Care Statistics

No. 54579 (Amendment) R428-2: Health Data Authority Standards for Health Data
Published: 05/15/2022
Effective: 09/01/2022

Family Health and Preparedness, Licensing

No. 54593 (Amendment) R432-32: Licensing Exemption for Non-Profit Volunteer End-of-Life Care
Published: 06/01/2022
Effective: 09/08/2022

Administration, Administrative Services, Licensing

No. 54731 (Repeal) R501-2: Core Rules
Published: 07/15/2022
Effective: 09/09/2022

Aging and Adult Services

No. 54292 (Repeal and Reenact) R510-104: Nutrition Programs
Published: 02/01/2022
Effective: 09/08/2022

No. 54292 (Change in Proposed Rule) R510-104: Nutrition Programs
Published: 06/15/2022
Effective: 09/08/2022

Higher Education (Utah Board of)

Administration

No. 54661 (New Rule) R765-119: Utah Board of Higher Education Qualifications
Published: 06/15/2022
Effective: 08/19/2022

Insurance

Administration

No. 54701 (Amendment) R590-131: Accident and Health Coordination of Benefits Rule
Published: 07/15/2022
Effective: 08/22/2022

No. 54702 (Amendment) R590-219: Credit Scoring
Published: 07/15/2022
Effective: 08/22/2022

Money Management Council

Administration

No. 54723 (Amendment) R628-17: Limitations on Commercial Paper and Corporate Notes
Published: 07/15/2022
Effective: 08/23/2022

Natural Resources

Oil, Gas and Mining; Oil and Gas

No. 54721 (Amendment) R649-1: Tar Sands Change
Published: 07/15/2022
Effective: 08/24/2022

State Parks

No. 54736 (New Rule) R651-104: State Park Designations
Published: 07/15/2022
Effective: 08/22/2022

No. 54708 (Amendment) R651-601: Definitions as Used in These Rules

Published: 07/15/2022
Effective: 08/22/2022

No. 54707 (Amendment) R651-603: Animals

Published: 07/15/2022
Effective: 08/22/2022

No. 54734 (Amendment) R651-606: Camping, Overnight Facilities, and Park Lodging
 Published: 07/15/2022
 Effective: 08/22/2022

No. 54678 (Amendment) R651-612: Veteran's with Disabilities Honor Pass
 Published: 07/15/2022
 Effective: 08/22/2022

No. 54729 (Amendment) R651-633: Special Closures or Restrictions
 Published: 07/15/2022
 Effective: 08/22/2022

Public Safety

Highway Patrol
 No. 54742 (New Rule) R714-570: Mental Health Resources for First Responders Grant Funding
 Published: 08/01/2022
 Effective: 09/07/2022

Transportation

Administration
 No. 54704 (Repeal and Reenact) R907-1: Agency Actions, Administrative Procedures
 Published: 07/15/2022
 Effective: 08/22/2022

Workforce Services

Employment Development
 No. 54728 (Amendment) R986-300-306: Time Limits
 Published: 08/01/2022
 Effective: 09/07/2022

No. 54749 (Amendment) R986-700-721: Commercial Preschool Subsidy
 Published: 08/01/2022
 Effective: 10/01/2022

Homeless Services

No. 54724 (Repeal) R988-200: Homeless Shelter Cities Mitigation Restricted Account
 Published: 07/15/2022
 Effective: 08/22/2022

No. 54725 (New Rule) R988-400: Homeless Shelter Cities Mitigation Restricted Account
 Published: 07/15/2022
 Effective: 08/22/2022

No. 54726 (New Rule) R988-500: Overflow Plan Requirements
 Published: 07/15/2022
 Effective: 08/22/2022

No. 54727 (New Rule) R988-600: Administration of COVID-19 Homeless Housing and Services Grant Program
 Published: 07/15/2022
 Effective: 08/22/2022

End of the Notices of Rule Effective Dates Section

