

# UTAH STATE BULLETIN

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

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between October 01, 2022, 12:00 a.m., and October 14, 2022, 11:59 p.m. are included in this, the November 01, 2022, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least December 01, 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 March 01, 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.

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R174-1	Filing ID: 54815

#### Agency Information

<b>1. Department:</b>	Communications Authority Board (Utah)		
<b>Agency:</b>	Administration		
<b>Street address:</b>	5125 Wiley Post Way, Suite 550		
<b>City, state and zip:</b>	Salt Lake City, UT 84116		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Quin Stephens	801-840-4207	qstephens@uca911.org	
<b>Please address questions regarding information on this notice to the agency.</b>			

#### General Information

2. Rule or section catchline:
R174-1. Utah Communications Authority Board
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The reason for the change is to update emergency compliance standards and provide guidance to public agencies under sections of Title R174.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The amendments update: 1) definitions, 2) allocation of Call-taking Positions and radio consoles, 3) eligibility guidelines for participation in the Public Safety Radio Network, 4) payment systems, and 5) radio compatibility requirements.

#### Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
No expected costs or savings. The amendments being proposed are principally aimed at addressing the way a public safety answering point increases certain 911 call-taking and radio dispatching equipment. This equipment is provided to agencies by the Utah Communications Authority (UCA) Board based on need. The amendments simply change how that need is determined, but does not create any additional costs or savings to the state or to a local entity. Other changes simply eliminate the need to

submit a form to the UCA to re-register participation on the radio system. Beyond that, the changes are nonsubstantive.

#### B) Local governments:

No expected costs or savings. The amendments being proposed are principally aimed at addressing the way a public safety answering point increases certain 911 call-taking and radio dispatching equipment. This equipment is provided to agencies by the UCA based on need. The amendments simply change how that need is determined, but does not create any additional costs or savings to the state or to a local entity. Other changes simply eliminate the need to submit a form to the UCA to re-register participation on the radio system. Beyond that, the changes are nonsubstantive.

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

No expected costs or savings. The amendments being proposed are principally aimed at addressing the way a public safety answering point increases certain 911 call-taking and radio dispatching equipment. This equipment is provided to agencies by UCA based on need. The amendments simply change how that need is determined, but does not create any additional costs or savings to the state or to a local entity. Other changes simply eliminate the need to submit a form to UCA to re-register participation on the radio system. Beyond that, the changes are nonsubstantive. These amendments have no affect on small businesses.

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

No expected costs or savings. The amendments being proposed are principally aimed at addressing the way a public safety answering point increases certain 911 call-taking and radio dispatching equipment. This equipment is provided to agencies by the UCA based on need. The amendments simply change how that need is determined, but does not create any additional costs or savings to the state or to a local entity. Other changes simply eliminate the need to submit a form to the UCA to re-register participation on the radio system. Beyond that, the changes are nonsubstantive. These amendments have no affect 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 **agency**):

No expected costs or savings. The amendments being proposed are principally aimed at addressing the way a public safety answering point increases certain 911 call-taking and radio dispatching equipment. This equipment is provided to agencies by the UCA based on need. The amendments simply change how that need is determined,



but does not create any additional costs or savings to the state or to a local entity. Other changes simply eliminate the need to submit a form to the UCA to re-register participation on the radio system. Beyond that, the changes are nonsubstantive. These amendments have no effect on anybody's financial status.

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

No expected costs or savings. There should be no shifting of costs as these amendments simply address a change in procedures, but should be a net zero in costs or savings for anybody involved.

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

**Regulatory Impact Table**

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

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

The UCA does not expect that the amendments will have any financial impact. I provide my approval of this

information. Quin Stephens, Executive Director/General Counsel.

**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 63H-7a-302(5)	Section 63H-7a-304.5	Section 63H-7a-304
Section 63H-7a-303		

**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:** 12/01/2022

**9. This rule change MAY become effective on:** 12/08/2022

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Quin Stephens, Executive Director	<b>Date:</b>	08/30/2022
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**R174. Communications Authority Board (Utah), Administration.**

**R174-1. Utah Communications Authority Board.**

**R174-1-101. Purpose.**

The purpose of this rule is to provide for the management and administration of the public safety communications network, defined by Subsection 63H-7a-103(15) to include regional and statewide public safety governmental communications networks and 911 emergency services, including radio communications, connectivity, and 911 call processing equipment; to provide standards and procedures for participation in the public safety communications network consistent with the Authority's statutory duties; and to provide standards and procedures for administering restricted accounts to provide administrative and financial support for statewide 911 emergency services.

**R174-1-102. Definitions.**

Terms used in this rule shall have the meaning set forth in Section 63H-7a-103. In addition:

(1) "NG911 Contract" means the contract between the Authority and Vesta Solutions, Inc. dated June 19, 2020, procured by the Authority pursuant to RFP Solicitation #CO20022;

(2) "Call-taking Position" means the services and equipment furnished under the NG911 Contract, necessary for a single 911 operator at a PSAP or Dispatch Center to receive and

## NOTICES OF PROPOSED RULES

respond to a 911 call. This includes customer premises equipment, ESINet connection, and access to NG911 services but excludes optional equipment and services.

(3) "ESINet" means the emergency services IP network maintained by the Authority;

(4) "Executive Director" means the Authority's Executive Director described in Section 63H-7a-205.

(5) "Legacy Call-taking Position" means the services and equipment necessary for a single 911 operator in a PSAP or dispatch center to receive and respond to a 911 call and currently in use by the PSAP or dispatch center and connected to the Authority's Legacy RFAI ESINet or Selective Router ~~[prior to]~~ before the implementation of the NG911 system;

(6) "Legacy Radio Console" means the services and equipment necessary for a single dispatcher or telecommunicator in a PSAP or dispatch center to connect to and send and receive communications on the public safety radio network and in use by the PSAP or dispatch center and registered with the public safety radio network ~~[prior to]~~ before the implementation of the P25 upgrade to the public safety radio network;

(7) "NG911" means the next-generation 911 core services and call handling solution procured by the Authority pursuant to RFP Solicitation #CO20022 and all associated equipment, network connections, and services;

(8) "P25" means the Project 25 suite of standards for digital mobile radio communications adopted and published by the Association of Public-Safety Communications Officials (APCO) and any revisions or modification of those standards adopted by APCO;

(9) "P25 Contract" means the contract between the Authority and L3Harris Technologies, dated June 7, 2019, procured by the Authority pursuant to RFP Solicitation #CO19008;

(10) "PSAP Advisory Committee" means the PSAP ~~[advisory committee]~~ Advisory Committee created by Section 63H-7a-208;

(11) "Public safety radio network" means the statewide radio network operated and maintained by the Authority pursuant to Section 63H-7a-402;

(12) "Radio Console" means ~~[the Symphony Dispatch Consoles]~~ a dispatch console and associated software and licenses ~~[furnished under the P25 Contract]~~;

(13) "RFAI ESINet" means the transitional ESINet provided and maintained by the Authority as of July 1, 2020.

(14) "Selective Router" means the legacy 911 routing network which is the subject of ~~[maintained pursuant to]~~ State of Utah Contract #136401 between the Authority and CenturyLink.

(15) "Shared CAD System" means a shared computer aided dispatch system as defined in Subsection 63H-7a-303(2)(b).

(16) "State" means the State of Utah; and

(17) "Stage agency" means any department, division, agency, commission, board, council, committee, authority, or any other institution of the State.

### **R174-1-103. Authority.**

This rule is authorized by Subsection 63H-7a-204(12).

### **R174-1-201. Board Compensation Prohibited; Permissible Reimbursement.**

(1) Pursuant to Subsection 63H-7a-203(11), a member of the Board shall not receive compensation for the member's service on the Board. Notwithstanding the foregoing, in discharging any duties as a Board member or official business of the Authority that require travel, a Board member may receive from the Authority:

(a) a per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

(2) A Board member seeking such per diem and travel expenses shall submit to the Authority documentation showing the dates and purpose of any travel for any per diem sought and dates, purpose of travel, and actual travel expenses incurred for reimbursement of travel expenses. The Executive Director may approve such requests or present such requests for consideration and approval by the Board at its next public meeting.

### **R174-1-301. Participation in NG911 System.**

A PSAP or ~~[Dispatch Center]~~ dispatch center established pursuant to Section 69-2-201 may, upon approval of the Executive Director, participate in the NG911 system implemented and maintained by the Authority.

### **R174-1-302. Participation by PSAP.**

(1) All PSAPs connected to and participating in the Authority's ~~[legacy]~~ Legacy RFAI ESINet or Selective Router as of July 1, 2020, shall be deemed a participating PSAP under this ~~[Section]~~ section.

(2) Any non-participating PSAP that seeks to participate and connect to the Authority's NG911 system shall submit a written request to the Executive Director. Upon the Executive Director's approval, the PSAP shall become a participating PSAP under this ~~[Section]~~ section.

### **R174-1-303. Application for Participation by Dispatch Centers.**

(1) A Dispatch Center that seeks to participate in and connect to the Authority's NG911 system shall submit the application described ~~[herein]~~ in this rule to the Executive Director.

(2) UCA shall maintain and publish an application form, approved by the Executive Director, that requires the following information from each applicant:

(a) The name of the entity that operates the Dispatch Center;

(b) Contact information for the Dispatch Center, including a single point of contact during emergencies;

(c) The geographic area served by the Dispatch Center;

(d) A copy of any agreements between the Dispatch Center and any other party relating to the provision of 911 services;

(e) The estimated number of 911 calls transferred to the Dispatch Center on an annual basis;

(f) The number of Legacy Call-taking Positions currently operated by the Dispatch Center and the number of Call-taking Positions the Dispatch Center anticipates purchasing;

(g) The source of funding for the anticipated Call-taking Positions;

(h) Any other information required by the Executive Director.

(3) The Executive Director shall approve an application under this ~~[Section]~~ section if the Executive Director determines:

(a) participation by the applicant will serve a public safety purpose; and

(b) participation by the applicant is not inconsistent with the Authority's duties under Title 63H, Chapter 7a, Independent State Entities, Utah Communications Authority Act.

(4) If the Executive Director rejects an application under this ~~[Section]~~ section, the Executive Director shall make a written

determination of the reasons for the rejection and provide that determination to the applicant.

#### **R174-1-304. NG911 Service Model and Cooperative Purchase.**

The Authority has procured NG911 Core Services, ESINet, and customer premises equipment and call handling positions through a managed service model under the NG911 Contract. Services and equipment shall be furnished to a PSAP or dispatch center under the NG911 Contract only at the direction of or with the approval of the Authority.

#### **R174-1-305. Initial Allocation of Call-taking Positions.**

The Authority will initially allocate Call-taking Positions to each participating PSAP identified in Subsection R174-1-302(1) on a one-to-one basis with Legacy Call-taking Positions deployed and in active use at the PSAP, based upon the documentation on file with the Authority as of June 5, 2020. ~~[That allocation shall constitute the "Baseline" Call-taking Position count for the PSAP for purposes of this rule.]~~

#### **R174-1-306. Change in Allocation of Call-taking Positions to Participating PSAPs.**

~~[(1) The Authority will allocate to a participating PSAP or remove from a participating PSAP Call-taking Positions based on a formula adopted by the Board through the following process:~~

~~(a) On or before January 15, 2022, the Board will schedule a meeting to consider adoption of a formula recommended by the Executive Director. The meeting may be a regular meeting or a special meeting convened for this purpose. The Board will give the Executive Director and the PSAP Advisory Committee not less than 120 days notice of the date of the proposed meeting. The meeting shall be publicly noticed as required by Title 52, Chapter 4.~~

~~(b) Not less than 90 days prior to the Board meeting, the PSAP Advisory Committee will make a recommendation to the 911 Division of a proposed formula.~~

~~(c) Not less than 60 days prior to the Board meeting, after considering the proposal from the PSAP Advisory Committee, the 911 Division will make a recommendation to the Executive Director of a proposed formula.~~

~~(d) Not less than 30 days prior to the Board meeting, after considering the proposal from the PSAP Advisory Committee, 911 Division, and any other person or persons the Executive Director deems necessary or desirable, the Executive Director will make a recommendation to the Board of a proposed formula.~~

~~(e) At the meeting, the Board will consider the formula recommended by the Executive Director and may adopt the formula, adopt the formula with modifications, or reject the formula.~~

~~(f) If the Board adopts the formula recommended by the Executive Director, or adopts the formula with modifications:~~

~~(i) the formula shall remain in place for three years unless modified by the Board;~~

~~(ii) prior to the expiration of the three-year period, the Board shall schedule a meeting to consider adoption of a formula recommended by the Executive Director pursuant to the procedure set forth in subsection (1)(a) to (e); and~~

~~(iii) the Board may, upon a determination that exigent circumstances exist which require a modification to the formula during this three-year period, in which case it may:~~

~~(A) direct the Executive Director to review the formula and recommend changes on a schedule and terms specified by the Board; and~~

~~(B) adopt the changes recommended by the Executive Director, with or without modifications.~~

~~(g) If the Board rejects the formula recommended by the Executive Director, the Board shall direct the Executive Director to prepare a revised recommendation on a schedule and terms specified by the Board.~~

~~(2) If the Board determines it is in the interest of public safety, the Board may increase or decrease the number of Call-taking positions allocated to a PSAP.~~

~~(3) In the event a PSAP removes a Call-taking Position from service, the PSAP shall notify the Authority to allow the Authority to recover the Call-taking Position. (1) A PSAP may request that the number of Call-taking Positions allocated to it be increased or decreased by submitting a written request to the Executive Director and providing a copy to the PSAP Advisory Committee and the Authority's 911 Division Director. The written request must include an explanation of the PSAP's reasons and justifications for the request.~~

~~(a) After receiving a copy of the written request, the PSAP Advisory Committee and the Authority's 911 Division Director shall each issue a recommendation to the Executive Director analyzing the PSAP's request.~~

~~(b) After receiving the recommendations from the PSAP Advisory Committee and the Authority's 911 Division Director, the Executive Director shall issue a recommendation to the Board setting forth the Executive Director's analysis of the PSAP's request. The Executive Director shall include with their recommendation a copy of the PSAP's request, the PSAP Advisory Committee's recommendation and the 911 Division Director's recommendation.~~

~~(c) After receiving the recommendation of the Executive Director, the Board shall make a determination as to whether the PSAP's allocation of Call-taking Positions shall be increased or decreased and when any such increase or decrease should take effect. In making this determination, the Board may consider any relevant factors, including:~~

~~(i) Growth;~~

~~(ii) PSAP staffing;~~

~~(iii) Financial or contract issues; and~~

~~(iv) The PSAP's compliance with minimum standards and best practices.~~

~~(2) The Authority may request that the number of Call-taking Positions allocated to a PSAP be increased or decreased by submitting a written request to the PSAP Advisory Committee and the Board. The written request must include an explanation of the PSAP's reasons and justifications for the request.~~

~~(a) Within 30 days after receiving a copy of the written request from the Authority, the PSAP Advisory Committee shall issue a recommendation to the Board setting forth its analysis of the Authority's request.~~

~~(b) After receiving the recommendation of the PSAP Advisory Committee, the Board shall make a determination as to whether the PSAP's allocation of Call-taking Positions shall be increased or decreased and when any such increase or decrease should take effect. In making this determination, the Board may consider any relevant factors, including those set forth under Subsection (1)(c).~~

~~(3) Notwithstanding any of the foregoing, the Board retains the discretion to increase or decrease the number of Call-taking Positions at any time upon a determination that such an adjustment is in the best interests of the Authority and the State.~~

**R174-1-307. Payment for Allocated Call-taking Positions.**

The Authority shall be responsible for payment of non-recurring and recurring costs for all Call-taking Positions allocated under Sections R174-1-305 and R174-1-306.

**R174-1-308. Purchase of Call-taking Positions or Optional Equipment.**

Upon the Authority's written approval, a participating PSAP or ~~[Dispatch Center]~~dispatch center may purchase Call-taking Positions or optional equipment or services authorized by the NG911 Contract at its own expense. Any such purchase shall be pursuant to the cooperative purchase provision of the NG911 Contract. The Authority shall not be responsible for payment of non-recurring or recurring costs for any such Call-taking Positions or optional equipment or services authorized by the NG911 Contract.

**R174-1-401. Restricted Account Funding Procedures.**

Sections R174-1-401 through R174-1-404 apply to all requests for payment or reimbursement from restricted accounts maintained by the Authority pursuant to Sections 63H-7a-303, 63H-7a-304.

**R174-1-402. Authority.**

This rule is authorized by Subsection 63H-7a-302(5).

**R174-1-403. Disbursements from Computer Aided Dispatch Restricted Account.**

(1) The Authority shall make available to participating PSAPs funds from the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 as reimbursement for costs incurred for the creation of a Shared CAD System.

(2) Upon the approval by the Executive Director of a PSAP's application for reimbursement under this section, the Authority shall reimburse the applicant from the Computer Aided Dispatch Restricted Account for 80% of the costs actually incurred by the applicant in purchasing and implementing an eligible Shared CAD System.

(3) To be eligible for reimbursement under this ~~[Section]~~section, a Shared CAD System must be purchased and implemented ~~[for the purpose of attaining]~~to attain performance benchmarks for reduction of 911 call transfers set forth in statute, administrative rule, or the Authority's strategic plan, as applicable.

(4) The following shall be ineligible for reimbursement under this ~~[Section]~~section:

(a) Any expenses that are inconsistent with the Authority's strategic plan;

(b) A Shared CAD System that was implemented or became operational ~~[prior to]~~before January 1, 2020;

(c) Ongoing maintenance of any Shared CAD System or CAD Software;

(d) Hardware, software, services, or equipment other than that necessary for implementation of an eligible Shared CAD System;

(e) Security system and key costs;

(f) Costs of non-emergency or administrative phone lines; or

(g) Any other costs or systems that do not comply with this section or Section 63H-7a-303.

(5) Any PSAP intending to apply for funds from the Computer Aided Dispatch Restricted Account under this section shall provide written notice to the 911 Division ~~[prior to]~~before the beginning of the fiscal year in which reimbursement will be sought

to allow the reimbursement request to be considered in the budget cycle.

(6) The Authority shall maintain and publish an application form, approved by the Executive Director, that requires the following information from any applicant for reimbursement under this section:

(a) The name of the entity or entities applying for reimbursement;

(b) The geographic areas served by the Shared CAD System;

(c) The date upon which the eligible Shared CAD System became or will become operational, such as a substantial completion, commissioning, or cutover date;

(d) A proposal, scope of work, or itemized invoice sufficient to show all hardware, equipment, services, or other costs incurred in the purchase of the eligible Shared CAD System;

(e) Bills of sale, receipts, ~~[cancelled]~~canceled checks, wire transfer records, or other documents sufficient to demonstrate the amounts actually paid by the ~~[applicant(s)]~~applicants for the eligible Shared CAD System;

(f) A description of the anticipated effect of the eligible Shared CAD System on the 911 call transfer rate for the ~~[applicant(s)]~~applicants, including whether the anticipated 911 call transfer rate will meet any applicable benchmarks, and a narrative setting forth the basis of any anticipated effect on 911 call transfer rates; and

(g) Any other information required by the Executive Director.

(7) After consultation with the 911 Division, the Executive Director shall recommend to the Board that the Board approve an application under this ~~[Section]~~section unless the Executive Director determines:

(a) the application is incomplete or inaccurate;

(b) the applications seeks reimbursement for ineligible costs;

(c) reimbursement would not be consistent with the Authority's duties under Title 63H, Chapter 7a, Independent State Entities, Utah Communications Authority Act;

(d) there are insufficient funds in the Computer Aided Dispatch Restricted Account to reimburse the amounts sought; or

(e) the application or proposal violates this rule or any other applicable rule or statute.

(8) If the Executive Director determines that insufficient funds in the Computer Aided Dispatch Restricted Account to reimburse the amounts requested in an application under this ~~[Section]~~section, the Executive Director may:

(a) approve the application for a lesser amount, conditional upon sufficient funds being available in the Computer Aided Dispatch Restricted Account; or

(b) deny the application without prejudice to a future application for reimbursement of the eligible Shared CAD System.

(9) If the Executive Director rejects an application under this ~~[Section]~~section, the Executive Director shall make a written determination of the reasons for the rejection and provide that determination to the applicant.

(10) If the Executive Director determines that funds were disbursed to an applicant for a Shared CAD System that does not meet the criteria set forth in ~~Subsection~~~~[subsection]~~ (3), or that an applicant was reimbursed for ineligible costs under ~~Subsection~~~~[subsection]~~ (4), upon written demand by the Executive Director, the applicant shall return the funds to the Authority for deposit in the Computer Aided Dispatch Restricted Account.

**R174-1-404. Disbursements from Unified Statewide 911 Emergency Service Account.**

(1) Beginning in its Fiscal Year 2022, the Authority shall make available annually to participating PSAPs funds from the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304 in accordance with the requirements of Section 63H-7a-304.5.

(2) The funds available for distribution shall be those funds described in Subsection 63H-7a-304(1), less:

(a) funds expended or disbursed pursuant to Subsection 63H-7a-304(2)(a), (3), or (4);

(b) funds otherwise expended or disbursed by the Authority consistent with its strategic plan, including:

(i) implementing, maintaining, or upgrading the public safety communications network or statewide 911 phone system, including implementation of NG911; or

(ii) overhead of the Authority for management of the 911 portion of the public safety communications network; and

(c) funds the Board determines should remain in the Unified Statewide 911 Emergency Service Account for future use.

(3) To be eligible for a distribution under Section 63H-7a-304.5, a PSAP must be a Qualifying PSAP as defined in Subsection 63H-7a-304.5(d) for the fiscal year in which a distribution is sought.

(4) A Qualifying PSAP that seeks a proportionate share of available funds shall submit the certified statement defined in Subsection 63H-7a-304.5(1)(a) to the Executive Director no later than July 31 following the end of the fiscal year for which the distribution is sought.

(5) If the Authority determines that a certified statement submitted by a PSAP is untimely, does not comply with the requirements of Subsection 63H-7a-304.5(1)(a), or does not demonstrate that the PSAP is a Qualifying PSAP, the Executive Director shall make a written determination of the reasons for the deficiency in the certified statement and provide that determination to the PSAP.

(6) For each fiscal year, the Authority shall distribute a proportionate share of available funds to each Qualifying PSAPs that timely submitted a certified statement. The proportionate share for a PSAP shall be calculated in accordance with Subsections 63H-7a-305.5(1)(c) and (3)(b).

(a) ~~[In the event]~~ If that Subsection 63H-7a-305.5(3)(b) does not permit distribution of all available funds to Qualifying PSAPs, any remaining funds shall remain in the Unified Statewide 911 Emergency Service Account for use by the Authority or distribution in a subsequent fiscal year.

(7) If the Executive Director determines that funds were disbursed to a PSAP that was not a Qualifying PSAP, upon written demand by the Executive Director, the PSAP shall return the funds to the Authority for use by the Authority or distribution in a subsequent fiscal year.

**R174-1-501. Participation in Public Safety Radio Network; Eligibility.**

(1) The following persons or entities are eligible for participation in the public safety radio ~~[network pursuant to an application approved by the executive director]~~:

(a) a state agency;

(b) a public safety agency; and

(c) a public safety answering point;

(2) The following persons or entities are eligible for participation in the public safety radio network pursuant to an application approved by the Executive Director:

~~[(d)](a)~~ a political subdivision of the state or agency thereof that is:

(i) not a public safety agency or public safety answering point;

(ii) sponsored by a ~~[a]~~ public safety agency; ~~[entity defined in subsections (a), (b), or (c) that is an approved participant in the public safety communications network];~~ and

(iii) approved to participate for a specified public safety purpose; or

~~[(e)](b)~~ any other person or entity with the express approval of the Executive Director.

**R174-1-502. Service Tiers.**

(1) To ensure reliability and high availability of the public safety radio network for first responders, the Authority shall implement network-management policies and procedures that prioritize network traffic and access to the public safety radio network by establishing service tiers.

(2) Approved participants in the public safety radio network shall be assigned to the following service tiers for purposes of the Authority's network-management policies and procedures:

(a) each participant under Subsection~~[Section]~~ R174-1-501~~[(a), (b), or (c)]~~(1) shall be assigned to Tier One;

(b) each participant under Subsection~~[Section]~~ R174-1-501~~[(d)]~~(2) shall be assigned to either Tier One or Tier Two at the Executive Director's discretion.~~[(2)]~~

~~[(c)] each participant under Section R174-1-501(e) shall be assigned to Tier One or Tier Two at the Executive Director's discretion.]~~

(3) The Executive Director may limit access to the public safety radio network for Tier Two participants as may be necessary to ensure network availability for Tier One participants in the Executive Director's judgment.

**R174-1-503. Application.**

(1) Each entity described in Subsection~~[Section]~~ R174-1-501~~(2)~~ that seeks to participate in the public safety radio network shall submit the described application ~~[described herein]~~ to the Executive Director.

(2) UCA shall maintain and publish an application form, approved by the Executive Director, that requires the following information from each applicant:

(a) The name of the entity applying;

(b) The basis for eligibility to participate in the public safety communications network under Subsection~~[Section]~~ R174-1-501~~(2)~~;

(c) For an entity seeking participation under Subsection R174-1-501~~(2)(a)]~~~~[(d)]~~:

(i) the name of the sponsoring ~~[entity]~~ public safety agency;

(ii) approval signed by an authorized representative of the sponsoring ~~[entity]~~ public safety agency; and

(iii) the public safety purpose for which admission is requested;

(d) For an entity seeking participation under Subsection R174-1-501~~(2)(b)]~~~~[(e)]~~:

(i) a copy of the written agreement allowing participation;

(e) The estimated number of users for the period running for five years from July 1 following the date of the application.

(f) Any other information required by the Executive Director.

~~[(3) For an application pursuant to Subsection R174-1-501(a), (b), (c), or (e), the Executive Director shall approve the~~

application unless permitting access would not be consistent with the Authority's duties under Title 63H, Chapter 7a.]

(4) For an application pursuant to Subsection R174-1-501~~[(d)](2)(a)~~, the Executive Director shall approve the application if the Executive Director determines:

(a) participation by the applicant will serve a public safety purpose; and

(b) participation by the applicant is not inconsistent with the Authority's duties under Title 63H, Chapter 7a, Independent State Entities, Utah Communications Authority Act.

(5) If the Executive Director rejects an application under this ~~[Section]~~section, the Executive Director shall make a written determination of the reasons for the rejection and provide that determination to the applicant and its sponsoring entity, if any.

**R174-1-504. ~~[Recertification.]Reserved.~~**

~~[(1) Each participant in the public safety communications network shall submit to the Authority an application to participate in the form prescribed by Section R174-1-503 no later than July 1 in the year that is five years from the date of its original application or its last recertification application, whichever is later.~~

~~(2) Each eligible entity that is a participant in the public safety communications network on January 1, 2020 shall submit to the Authority a recertification application in the form prescribed by Section R174-1-503 no later than:~~

~~(a) for a state agency, June 30 2022;~~

~~(b) for a county of the first or second class, December 31, 2021;~~

~~(c) for all other entities, June 30, 2021.~~

~~(3) A PSAP recertifying under this Section shall provide to the Authority, together with its recertification application, a copy of any PSAP interlocal agreement.~~

~~(4) The Authority shall notify any participating entity of its failure to submit a timely recertification application under this section.~~

~~(5) The Executive Director shall review each recertification application under this section in the manner set forth in Section R174-1-503.~~

~~(6) If an application is rejected, or if an entity fails to timely submit an application and such failure is not cured by the entity or excused by the Executive Director, the entity shall be removed as a participant in the public safety radio network on the later of either December 31 of the year in which the recertification application was required or six months from the due date.][Reserved.~~

**R174-1-505. Initial Allocation of Radio Consoles to Participating PSAPs.**

The Authority will initially allocate Radio Consoles to each participating PSAP identified in Subsection R174-1-302(1) on a one-to-one basis with Legacy Radio Consoles deployed and connected to the Authority's legacy public safety radio system based upon the documentation on file with the Authority as of June 5, 2020.~~[That allocation shall constitute the "Baseline" Dispatch Position count for the PSAP for purposes of this rule.]~~

**R174-1-506. Change in Allocation of Radio Consoles to Participating PSAPs.**

~~[(1) The Authority will allocate to a PSAP or remove from a PSAP Radio Consoles based on a formula adopted by the Board through the following process:~~

~~(a) On or before January 15, 2022, the Board will schedule a meeting to consider adoption of a formula recommended by the~~

~~Executive Director. The meeting may be a regular meeting or a special meeting convened for this purpose. The Board will give the Executive Director and the PSAP Advisory Committee not less than 120 days notice of the date of the proposed meeting. The meeting shall be publicly noticed as required by Title 52, Chapter 4.~~

~~(b) Not less than 90 days prior to the Board meeting, the PSAP Advisory Committee will make a recommendation to the 911 Division and Radio Division of a proposed formula.~~

~~(c) Not less than 60 days prior to the Board meeting, after considering the recommendation from the PSAP Advisory Committee, the 911 Division and Radio Division will make a joint recommendation to the Executive Director of a proposed formula.~~

~~(d) Not less than 30 days prior to the Board meeting, after considering the recommendation from the PSAP Advisory Committee and the joint recommendation of the 911 Division and Radio Division, the Executive Director will make a recommendation to the Board of a proposed formula.~~

~~(e) At the meeting, the Board will consider the formula recommended by the Executive Director and may adopt the formula, adopt the formula with modifications, or reject the formula.~~

~~(f) If the Board adopts the formula recommended by the Executive Director, or adopts the formula with modifications:~~

~~(i) the formula shall remain in place for three years unless modified by the Board;~~

~~(ii) prior to the expiration of the three year period, the Board shall schedule a meeting to consider adoption of a formula recommended by the Executive Director pursuant to the procedure set forth in subsection (1)(a) to (e); and~~

~~(iii) the Board may, upon a determination that exigent circumstances exist which require a modification to the formula during this three year period, in which case it may:~~

~~(A) direct the Executive Director to review the formula and recommend changes on a schedule and terms specified by the Board; and~~

~~(B) adopt the changes recommended by the Executive Director, with or without modifications.~~

~~(g) If the Board rejects the formula recommended by the Executive Director, the Board shall direct the Executive Director to prepare a revised recommendation on a schedule and terms specified by the Board.~~

~~(2) If the Board determines it is in the interest of public safety, the Board may increase or decrease the number of Call taking positions allocated to a PSAP.~~

~~(3) In the event a PSAP removes a Call taking Position from service, the PSAP shall notify the Authority to allow the Authority to recover the Call taking Position.](1) A PSAP may request that the number of Radio Consoles allocated to it be increased or decreased by submitting a written request to the Executive Director and providing a copy to the PSAP Advisory Committee, the Authority's 911 Division Director, and the Authority's Radio Division Director. The written request must include an explanation of the PSAP's reasons and justifications for the request.~~

~~(a) After receiving a copy of the written request, the PSAP Advisory Committee, the Authority's 911 Division Director, and the Authority's Radio Division Director shall each issue a recommendation to the Executive Director analyzing the PSAP's request.~~

~~(b) After receiving the recommendations from the PSAP Advisory Committee, the Authority's 911 Division Director, and the Authority's Radio Division Director, the Executive Director shall issue a recommendation to the Board setting forth the Executive Director's analysis of the PSAP's request. The Executive Director~~

shall include with their recommendation a copy of the PSAP's request, the PSAP Advisory Committee's recommendation, the 911 Division Director's recommendation, and the Radio Division Director's recommendation.

(c) After receiving the recommendation of the Executive Director, the Board shall make a determination as to whether the PSAP's allocation of Radio Consoles shall be increased or decreased and when any such increase or decrease should take effect. In making this determination, the Board may consider any relevant factors, including:

- (i) Growth;
- (ii) PSAP staffing;
- (iii) Financial or contract issues;
- (iv) Core capacity issues; and
- (v) The PSAP's compliance with minimum standards and best practices.

(2) The Authority may request that the number of Radio Consoles allocated to a PSAP be increased or decreased by submitting a written request to the PSAP Advisory Committee and the Board. The written request must include an explanation of the Authority's reasons and justifications for the request.

(a) Within 30 days after receiving a copy of the written request from the Authority, the PSAP Advisory Committee shall issue a recommendation to the Board setting forth its analysis of the Authority's request.

(b) After receiving the recommendation of the PSAP Advisory Committee, the Board shall make a determination as to whether the PSAP's allocation of Radio Consoles shall be increased or decreased and when any such increase or decrease should take effect. In making this determination, the Board may consider any relevant factors, including those set forth under Subsection (1)(c).

(3) Notwithstanding any of the foregoing, the Board retains the discretion to increase or decrease the number of Radio Consoles at any time upon a determination that such an adjustment is in the best interests of the Authority and the State.

#### **R174-1-507. Payment for Allocated Radio Consoles.**

The Authority shall be responsible for purchase and maintenance costs for all Radio Consoles allocated under Sections R174-1-505 and R174-1-506. All such Radio Consoles shall remain the sole property of the Authority.

#### **R174-1-508. Purchase of Radio Consoles.**

Upon the Executive Director's written approval, a public safety agency or other entity approved to participate in the public safety radio network pursuant to Section R174-1-501~~[participating PSAP or Dispatch Center]~~ may purchase Radio Consoles at its own expense and connect these Radio Consoles to the public safety radio network cores by direct backhaul connection. ~~[Any]~~When possible, such purchase shall be pursuant to the cooperative purchase provision of the Authority's P25 Contract. The Authority shall not be responsible for purchase or maintenance costs for any such Radio Consoles and may charge the purchasing entity~~[PSAP or Dispatch Center]~~ a programming or maintenance fee for any service the Authority performs on such Radio Consoles at the request of the purchasing entity~~[PSAP or Dispatch Center]~~.

#### **R174-1-509. Radio Console Connection Fee.**

The Authority may charge a person or entity other than a PSAP a fee for connecting a Radio Console to the public safety communications network as permitted by Subsection 63H-7a-404(3)(c).

#### **R174-1-601. Approved Devices.**

To ensure network reliability and availability and to maintain an appropriate level of expertise and efficiency of UCA personnel in supporting end-user radio devices, users of the public safety radio network may not connect a radio device to the public safety radio network unless the radio device is one approved under this ~~rule~~Rule.

#### **R174-1-602. Approved Radio List.**

The Authority shall develop and maintain a list, approved by the Executive Director, of radio devices authorized and approved to operate on the public safety radio network. The approved radio list shall initially include all P25-compliant radios that are connected to and operational on the Authority's legacy radio system. Additional radio devices shall be added to the approved radio list from time to time at the Executive Director's discretion or upon the request of an authorized user and a showing that the radio complies with the requirements of Section R174-1-603.

#### **R174-1-603. Radio Compatibility Requirements.**

(1) To be authorized for operation on the public safety radio network or for inclusion on the approved radio list, a radio device must meet the following requirements:

(a) The radio device must be P25 Compliance Assessment Program (CAP) certified with the Harris MSTR V 900 Trunked Radio for both Phase 1 and Phase 2 and the device's manufacturer must provide the Authority with a copy of the summary test report ~~[must be posted on]~~maintained by the Department of Homeland Security~~[-website]~~;

(b) The CAP testing facility or facilities must have a Scope of Recognition that meets ~~[all of]~~the P25 CAP test requirements; and

(c) The radio must be tested by Authority personnel for compatibility with the public safety radio network after radio personalities and fleet maps are developed by Authority personnel.

(2) An authorized user requesting a radio device be authorized for use or added to the approved radio list shall provide to the Executive Director satisfactory evidence that the radio device meets each of the foregoing criteria. If the Executive Director concludes the radio device meets the required criteria, the Executive Director may direct the radio device be added to the approved radio list or provide a written authorization for the requesting user to operate the radio device on the public safety radio network. A device that does not appear on the approved radio list shall not be operated on the public safety radio network without written authorization from the Executive Director.

#### **R174-1-701. Appeals.**

Any person aggrieved by a decision of the Executive Director under this ~~[Rule]~~rule may appeal to the Board by submitting a written request for review of the Executive Director's decision, setting forth all factual and legal grounds for the appeal and attaching all supporting evidence, to the Board and the Executive Director. To be timely, an appeal must be received by the Board within seven days after the aggrieved person's receipt of the Executive Director's decision. A timely appeal shall be heard and decided at a meeting of the Board held within 90 days of the Board's receipt of the appeal. Any decision not timely appealed shall be deemed final and not subject to appeal under this ~~[Rule]~~rule.

**KEY: Utah Communications Authority, Administration**

**Date of Last Change: 2022**~~[July 7, 2021]~~

**Notice of Continuation: April 14, 2021**

## NOTICES OF PROPOSED RULES

Authorizing, and Implemented or Interpreted Law: 63H-7a-303; 63H-7a-304; 63H-7a-304.5

### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

<b>Rule or Section Number:</b>	<b>R317-2</b>	<b>Filing ID:</b> <b>54987</b>
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### Agency Information

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Water Quality	
<b>Room number:</b>	DEQ, 3rd Floor	
<b>Building:</b>	Multi Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144870	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4870	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jake VanderLaan	801-536-4350	jvander@utah.gov
Judy Etherington	801-536-4344	jetherington@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

### General Information

<b>2. Rule or section catchline:</b>
R317-2. Standards of Quality for Waters of the State
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This amendment clarifies rule language, corrects typographical errors, and updates Utah's water quality criteria in response to available science, federal requirements, and stakeholder feedback.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
This amendment enacts five changes. The amendment: 1) clarifies the Division of Water Quality (DWQ) Director's authority to issue compliance schedules for permitted discharges in Subsection R317-2-7(1);  2) extends a drinking water use on the Provo River as requested by Provo City in Subsection R317-2-13(5);

3) updates water quality criteria for aluminum to incorporate updated information regarding aluminum toxicity to aquatic life and meet federal requirements (Table 2.14.2);

4) clarifies the portions of the Jordan River that site-specific dissolved oxygen criteria apply to in Table 2.14.5; and

5) extends site-specific ammonia criteria on the Jordan River to additional river segments in Table 2.14.2 and footnote 9.

### Hearing Information:

12/15/2022, 6:00 PM. Multi Agency State Office Building, 195 N 1950 W, Salt Lake City, UT. Remote access: [utdeq.adobeconnect.com/publichearing](https://utdeq.adobeconnect.com/publichearing)

### Fiscal Information

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

##### A) State budget:

No state agency is a constrained party for the rule changes in this amendment, so no direct costs will be incurred to the state budget. Increased monitoring associated with collecting and analyzing dissolved organic carbon data due to the adoption of new aluminum criteria may result in approximately \$7,500 (\$2,500/year for three fiscal years) in increased indirect cost for the DWQ. This cost estimate is based on DWQ staff time to perform quality assurance on data collected for a novel parameter and to implement aluminum criterion calculations, totaling approximately 80 staff hours over three years. These costs will be absorbed through agency process efficiencies. All other rule changes are cost neutral as they do not substantively alter existing DWQ practices or constrain any other state agencies.

##### B) Local governments:

One local government is a constrained party under the ammonia criterion update. No other local governments are constrained parties under the rule changes in this amendment. The South Davis Sewer District (SDSD) is a constrained party under the ammonia criterion update as the rule change affects their effluent discharge limit for ammonia. The DWQ requested and received a cost estimate from SDSD regarding this rule change. SDSD estimated a potential total cost savings from this rule change of \$36,500,000. The SDSD cost savings estimate assumed future adoption of more stringent ammonia criteria than currently apply and therefore, resulted in a cost savings by removing the need for future treatment upgrades to meet lower ammonia effluent limits. DWQ determined the costs to SDSD to be inestimable because the potential cost savings result from an assumed future rule change and not the currently proposed change. However, DWQ agrees with SDSD that this rule change will likely result in long term cost savings and expects the



rule change to be cost neutral over the next three fiscal years.

Provo City may experience indirect savings from costs avoided for water treatment for drinking water due to the extension of the potable water use classification to the Provo River. These indirect savings are inestimable because they are potential future savings and the affected waters currently meet drinking water requirements.

There are 68 municipalities that hold one or more discharge permits with DWQ and are therefore constrained parties under the compliance schedule authorization. Costs and benefits associated with this change are inestimable because it is unknown which or how many permitted discharges may require a compliance schedule and for which pollutants. However, this change is expected to be cost neutral or result in a cost savings via deferred costs because a compliance schedule allows a discharger additional time to meet effluent limits and water quality standards.

There are 68 municipalities that hold one or more discharge permits with DWQ and are therefore constrained parties under the aluminum criteria update. The aluminum criteria update will go into effect three years after adoption in rule, so no costs or benefits are expected in the next three fiscal years. Costs and benefits for the aluminum criteria update beyond the three year time period are inestimable because implementation will depend on site-specific conditions at permitted discharges, but the rule change is generally expected to result in cost savings as it allows the criterion to be adjusted to more accurately reflect site-specific conditions.

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

There are 14 small businesses in Utah that hold discharge permits and are therefore constrained parties under the compliance schedule authorization. Costs and benefits associated with this change are inestimable because it is unknown which or how many permitted discharges may require a compliance schedule and for which pollutants. However, this change is expected to be cost neutral or result in a cost savings via deferred costs because a compliance schedule allows a discharger additional time to meet effluent limits and water quality standards.

There are 14 small businesses in Utah that hold discharge permits and are therefore constrained parties under the aluminum criteria update. The aluminum criteria update will go into effect three years after adoption of the rule, so no costs or benefits are expected in the next three fiscal years. Costs and benefits for the aluminum criteria update beyond the three year time period are inestimable because implementation will depend on site-specific conditions at permitted discharges, but the rule change is generally expected to result in cost savings as it allows the criterion to be adjusted to more accurately reflect site-specific conditions.

No small businesses are constrained parties or are expected to incur costs or benefits under other portions of this amendment.

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

There are 23 non-small businesses in Utah that hold discharge permits and are therefore constrained parties under the compliance schedule authorization. Costs and benefits associated with this change are inestimable because it is unknown which or how many permitted discharges may require a compliance schedule and for which pollutants. However, this change is expected to be cost neutral or result in a cost savings via deferred costs because a compliance schedule allows a discharger additional time to meet effluent limits and water quality standards.

There are 23 non-small businesses in Utah that hold discharge permits and are therefore constrained parties under the aluminum criteria update. The aluminum criteria update will go into effect three years after adoption in rule, so no costs or benefits are expected in the next three fiscal years. Costs and benefits for the aluminum criteria update beyond the three-year time period are inestimable because implementation will depend on site-specific conditions at permitted discharges, but the rule change is generally expected to result in cost savings as it allows the criterion to be adjusted to more accurately reflect site-specific conditions.

No non-small business will be affected by any of the other rule changes, so none are constrained parties or are expected to incur costs or benefits from them.

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

There are 24 other private entities or persons that could not be classified as small or non-small businesses in Utah that hold discharge permits and are therefore constrained parties under the compliance schedule authorization. Costs and benefits associated with this change are inestimable because it is unknown which or how many permitted discharges may require a compliance schedule and for which pollutants. However, this change is expected to be cost neutral or result in a cost savings via deferred costs because a compliance schedule allows a discharger additional time to meet effluent limits and water quality standards.

There are 24 other private entities or persons that could not be classified as small or non-small businesses in Utah that hold discharge permits and are therefore constrained parties under the aluminum criteria update. The aluminum criteria update will go into effect three years after adoption in rule, so no costs or benefits are expected in the next three fiscal years. Costs and benefits for the aluminum

## NOTICES OF PROPOSED RULES

criteria update beyond the three-year time period are inestimable because implementation will depend on site-specific conditions at permitted discharges, but the rule change is generally expected to result in cost savings as it allows the criterion to be adjusted to more accurately reflect site-specific conditions.

No other persons will be affected by any of the other rule changes, so none are constrained parties or are expected to incur costs or benefits from them.

**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 are inestimable because all costs for compliance will depend on site and facility specific factors such as facility or business type, existing treatment processes, and water chemistry in receiving waters.

**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	\$2,500	\$2,500	\$2,500
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$2,500</b>	<b>\$2,500</b>	<b>\$2,500</b>
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>Net Benefits</b>	<b>Fiscal (\$2,500)</b>	<b>(\$2,500)</b>	<b>(\$2,500)</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
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:**

Section 19-5-104	33 USC 1251, 1311-1317, 1329	
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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:**

<b>Official Title of Materials Incorporated (from title page)</b>	Final Aquatic Life Ambient Water Quality Criteria for Aluminum 2018
<b>Publisher</b>	United States Environmental Protection Agency
<b>Issue Date</b>	December 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.)

<b>A) Comments will be accepted until:</b>		12/16/2022
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
12/15/2022	06:00 PM	See information in Box 4 above

**9. This rule change MAY become effective on:** 01/25/2023

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

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Kim Shelley, Executive Director	<b>Date:</b>	10/14/2022
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**R317. Environmental Quality, Water Quality.****R317-2. Standards of Quality for Waters of the State.****R317-2-1A. Statement of Intent.**

Whereas the pollution of the waters of this state constitute a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish and aquatic life, and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of water, and whereas such pollution is contrary to the best interests of the state and its policy for the conservation of the water resources of the state, it is hereby declared to be the public policy of this state to conserve the waters of the state and to protect, maintain and improve the quality thereof for public water supplies, for the propagation of wildlife, fish and aquatic life, and for domestic, agricultural, industrial, recreational and other legitimate beneficial uses; to provide that no waste be discharged into any waters of the state without first being given the degree of treatment necessary to protect the legitimate beneficial uses of such waters; to provide for the prevention, abatement and control of new or existing water pollution; to place first in priority those control measures directed toward elimination of pollution which creates hazards to the public health; to insure due consideration of financial problems imposed on water polluters through pursuit of these objectives; and to cooperate with other agencies of the state, agencies of other states and the federal government in carrying out these objectives.

**R317-2-1B. Authority.**

These standards are promulgated pursuant to Sections 19-5-104 and 19-5-110.

**R317-2-1C. Triennial Review.**

The water quality standards shall be reviewed and updated, if necessary, at least once every three years. The Director will seek input through a cooperative process from stakeholders representing state and federal agencies, various interest groups, and the public to develop a preliminary draft of changes. Proposed changes will be presented to the Water Quality Board for information. Informal public meetings may be held to present preliminary proposed changes to the public for comments and suggestions. Final proposed changes will be presented to the Water Quality Board for approval and authorization to initiate formal rulemaking. Public hearings will be held to solicit formal comments from the public. The Director will incorporate appropriate changes and return to the Water Quality Board to petition for formal adoption of the proposed changes following the requirements of the Utah Rulemaking Act, Title 63G, Chapter 3.

**R317-2-2. Scope.**

These standards shall apply to all waters of the state and shall be assigned to specific waters through the classification procedures prescribed by Sections 19-5-104(5) and 19-5-110 and R317-2-6.

**R317-2-3. Antidegradation Policy.****3.1 Maintenance of Water Quality**

Waters whose existing quality is better than the established standards for the designated uses will be maintained at high quality unless it is determined by the Director, after appropriate intergovernmental coordination and public participation in concert with the Utah continuing planning process, allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. However, existing instream water uses shall be maintained and protected. No

water quality degradation is allowable which would interfere with or become injurious to existing instream water uses.

In those cases where potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy and implementing method shall be consistent with Section 316 of the Federal Clean Water Act.

**3.2 Category 1 Waters**

Waters which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a State or National resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as Category 1 Waters. New point source discharges of wastewater, treated or otherwise, are prohibited in such segments after the effective date of designation. Protection of such segments from pathogens in diffuse, underground sources is covered in R317-5 and R317-7 and the rules for Individual Wastewater Disposal Systems (R317-501 through R317-515). Other diffuse sources (nonpoint sources) of wastes shall be controlled to the extent feasible through implementation of best management practices or regulatory programs.

Discharges may be allowed where pollution will be temporary and limited after consideration of the factors in R317-2-3.5.b.4., and where best management practices will be employed to minimize pollution effects.

Waters of the state designated as Category 1 Waters are listed in R317-2-12.1.

**3.3 Category 2 Waters**

Category 2 Waters are designated surface water segments which are treated as Category 1 Waters except that a point source discharge may be permitted provided that the discharge does not degrade existing water quality. Discharges may be allowed where pollution will be temporary and limited after consideration of the factors in R317-2-3.5.b.4., and where best management practices will be employed to minimize pollution effects. Waters of the state designated as Category 2 Waters are listed in R317-2-12.2.

**3.4 Category 3 Waters**

For all other waters of the state, point source discharges are allowed and degradation may occur, pursuant to the conditions and review procedures outlined in Section 3.5.

**3.5 Antidegradation Review (ADR)**

An antidegradation review will determine whether the proposed activity complies with the applicable antidegradation requirements for receiving waters that may be affected.

An antidegradation review (ADR) may consist of two parts or levels. A Level I review is conducted to insure that existing uses will be maintained and protected.

Both Level I and Level II reviews will be conducted on a parameter-by-parameter basis. A decision to move to a Level II review for one parameter does not require a Level II review for other parameters. Discussion of parameters of concern is those expected to be affected by the proposed activity.

Antidegradation reviews shall include opportunities for public participation, as described in Section 3.5e.

**a. Activities Subject to Antidegradation Review (ADR)**

1. For all State waters, antidegradation reviews will be conducted for proposed federally regulated activities, such as those under Clean Water Act Sections 401 (FERC and other Federal actions), 402 (UPDES permits), and 404 (Army Corps of Engineers permits). The Director may conduct an ADR on any projects with the potential for major impact on the quality of waters of the state. The review will determine whether the proposed activity complies

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with the applicable antidegradation requirements for the particular receiving waters that may be affected.

2. For Category 1 Waters and Category 2 Waters, reviews shall be consistent with the requirement established in Sections 3.2 and 3.3, respectively.

3. For Category 3 Waters, reviews shall be consistent with the requirements established in this section

b. An Anti-degradation Level II review is not required where any of the following conditions apply:

1. Water quality will not be lowered by the proposed activity or for existing permitted facilities, water quality will not be further lowered by the proposed activity, examples include situations where:

(a) the proposed concentration-based effluent limit is less than or equal to the ambient concentration in the receiving water during critical conditions; or

(b) a UPDES permit is being renewed and the proposed effluent concentration and loading limits are equal to or less than the concentration and loading limits in the previous permit; or

(c) a UPDES permit is being renewed and new effluent limits are to be added to the permit, but the new effluent limits are based on maintaining or improving upon effluent concentrations and loads that have been observed, including variability; or

2. Assimilative capacity (based upon concentration) is not available or has previously been allocated, as indicated by water quality monitoring or modeling information. This includes situations where:

(a) the water body is included on the current 303(d) list for the parameter of concern; or

(b) existing water quality for the parameter of concern does not satisfy applicable numeric or narrative water quality criteria; or

(c) discharge limits are established in an approved TMDL that is consistent with the current water quality standards for the receiving water (i.e., where TMDLs are established, and changes in effluent limits that are consistent with the existing load allocation would not trigger an antidegradation review).

Under conditions (a) or (b) the effluent limit in an UPDES permit may be equal to the water quality numeric criterion for the parameter of concern.

3. Water quality impacts will be temporary and related only to sediment or turbidity and fish spawning will not be impaired,

4. The water quality effects of the proposed activity are expected to be temporary and limited. As general guidance, CWA Section 402 general discharge permits, CWA Section 404 general permits, or activities of short duration, will be deemed to have a temporary and limited effect on water quality where there is a reasonable factual basis to support such a conclusion. Factors to be considered in determining whether water quality effects will be temporary and limited may include the following:

(a) Length of time during which water quality will be lowered.

(b) Percent change in ambient concentrations of pollutants of concern

(c) Pollutants affected

(d) Likelihood for long-term water quality benefits to the segment (e.g., dredging of contaminated sediments)

(e) Potential for any residual long-term influences on existing uses.

(f) Impairment of the fish spawning, survival and development of aquatic fauna excluding fish removal efforts.

c. Anti-degradation Review Process

For all activities requiring a Level II review, the Division will notify affected agencies and the public with regards to the requested proposed activity and discussions with stakeholders may be held. In the case of Section 402 discharge permits, if it is determined that a discharge will be allowed, the Director will develop any needed UPDES permits for public notice following the normal permit issuance process.

The ADR will cover the following requirements or determinations:

1. Will all Statutory and regulatory requirements be met?

The Director will review to determine that there will be achieved all statutory and regulatory requirements for all new and existing point sources and all required cost-effective and reasonable best management practices for nonpoint source control in the area of the discharge. If point sources exist in the area that have not achieved all statutory and regulatory requirements, the Director will consider whether schedules of compliance or other plans have been established when evaluating whether compliance has been assured. Generally, the "area of the discharge" will be determined based on the parameters of concern associated with the proposed activity and the portion of the receiving water that would be affected.

2. Are there any reasonable less-degrading alternatives?

There will be an evaluation of whether there are any reasonable non-degrading or less degrading alternatives for the proposed activity. This question will be addressed by the Division based on information provided by the project proponent. Control alternatives for a proposed activity will be evaluated in an effort to avoid or minimize degradation of the receiving water. Alternatives to be considered, evaluated, and implemented to the extent feasible, could include pollutant trading, water conservation, water recycling and reuse, land application, total containment, etc.

For proposed UPDES permitted discharges, the following list of alternatives should be considered, evaluated and implemented to the extent feasible:

(a) innovative or alternative treatment options

(b) more effective treatment options or higher treatment

levels

(c) connection to other wastewater treatment facilities

(d) process changes or product or raw material substitution

(e) seasonal or controlled discharge options to minimize discharging during critical water quality periods

(f) pollutant trading

(g) water conservation

(h) water recycle and reuse

(i) alternative discharge locations or alternative receiving waters

(j) land application

(k) total containment

(l) improved operation and maintenance of existing treatment systems

(m) other appropriate alternatives

An option more costly than the cheapest alternative may have to be implemented if a substantial benefit to the stream can be realized. Alternatives would generally be considered feasible where costs are no more than 20% higher than the cost of the discharging alternative, and (for POTWs) where the projected per connection service fees are not greater than 1.4% of MAGHI (median adjusted gross household income), the current affordability criterion now being used by the Water Quality Board in the wastewater revolving loan program. Alternatives within these cost ranges should be carefully considered by the discharger. Where State financing is appropriate, a financial assistance package may be influenced by this

evaluation, i.e., a less polluting alternative may receive a more favorable funding arrangement in order to make it a more financially attractive alternative.

It must also be recognized in relationship to evaluating options that would avoid or reduce discharges to the stream, that in some situations it may be more beneficial to leave the water in the stream for instream flow purposes than to remove the discharge to the stream.

3. Does the proposed activity have economic and social importance?

Although it is recognized that any activity resulting in a discharge to surface waters will have positive and negative aspects, information must be submitted by the applicant that any discharge or increased discharge will be of economic or social importance in the area.

The factors addressed in such a demonstration may include, but are not limited to, the following:

- (a) employment (i.e., increasing, maintaining, or avoiding a reduction in employment);
- (b) increased production;
- (c) improved community tax base;
- (d) housing;
- (e) correction of an environmental or public health problem; and
- (f) other information that may be necessary to determine the social and economic importance of the proposed surface water discharge.

4. The applicant may submit a proposal to mitigate any adverse environmental effects of the proposed activity (e.g., instream habitat improvement, bank stabilization). Such mitigation plans should describe the proposed mitigation measures and the costs of such mitigation. Mitigation plans will not have any effect on effluent limits or conditions included in a permit (except possibly where a previously completed mitigation project has resulted in an improvement in background water quality that affects a water quality-based limit). Such mitigation plans will be developed and implemented by the applicant as a means to further minimize the environmental effects of the proposed activity and to increase its socio-economic importance. An effective mitigation plan may, in some cases, allow the Director to authorize proposed activities that would otherwise not be authorized.

5. Will water quality standards be violated by the discharge?

Proposed activities that will affect the quality of waters of the state will be allowed only where the proposed activity will not violate water quality standards.

6. Will existing uses be maintained and protected?

Proposed activities can only be allowed if "existing uses" will be maintained and protected. No UPDES permit will be allowed which will permit numeric water quality standards to be exceeded in a receiving water outside the mixing zone. In the case of nonpoint pollution sources, the non-regulatory Section 319 program now in place will address these sources through application of best management practices to ensure that numeric water quality standards are not exceeded.

7. If a situation is found where there is an existing use which is a higher use (i.e., more stringent protection requirements) than that current designated use, the Director will apply the water quality standards and anti-degradation policy to protect the existing use. Narrative criteria may be used as a basis to protect existing uses for parameters where numeric criteria have not been adopted.

Procedures to change the stream use designation to recognize the existing use as the designated use would be initiated.

d. Special Procedures for Drinking Water Sources

Depending upon the locations of the discharge and its proximity to downstream drinking water diversions, additional treatment or more stringent effluent limits or additional monitoring, beyond that which may otherwise be required to meet minimum technology standards or in stream water quality standards, may be required by the Director in order to adequately protect public health and the environment. Such additional treatment may include additional disinfection, suspended solids removal to make the disinfection process more effective, removal of any specific contaminants for which drinking water maximum contaminant levels (MCLs) exists, and/or nutrient removal to reduce the organic content of raw water used as a source for domestic water systems.

Additional monitoring may include analyses for viruses, Giardia, Cryptosporidium, other pathogenic organisms, and/or any contaminant for which drinking water MCLs exist. Depending on the results of such monitoring, more stringent treatment may then be required.

The additional treatment/effluent limits/monitoring which may be required will be determined by the Director after consultation with the Division of Drinking Water and the downstream drinking water users.

e. Public Notice

The public will be provided notice and an opportunity to comment on the conclusions of all completed antidegradation reviews. When possible, public notice on the antidegradation review conclusions will be combined with the public notice on the proposed permitting or certifying action. In the case of UPDES permits, public notice will be provided through the normal permitting process, as all draft permits are public noticed for 30 days, and public comment solicited, before being issued as a final permit. The Statement of Basis for the draft UPDES permit will contain information on how the ADR was addressed including results of the Level I and Level II reviews. In the case of Section 404 permits from the Corps of Engineers, the Division of Water Quality will develop any needed 401 Certifications and the public notice may be published in conjunction with the US Corps of Engineers public notice procedures. Other permits requiring a Level II review will receive a separate public notice according to the normal State public notice procedures. The public will be provided notice and an opportunity to comment whenever substantive changes are made to the implementation procedures referenced in Subsection R317-2-3.5.f.

f. Implementation Procedures

The Director shall establish reasonable protocols and guidelines (1) for completing technical, social, and economic need demonstrations, (2) for review and determination of adequacy of Level II ADRs and (3) for determination of additional treatment requirements. Protocols and guidelines will consider federal guidance and will include input from local governments, the regulated community, and the general public. The Director will inform the Water Quality Board of any protocols or guidelines that are developed.

#### **R317-2-4. Colorado River Salinity Standards.**

In addition to quality protection afforded by these rules to waters of the Colorado River and its tributaries, such waters shall be protected also by requirements of "Proposed Water Quality Standards for Salinity including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975" and a supplement dated August 26, 1975, entitled "Supplement, including

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Modifications to Proposed Water Quality Standards for Salinity including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", as approved by the seven Colorado River Basin States and the U.S. Environmental Protection Agency, as updated by the 1978 Revision and the 1981, 1984, 1987, 1990, 1993, 1996, 1999, 2002, 2005, 2008, 2011, 2014, 2017, and 2020 reviews of the above documents.

### **R317-2-5. Mixing Zones.**

A mixing zone is a limited portion of a body of water, contiguous to a discharge, where dilution is in progress but has not yet resulted in concentrations which will meet certain standards for all pollutants. At no time, however, shall concentrations within the mixing zone be allowed which are acutely lethal as determined by bioassay or other approved procedure. Mixing zones may be delineated for the purpose of guiding sample collection procedures and to determine permitted effluent limits. The size of the chronic mixing zone in rivers and streams shall not exceed 2500 feet and the size of an acute mixing zone shall not exceed 50% of stream width nor have a residency time of greater than 15 minutes. Streams with a flow equal to or less than twice the flow of a point source discharge may be considered to be totally mixed. The size of the chronic mixing zone in lakes and reservoirs shall not exceed 200 feet and the size of an acute mixing zone shall not exceed 35 feet. Domestic wastewater effluents discharged to mixing zones shall meet effluent requirements specified in R317-1-3.

5.1 Individual Mixing Zones. Individual mixing zones may be further limited or disallowed in consideration of the following factors in the area affected by the discharge:

- a. Bioaccumulation in fish tissues or wildlife,
- b. Biologically important areas such as fish spawning/nursery areas or segments with occurrences of federally listed threatened or endangered species,
- c. Potential human exposure to pollutants resulting from drinking water or recreational activities,
- d. Attraction of aquatic life to the effluent plume, where toxicity to the aquatic life is occurring.
- e. Toxicity of the substance discharged,
- f. Zone of passage for migrating fish or other species (including access to tributaries), or
- g. Accumulative effects of multiple discharges and mixing zones.

### **R317-2-6. Use Designations.**

The Board as required by Section 19-5-110, shall group the waters of the state into classes so as to protect against controllable pollution the beneficial uses designated within each class as set forth below. Surface waters of the state are hereby classified as shown in R317-2-13.

6.1 Class 1 -- Protected for use as a raw water source for domestic water systems.

- a. Class 1A -- Reserved.
- b. Class 1B -- Reserved.
- c. Class 1C -- Protected for domestic purposes with prior treatment by treatment processes as required by the Utah Division of Drinking Water

6.2 Class 2 -- Protected for recreational use and aesthetics.

- a. Class 2A -- Protected for frequent primary contact recreation where there is a high likelihood of ingestion of water or a high degree of bodily contact with the water. Examples include, but are not limited to, swimming, rafting, kayaking, diving, and water skiing.

- b. Class 2B -- Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is a low likelihood of ingestion of water or a low degree of bodily contact with the water. Examples include, but are not limited to, wading, hunting, and fishing.

6.3 Class 3 -- Protected for use by aquatic wildlife.

- a. Class 3A -- Protected for cold water species of game fish and other cold water aquatic life, including the necessary aquatic organisms in their food chain.

- b. Class 3B -- Protected for warm water species of game fish and other warm water aquatic life, including the necessary aquatic organisms in their food chain.

- c. Class 3C -- Protected for nongame fish and other aquatic life, including the necessary aquatic organisms in their food chain.

- d. Class 3D -- Protected for waterfowl, shore birds and other water-oriented wildlife not included in Classes 3A, 3B, or 3C, including the necessary aquatic organisms in their food chain.

- e. Class 3E -- Severely habitat-limited waters. Narrative standards will be applied to protect these waters for aquatic wildlife.

6.4 Class 4 -- Protected for agricultural uses including irrigation of crops and stock watering.

6.5 Class 5 -- The Great Salt Lake.

- a. Class 5A Gilbert Bay

Geographical Boundary -- All open waters at or below approximately 4,208-foot elevation south of the Union Pacific Causeway, excluding all of the Farmington Bay south of the Antelope Island Causeway and salt evaporation ponds.

Beneficial Uses -- Protected for frequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

- b. Class 5B Gunnison Bay

Geographical Boundary -- All open waters at or below approximately 4,208-foot elevation north of the Union Pacific Causeway and west of the Promontory Mountains, excluding salt evaporation ponds.

Beneficial Uses -- Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

- c. Class 5C Bear River Bay

Geographical Boundary -- All open waters at or below approximately 4,208-foot elevation north of the Union Pacific Causeway and east of the Promontory Mountains, excluding salt evaporation ponds.

Beneficial Uses -- Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

- d. Class 5D Farmington Bay

Geographical Boundary -- All open waters at or below approximately 4,208-foot elevation east of Antelope Island and south of the Antelope Island Causeway, excluding salt evaporation ponds.

Beneficial Uses -- Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

- e. Class 5E Transitional Waters along the Shoreline of the Great Salt Lake

Geographical Boundary -- All waters below approximately 4,208-foot elevation to the current lake elevation of the open water of the Great Salt Lake receiving their source water from naturally occurring springs and streams, impounded wetlands, or facilities requiring a UPDES permit. The geographical areas of these transitional waters change corresponding to the fluctuation of open water elevation.

Beneficial Uses -- Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

### **R317-2-7. Water Quality Standards.**

#### **7.1 Application of Standards**

a. The numeric criteria listed in Section R317-2-14 shall apply to each of the classes assigned to waters of the [S]tate as specified in Section R317-2-6. It shall be unlawful and a violation of ~~[these]~~this rule[s] for any person to discharge or place any wastes or other substances in such manner as may interfere with designated uses protected by assigned classes or to cause any of the applicable standards to be violated, except as provided in Subsection R317-1-3.1 or as authorized by schedules of compliance. The Director has authority to issue schedules of compliance for dischargers to meet UPDES water quality-based effluent limits.

b. At a minimum, assessment of the beneficial use support for waters of the state will be conducted biennially and available for a 30-day period of public comment and review. Monitoring locations and target indicators of water quality standards shall be prioritized and published yearly. For water quality assessment purposes, up to 10%~~[percent]~~ of the representative samples may exceed the minimum or maximum criteria for dissolved oxygen, pH, E. coli, total dissolved solids, and temperature, including situations where such criteria have been adopted on a site-specific basis.

c. Site-specific standards may be adopted by rulemaking where biomonitoring data, bioassays, or other scientific analyses indicate that the statewide criterion is over or under protective of the designated uses or where natural or un-alterable conditions or other factors as defined in 40 CFR 131.10(g) prevent the attainment of the statewide criteria as prescribed in Subsections R317-2-7.2, and R317-2-7.3, and Section R317-2-14.

#### **7.2 Narrative Standards**

It shall be unlawful, and a violation of ~~[these]~~this rule[s], for any person to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste; or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures; or determined by biological assessments in Subsection R317-2-7.3.

#### **7.3 Biological Water Quality Assessment and Criteria**

Waters of the [S]tate shall be free from human-induced stressors which will degrade the beneficial uses as prescribed by the biological assessment processes and biological criteria set forth ~~[below:]~~in Subsections (7.3)(a) through (d).

a. Quantitative biological assessments may be used to assess whether the purposes and designated uses identified in Section R317-2-6 are supported.

b. The results of the quantitative biological assessments may be used for purposes of water quality assessment, including~~[but not limited to:]~~ those assessments required by Sections 303(d) and 305(b) of the federal Clean Water Act (33 U.S.C. 1313(d) and 1315(b)).

c. Quantitative biological assessments shall use documented methods that have been subject to technical review and produce consistent, objective and repeatable results that account for methodological uncertainty and natural environmental variability.

d. If biological assessments reveal a biologically degraded water body, specific pollutants responsible for the degradation will not be formally published ~~[(i.e.,] in a Biennial Integrated Report[.] or TMDL[.]~~ until a thorough evaluation of potential causes, including nonchemical stressors ~~[(e.g.,] such as habitat degradation, [or] hydrological modification,~~ or criteria described in 40 CFR 131.10 (g)(1 - 6) as defined by the Use Attainability Analysis process~~[.]~~, has been conducted.

### **R317-2-8. Protection of Downstream Uses.**

All actions to control waste discharges under these rules shall be modified as necessary to protect downstream designated uses.

### **R317-2-9. Intermittent Waters.**

Failure of a stream to meet water quality standards when stream flow is either unusually high or less than the 7-day, 10-year minimum flow shall not be cause for action against persons discharging wastes which meet both the requirements of R317-1 and the requirements of applicable permits.

### **R317-2-10. Laboratory and Field Analyses.**

#### **10.1 Laboratory Analyses**

All laboratory examinations of samples collected to determine compliance with these regulations shall be performed in accordance with standard procedures as approved by the Director by the Utah Office of State Health Laboratory, or by a laboratory certified by the Utah Department of Health.

#### **10.2 Field Analyses**

All field analyses to determine compliance with these rules shall be conducted in accordance with standard procedures specified by the Utah Division of Water Quality or with methods approved by the Director.

### **R317-2-11. Public Participation.**

Public notices and public hearings will be held for the consideration, adoption, or amendment of the classifications of waters and standards of purity and quality. Public notices shall be published at least twice in a newspaper of general circulation in the area affected at least 30 days prior to any public hearing. The notice will be posted on a State public notice website at least 45 days before any hearing and a notice will be mailed at least 30 days before any hearing to the chief executive of each political subdivision and other potentially affected persons.

### **R317-2-12. Category 1 and Category 2 Waters.**

#### **12.1 Category 1 Waters.**

In addition to assigned use classes, the following surface waters of the State are hereby designated as Category 1 Waters:

a. All surface waters geographically located within the outer boundaries of U.S. National Forests whether on public or private lands with the following exceptions:

1. Category 2 Waters as listed in R317-2-12.2.

2. Weber River, a tributary to the Great Salt Lake, in the Weber River Drainage from Uintah to Mountain Green.

b. Other surface waters, which may include segments within U.S. National Forests as follows:

1. Colorado River Drainage

Calf Creek and tributaries, from confluence with Escalante River to headwaters.

Sand Creek and tributaries, from confluence with Escalante River to headwaters.

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Mamie Creek and tributaries, from confluence with Escalante River to headwaters.

Deer Creek and tributaries, from confluence with Boulder Creek to headwaters (Garfield County).

Indian Creek and tributaries, through Newspaper Rock State Park to headwaters.

### 2. Green River Drainage

Price River (Lower Fish Creek from confluence with White River to Scofield Dam.

Range Creek and tributaries, from confluence with Green River to headwaters.

Strawberry River and tributaries, from confluence with Red Creek to headwaters.

Ashley Creek and tributaries, from Steinaker diversion to headwaters.

Jones Hole Creek and tributaries, from confluence with Green River to headwaters.

Green River, from state line to Flaming Gorge Dam.

Tollivers Creek, from confluence with Green River to headwaters.

Allen Creek, from confluence with Green River to headwaters.

### 3. Virgin River Drainage

North Fork Virgin River and tributaries, from confluence with East Fork Virgin River to headwaters.

East Fork Virgin River and tributaries from confluence with North Fork Virgin River to headwaters.

### 4. Kanab Creek Drainage

Kanab Creek and tributaries, from irrigation diversion at confluence with Reservoir Canyon to headwaters.

### 5. Bear River Drainage

Swan Creek and tributaries, from Bear Lake to headwaters.

North Eden Creek, from Upper North Eden Reservoir to headwaters.

Big Creek and tributaries, from Big Ditch diversion to headwaters.

Woodruff Creek and tributaries, from Woodruff diversion to headwaters.

### 6. Weber River Drainage

Burch Creek and tributaries, from Harrison Boulevard in Ogden to headwaters.

Hardscrabble Creek and tributaries, from confluence with East Canyon Creek to headwaters.

Chalk Creek and tributaries, from Main Street in Coalville to headwaters.

Weber River and tributaries, from Utah State Route 32 near Oakley to headwaters.

### 7. Jordan River Drainage

City Creek and tributaries, from City Creek Water Treatment Plant to headwaters (Salt Lake County).

Emigration Creek and tributaries, from Hogle Zoo to headwaters (Salt Lake County).

Red Butte Creek and tributaries, from Foothill Boulevard in Salt Lake City to headwaters.

Parley's Creek and tributaries, from 13th East in Salt Lake City to headwaters.

Mill Creek and tributaries, from Wasatch Boulevard in Salt Lake City to headwaters.

Big Cottonwood Creek and tributaries, from Wasatch Boulevard in Salt Lake City to headwaters.

Little Willow Creek and tributaries, from diversion to headwaters (Salt Lake County.)

Bell Canyon Creek and tributaries, from Lower Bells Canyon Reservoir to headwaters (Salt Lake County).

South Fork of Dry Creek and tributaries, from Draper Irrigation Company diversion to headwaters (Salt Lake County).

### 8. Provo River Drainage

Upper Falls drainage above Provo City diversion (Utah County).

Bridal Veil Falls drainage above Provo City diversion (Utah County).

Lost Creek and tributaries, above Provo City diversion (Utah County).

### 9. Sevier River Drainage

Chicken Creek and tributaries, from diversion at canyon mouth to headwaters.

Pigeon Creek and tributaries, from diversion to headwaters.

East Fork of Sevier River and tributaries, from Kingston diversion to headwaters.

Parowan Creek and tributaries, from Parowan City to headwaters.

Summit Creek and tributaries, from Summit City to headwaters.

Braffits Creek and tributaries, from canyon mouth to headwaters.

Right Hand Creek and tributaries, from confluence with Coal Creek to headwaters.

### 10. Raft River Drainage

Clear Creek and tributaries, from state line to headwaters (Box Elder County).

Birch Creek (Box Elder County), from state line to headwaters.

Cotton Thomas Creek from confluence with South Junction Creek to headwaters.

### 11. Western Great Salt Lake Drainage

All streams on the south slope of the Raft River Mountains above 7000' mean sea level.

Donner Creek (Box Elder County), from irrigation diversion to Utah-Nevada state line.

Bettridge Creek (Box Elder County), from irrigation diversion to Utah-Nevada state line.

Clover Creek, from diversion to headwaters.

All surface waters on public land on the Deep Creek Mountains.

### 12. Farmington Bay Drainage

Holmes Creek and tributaries, from Highway US-89 to headwaters (Davis County).

Shepard Creek and tributaries, from Haight Bench diversion to headwaters (Davis County).

Farmington Creek and tributaries, from Haight Bench Canal diversion to headwaters (Davis County).

Steed Creek and tributaries, from Highway US-89 to headwaters (Davis County).

### 12.2 Category 2 Waters.

In addition to assigned use classes, the following surface waters of the State are hereby designated as Category 2 Waters:

#### a. \_Green River Drainage

Deer Creek, a tributary of Huntington Creek, from the forest boundary to 4800 feet upstream.

Electric Lake.

## **R317-2-13. Classification of Waters of the State (see R317-2-6).**

### 13.1 Upper Colorado River Basin

#### a. Colorado River Drainage



TABLE					San Juan River and tributaries from Lake Powell to state line except as listed below:				
Paria River and tributaries, from state line to headwaters	2B	3C	4			1C 2A	3B	4	
All tributaries to Lake Powell except as listed below:	2B	3B	4		Johnson Creek and tributaries, from confluence with Recapture Creek to headwaters	1C	2B 3A	4	
Tributaries to Escalante River from confluence with Boulder Creek to headwaters, including Boulder Creek	2B 3A		4		Verdure Creek and tributaries, from Highway US-191 crossing to headwaters		2B 3A	4	
Dirty Devil River and tributaries, from Lake Powell to Fremont River	2B	3C	4		North Creek and tributaries, from confluence with Montezuma Creek to headwaters	1C	2B 3A	4	
Deer Creek and tributaries, from confluence with Boulder Creek to headwaters	2B 3A		4		South Creek and tributaries, from confluence with Montezuma Creek to headwaters	1C	2B 3A	4	
Fremont River and tributaries from confluence with Muddy Creek to Capitol Reef National Park, except as listed below:	1C	2B	3C	4	Spring Creek and tributaries, from confluence with Vega Creek to headwaters		2B 3A	4	
Pleasant Creek and tributaries, from confluence with Fremont River to East boundary of Capitol Reef National Park		2B	3C	4	Montezuma Creek and tributaries, from U.S. Highway 191 to headwaters	1C	2B 3A	4	
Pleasant Creek and tributaries, from East boundary of Capitol Reef National Park to headwaters	1C	2B 3A			Colorado River and tributaries, from Lake Powell to state line except as listed below:	1C 2A	3B	4	
Fremont River and tributaries, through Capitol Reef National Park to headwaters	1C 2A	3A	4		Indian Creek and tributaries, through Newspaper Rock State Park to headwaters	1C	2B 3A	4	
Muddy Creek and tributaries, from Confluence with Fremont River to Highway U-10 crossing, except as listed below	2B	3C	4		Kane Canyon Creek and tributaries, from confluence with Colorado River to headwaters		2B 3C	4	
Muddy Creek from confluence with Fremont River to confluence with Ivie Creek	2B	3C	4*		Mill Creek and tributaries, from confluence with Colorado River to headwaters	1C	2A 3A	4	
Muddy Creek and tributaries from the confluence with Ivie Creek to U-10	2B	3C	4*		Castle Creek from confluence with the Colorado River to Seventh Day Adventist Diversion	1C	2A 3B	4*	
Ivie Creek and its tributaries from the confluence with Muddy Creek to the confluence with Quitchapah Creek	2B	3C	4*		Onion Creek from the confluence with Colorado River to road crossing above Stinking Springs	1C	2A 3B	4*	
Ivie Creek and its tributaries from the confluence with Quitchapah Creek to U-10, except as listed below:	2B	3C	4*		Dolores River and tributaries, from confluence with Colorado River to state line		2B 3C	4	
Quitchapah Creek from the confluence with Ivie Creek to U-10	2B	3C	4*		Roc Creek and tributaries, from confluence with Dolores River to headwaters		2B 3A	4	
Quitchapah Creek and tributaries, from Highway U-10 crossing to headwaters	2B 3A		4		LaSal Creek and tributaries from state line to headwaters		2B 3A	4	
Ivie Creek and tributaries, from Highway U-10 to headwaters	2B 3A		4		Lion Canyon Creek and tributaries, from state line to headwaters		2B 3A	4	
Muddy Creek and tributaries, from Highway U-10 crossing to headwaters	1C	2B 3A	4		Little Dolores River and tributaries, from confluence with Colorado River to state line		2B 3C	4	
					Bitter Creek and tributaries, from confluence with Colorado River to headwaters		2B 3C	4	

(\*) Site-specific criteria are associated with this use.

# NOTICES OF PROPOSED RULES

## b. Green River Drainage

TABLE					Grassy Trail Creek and tributaries, from Grassy Trail Creek Reservoir to headwaters					
Green River and tributaries, from confluence with Colorado River to state line, except as listed below:	1C	2A	3B	4	Price River and tributaries, from Carbon Canal Diversion at Price City Golf Course to Price City Water Treatment Plant intake	1C	2B	3A	4	
Thompson Creek and tributaries from Interstate 70 to headwaters		2B	3C	4	Price River and tributaries, from Price City Water Treatment Plant intake to headwaters		2B	3A	4	
San Rafael River and tributaries from confluence with Green River to confluence with Ferron Creek, except as listed below:		2B	3C		Range Creek and tributaries, from confluence with Green River to Range Creek Ranch	1C	2B	3A	4	
San Rafael River from the confluence with the Green River to Buckhorn Crossing		2B	3C	4*	Range Creek and tributaries, from Range Creek Ranch to headwaters	1C	2B	3A	4	
San Rafael River from Buckhorn Crossing to the confluence with Huntington Creek and Cottonwood Creek		2B	3C	4*	Rock Creek and tributaries, from confluence with Green River to headwaters		2B	3A	4	
Ferron Creek and tributaries, from confluence with San Rafael River to Millsite Reservoir, except as listed below:		2B	3C	4	Nine Mile Creek and tributaries, from confluence with Green River to headwaters		2B	3A	4	
Ferron Creek from the confluence with San Rafael River to Highway 10		2B	3C	4*	Pariette Draw and tributaries, from confluence with Green River to headwaters		2B	3B	3D	4
Ferron Creek and tributaries, from Millsite Reservoir to headwaters	1C	2B	3A	4	Willow Creek and tributaries (Uintah County), from confluence with Green River to headwaters		2B	3A	4	
Huntington Creek and tributaries, from confluence with Cottonwood Creek to Highway U-10 crossing		2B	3C	4*	White River and tributaries, from confluence with Green River to state line, except as listed below:		2B	3B	4	
Huntington Creek and tributaries from Highway U-10 crossing to headwaters	1C	2B	3A	4	Bitter Creek and tributaries from White River to headwaters		2B	3A	4	
Cottonwood Creek and tributaries from confluence with Huntington Creek to Highway U-57 crossing, except as listed below:		2B	3C	4	Duchesne River and tributaries, from confluence with Green River to Myton Water Treatment Plant intake, except as listed below		2B	3B	4	
Cottonwood Creek from the confluence with Huntington Creek to U-57		2B	3C	4*	Uinta River and tributaries from confluence with Duchesne River to U.S. Highway 40 crossing		2B	3B	4	
Rock Canyon Creek from the confluence with Cottonwood Creek to headwaters		2B	3C	4*	Uinta River and tributaries, from U.S. Highway 40 crossing		2B	3A	4	
Cottonwood Creek and tributaries from Highway U-57 crossing to headwaters	1C	2B	3A	4	Power House Canal from confluence with Uinta River to headwaters		2B	3A	4	
Cottonwood Canal, Emery County	1C	2B		3E	Whiterocks River and Canal, from Tridell Water Treatment Plant to headwaters	1C	2B	3A	4	
Price River and tributaries, from confluence with Green River to Carbon Canal Diversion at Price City Golf Course, except as listed below		2B	3C	4	Duchesne River and tributaries, from Myton Water Treatment Plant intake to headwaters	1C	2B	3A	4	
Price River and tributaries from confluence with Green River to confluence with Soldier Creek		2B	3C	4*	Lake Fork River and tributaries, from confluence with Duchesne River to headwaters	1C	2B	3A	4	
Price River and tributaries from the confluence with Soldier Creek to Carbon Canal Diversion		2B	3C	4*	Lake Fork Canal from Dry Gulch Canal Diversion to Moon Lake	1C	2B		3E	4
					Dry Gulch Canal, from Myton Water Treatment Plant to Lake Fork Canal	1C	2B		3E	4

## 13.2 Lower Colorado River Basin

## a. Virgin River Drainage

Ashley Creek and tributaries, from confluence with Green River to Steinaker diversion	2B	3B	4	
Ashley Creek and tributaries, from Steinaker diversion to headwaters	1C	2B 3A	4	
Big Brush Creek and tributaries from confluence with Green River to Tyzack (Red Fleet) Dam	2B	3B	4	
Big Brush Creek and tributaries, from Tyzack (Red Fleet) Dam to headwaters	1C	2B 3A	4	
Jones Hole Creek and tributaries from confluence with Green River to headwaters	2B	3A		
Diamond Gulch Creek and tributaries, from confluence with Green River to headwaters	2B	3A	4	
Pot Creek and tributaries, from Crouse Reservoir to headwaters	2B	3A	4	
Green River and tributaries, from Utah-Colorado state line to Flaming Gorge Dam, except as listed below:	2A	3A	4	
Sears Creek and tributaries, Daggett County	2B	3A		
Tolivers Creek and tributaries, Daggett County	2B	3A		
Red Creek and tributaries, from confluence with Green River to state line	2B	3C	4	
Jackson Creek and tributaries, Daggett County	2B	3A		
Davenport Creek and tributaries, Daggett County	2B	3A		
Goslin Creek and tributaries, Daggett County	2B	3A		
Gorge Creek and tributaries, Daggett County	2B	3A		
Beaver Creek and tributaries, Daggett County	2B	3A		
O-Wi-Yu-Kuts Creek and tributaries, Daggett County	2B	3A		
Tributaries to Flaming Gorge Reservoir, except as listed below	2B	3A	4	
Birch Spring Draw and tributaries, from Flaming Gorge Reservoir to headwaters	2B	3C	4	
Spring Creek and tributaries, from Flaming Gorge Reservoir to headwaters	2B	3A		
All tributaries of Flaming Gorge Reservoir from Utah-Wyoming state line to headwaters	2B	3A	4	

(\*) Site-specific criteria are associated with this use.

## TABLE

Beaver Dam Wash and tributaries, from Motoqua to headwaters	2B	3B	4	
Virgin River and tributaries, from state line to Quail Creek diversion, except as listed below:	2B	3B	4	
Virgin River from the Utah-Arizona border to Pah Tempe Springs	2B	3B	4	
Virgin River from the Utah-Arizona border to Pah Tempe Springs	2B	3B	4*	
Santa Clara River from confluence with Virgin River to Gunlock Reservoir	1C	2B	3B	4
Santa Clara River and tributaries, from Gunlock Reservoir to headwaters	2B	3A	4	
Leeds Creek from confluence with Quail Creek to headwaters	2B	3A	4	
Quail Creek from Quail Creek Reservoir to headwaters	1C	2B	3A	4
Ash Creek and tributaries, from confluence with Virgin River to Ash Creek Reservoir	2B	3A	4	
Ash Creek and tributaries, from Ash Creek Reservoir to headwaters	2B	3A	4	
Virgin River and tributaries, from the Quail Creek diversion to headwaters, except as listed below:	1C	2B	3C	4
North Creek, from the confluence with Virgin River to headwaters	1C	2B	3C	4*
North Fork Virgin River and tributaries	1C	2A	3A	4
Kolob Creek, from confluence with Virgin River to headwaters	2B	3A	4	
East Fork Virgin River, from town of Glendale to headwaters	2B	3A	4	

(\*) Site-specific criteria are associated with this use.

## b. Kanab Creek Drainage

## TABLE

Kanab Creek and tributaries, from state line to immediately below the confluence with Sink Valley Wash	2B	3C	4
Kanab Creek and tributaries, from immediately below the confluence with Sink Valley Wash to Simpson Hollow Wash	2B	3C	4*
Kanab Creek and tributaries, from immediately above Simpson Hollow Wash to irrigation diversion at confluence with Reservoir Canyon	2B	3C	4*

## NOTICES OF PROPOSED RULES

Kanab Creek and tributaries, from irrigation diversion at confluence with Reservoir Canyon to headwaters 2B 3A 4

Johnson Wash and tributaries, from state line to confluence with Skutumpah Canyon 2B 3C 4

Johnson Wash and tributaries, from confluence with Skutumpah Canyon to headwaters 2B 3A 4

(\*) Site-specific criteria are associated with this use.

### 13.3 Bear River Basin a. Bear River Drainage

TABLE

Bear River and tributaries, from Great Salt Lake to Utah-Idaho border, except as listed below: 2B 3B 3D 4

Perry Canyon Creek from U.S. Forest boundary to headwaters 2B 3A 4

Box Elder Creek from confluence with Black Slough to Brigham City Reservoir (Mayor's Pond) 2B 3C 4

Box Elder Creek, from Brigham City Reservoir (Mayor's Pond) to headwaters 2B 3A 4

Salt Creek from confluence with Bear River to Crystal Hot Springs 2B 3B 3D

Malad River and tributaries, from confluence with Bear River to state line 2B 3C

Little Bear River and tributaries, from Cutler Reservoir to headwaters, except as listed below: 2B 3A 3D 4

South Fork Spring Creek from confluence with Pelican Pond Slough Stream to U.S. Highway 89 2B 3A 3D 4\*

Logan River and tributaries, from Cutler Reservoir to headwaters 2B 3A 3D 4

Blacksmith Fork and tributaries, from confluence with Logan River to headwaters, except as listed below 2B 3A 4

Sheep Creek and tributaries from Confluence with Blacksmith Fork River to headwaters 1C 2B 3A 4

Newton Creek and tributaries, from Cutler Reservoir to Newton Reservoir 2B 3A 4

Clarkston Creek and tributaries, from Newton Reservoir to headwaters 2B 3A 4

Birch Creek and tributaries, from confluence with Clarkston Creek to headwaters 2B 3A 4

Summit Creek and tributaries, from confluence with Bear River to headwaters 2B 3A 4

Cub River and tributaries, from confluence with Bear River to state line, except as listed below: 2B 3B 4

High Creek and tributaries from confluence with Cub River to headwaters 2B 3A 4

All tributaries to Bear Lake from Bear Lake to headwaters, except as listed below 2B 3A 4

Swan Springs tributary to Swan Creek 1C 2B 3A

Bear River and tributaries in Rich County 2B 3A 4

Bear River and tributaries, from Utah-Wyoming state line to headwaters (Summit County) 2B 3A 4

Mill Creek and tributaries, from state line to headwaters (Summit County) 2B 3A 4

(\*) Site-specific criteria are associated with this use.

### 13.4 Weber River Basin a. Weber River Drainage

TABLE

Willard Creek, from Willard Bay Reservoir to headwaters 2B 3A 4

Weber River, from Great Salt Lake to Slaterville diversion, except as listed below: 2B 3C 3D 4

Four Mile Creek from Interstate 15 to headwaters 2B 3A 4

Weber River and tributaries, from Slaterville diversion to Stoddard diversion, except as listed below 2B 3A 4

Ogden River and tributaries, from confluence with Weber River to Pineview Dam, except as listed below: 2A 3A 4

Wheeler Creek from confluence with Ogden River to headwaters 1C 2B 3A 4

All tributaries to Pineview Reservoir 1C 2B 3A 4

Strong's Canyon Creek and tributaries, from U.S. National Forest boundary to headwaters 1C 2B 3A 4

Burch Creek and tributaries, from Harrison Boulevard in Ogden to Headwaters 1C 2B 3A

Spring Creek and tributaries, from U.S. National Forest boundary to headwaters 1C 2B 3A 4

Weber River and tributaries, from Stoddard diversion to headwaters, except as listed below 1C 2B 3A 4

Silver Creek and tributaries, from the confluence with Weber River to below the confluence with Tollgate Creek	1C	2B 3A	4
Silver Creek and tributaries, from confluence with Tollgate Creek to headwaters	1C	2B 3A	4*

### 13.5 Utah Lake-Jordan River Basin

#### a. Jordan River Drainage

TABLE

Jordan River, from Farmington Bay to North Temple Street, Salt Lake City	2B	3B*	3D	4
State Canal, from Farmington Bay to confluence with the Jordan River	2B	3B*	3D	4
Jordan River, from North Temple Street in Salt Lake City to confluence with Little Cottonwood Creek	2B	3B*		4
Surplus Canal from Great Salt Lake to the diversion from the Jordan River	2B	3B*	3D	4
Jordan River from confluence with Little Cottonwood Creek to Narrows Diversion	2B	3B		4
Jordan River, from Narrows Diversion to Utah Lake	1C	2B	3B	4
City Creek, from Memory Park in Salt Lake City to City Creek Water Treatment Plant		2B 3A		
City Creek, from City Creek Water Treatment Plant to headwaters	1C	2B 3A		
Red Butte Creek and tributaries, from Liberty Park pond inlet to Red Butte Reservoir		2B 3A		4
Red Butte Creek and tributaries, from Red Butte Reservoir to headwaters	1C	2B 3A		
Emigration Creek and tributaries, from 1100 East in Salt Lake City to headwaters		2B 3A		4
Parleys Creek and tributaries, from 1300 East in Salt Lake City to Mountain Dell Reservoir	1C	2B 3A		
Parleys Creek and tributaries, from Mountain Dell Reservoir to headwaters	1C	2B 3A		
Mill Creek (Salt Lake County) from confluence with Jordan River to Interstate 15		2B	3C*	4
Mill Creek (Salt Lake County) and tributaries, from Interstate 15 to headwaters		2B 3A		4
Big Cottonwood Creek and tributaries, from confluence with Jordan River to Big Cottonwood Water Treatment Plant		2B 3A		4
Big Cottonwood Creek and tributaries from Big Cottonwood Water Treatment Plant to headwaters	1C	2B 3A		
Deaf Smith Canyon Creek and tributaries	1C	2B 3A		4

Little Cottonwood Creek and tributaries, from confluence with Jordan River to Metropolitan Water Treatment Plant		2B 3A	4
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Little Cottonwood Creek and tributaries, from Metropolitan Water Treatment Plant to headwaters	1C	2B 3A	
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Bells Canyon Creek and tributaries, from Lower Bells Canyon Reservoir to headwaters	1C	2B 3A	
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Little Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C	2B 3A	
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Big Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C	2B 3A	
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South Fork of Dry Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C	2B 3A	
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All permanent streams on east slope of Oquirrh Mountains (Coon, Barneys, Bingham, Butterfield, and Rose Creeks)	2B	3D	4
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Kersey Creek from confluence of C-7 Ditch to headwaters	2B	3D	
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(\*) Site-specific criteria are associated with this use.

#### b. Provo River Drainage

TABLE

Provo River and tributaries, from Utah Lake to <u>Provo City [Murdock] Diversion (2230 North St)</u>		2B 3A	4
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Provo River and tributaries, from <u>Provo City Diversion (2230 North St) [Murdock Diversion]</u> to headwaters, except as listed below:	1C	2B 3A	4
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Upper Falls drainage above Provo City diversion	1C	2B 3A	
Bridal Veil Falls drainage above Provo City diversion	1C	2B 3A	
Lost Creek and tributaries above Provo City diversion	1C	2B 3A	

#### c. Utah Lake Drainage

TABLE

Dry Creek and tributaries (above Alpine), from U.S. National Forest boundary to headwaters		2B 3A	4
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American Fork Creek and tributaries, from diversion at mouth of American Fork Canyon to headwaters		2B 3A	4
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Spring Creek and tributaries, from Utah Lake near Lehi to headwaters		2B 3A	4
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Lindon Hollow Creek and tributaries, from Utah Lake to headwaters	2B	3B	4
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Grove Creek from Murdock Diversion to headwaters	1C	2B 3A	
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# NOTICES OF PROPOSED RULES

Battle Creek from Murdock Diversion to Headwaters	1C	2B	3A		Peteetneet Creek and tributaries, from irrigation diversion above Maple Dell to headwaters	2B	3A	4	
Rock Canyon Creek and tributaries (East of Provo), from U.S. National Forest boundary to headwaters	1C	2B	3A	4	Summit Creek and tributaries (above Santaquin), from U.S. National Forest boundary to headwaters	2B	3A	4	
Mill Race (except from Interstate 15 to the Provo City WWTP discharge) and tributaries, from Utah Lake to headwaters		2B	3B	4	All other permanent streams entering Utah Lake	2B	3B	4	
Mill Race from Interstate 15 to the Provo City wastewater treatment plant discharge		2B	3B	4	13.6 Sevier River Basin a. Sevier River Drainage				
TABLE									
Spring Creek and tributaries, from Utah Lake (Provo Bay) to 50 feet upstream from the east boundary of the Industrial Parkway Road Right-of-way		2B	3B	4	Sevier River and tributaries, from Sevier Lake to Gunnison Bend Reservoir to U.S. National Forest boundary, except as listed below:	2B	3C	4	
Tributary to Spring Creek (Utah County) which receives the Springville City WWTP effluent from confluence with Spring Creek to headwaters		2B		3D	4	Sevier River from Gunnison Bend Reservoir to Clear Lake	2B	3C	4*
Spring Creek and tributaries from 50 feet upstream from the east boundary of the Industrial Parkway Road right-of-way to the headwaters		2B	3A	4	Beaver River and tributaries, from Minersville City to headwaters	2B	3A	4	
Ironton Canal from Utah Lake (Provo Bay) to the east boundary of the Denver and Rio Grande Western Railroad right-of-way		2B		3C	4	Little Creek and tributaries, from irrigation diversion to headwaters	2B	3A	4
Ironton Canal from the east boundary of the Denver and Rio Grande Western Railroad right-of-way to the point of diversion from Spring Creek		2B	3A	4	Pinto Creek and tributaries, from Newcastle Reservoir to headwaters	2B	3A	4	
Hobble Creek and tributaries, from Utah Lake to headwaters		2B	3A	4	Coal Creek and tributaries	2B	3A	4	
Dry Creek and tributaries, from Utah Lake (Provo Bay) to U.S. Highway 89		2B		3E	4	Summit Creek and tributaries	2B	3A	4
Dry Creek and tributaries, from U.S. Highway 89 to headwaters		2B	3A	4	Parowan Creek and tributaries	2B	3A	4	
Spanish Fork River and tributaries, from Utah Lake to diversion at Moark Junction		2B	3B	3D	4	Tributaries to Sevier River from Sevier Lake to Gunnison Bend Reservoir from U.S. National Forest boundary to headwaters, including:	2B	3A	4
Spanish Fork River and tributaries, from diversion at Moark Junction to headwaters		2B	3A	4	Pioneer Creek and tributaries, Millard County	2B	3A	4	
Benjamin Slough and tributaries, from Utah Lake to headwaters, except as listed below		2B	3B	4	Chalk Creek and tributaries, Millard County	2B	3A	4	
Beer Creek (Utah County) from 4850 West (in NE1/4NE1/4 sec. 36, T.8.S., R.1.E.) to headwaters		2B		3C	4	Meadow Creek and tributaries, Millard County	2B	3A	4
Salt Creek from Nephi diversion to headwaters		2B	3A	4	Corn Creek and tributaries, Millard County	2B	3A	4	
Currant Creek from mouth of Goshen Canyon to Mona Reservoir		2B	3A	4	Sevier River and tributaries, below U.S. National Forest boundary from Gunnison Bend Reservoir to Annabella Diversion, except as listed below	2B	3B	4	
Currant Creek from Mona Reservoir to headwaters		2B	3A	4	Sevier River between Gunnison Bend Reservoir and DMAD Reservoir	2B	3B	4*	
					Oak Creek and tributaries Millard County	2B	3A	4	
					Round Valley Creek and tributaries, Millard County	2B	3A	4	
					Judd Creek and tributaries, Juab County	2B	3A	4	
					Meadow Creek and tributaries, Juab County	2B	3A	4	

NOTICES OF PROPOSED RULES

Cherry Creek and tributaries, Juab County	2B 3A	4	Parowan Creek and tributaries	2B 3A	4
			Duck Creek and tributaries	1C 2B 3A	4
Tanner Creek and tributaries, Juab County	2B	3E 4	(*) Site-specific criteria are associated with this use.		
Baker Hot Springs, Juab County	2B	3D 4	13.7 Great Salt Lake Basin		
Chicken Creek and tributaries, Juab County	2B 3A	4	a. Western Great Salt Lake Drainage		
San Pitch River and tributaries, from confluence with Sevier River to Highway U-132 crossing, except as listed below:	2B	3C 3D 4	TABLE		
San Pitch River from below Gunnison Reservoir to the Sevier River	2B	3C 3D 4*	Grouse Creek and tributaries, Box Elder County	2B 3A	4
Twelve Mile Creek (South Creek) and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4	Muddy Creek and tributaries, Box Elder County	2B 3A	4
Six Mile Creek and tributaries, Sanpete County	2B 3A	4	Dove Creek and tributaries, Box Elder County	2B 3A	4
Manti Creek (South Creek) and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4	Pine Creek and tributaries, Box Elder County	2B 3A	4
Ephraim Creek (Cottonwood Creek) and tributaries, from U.S. National Forest to headwaters	2B 3A	4	Rock Creek and tributaries, Box Elder County	2B 3A	4
Oak Creek and tributaries, from U.S. National Forest boundary near Spring City to headwaters	2B 3A	4	Fisher Creek and tributaries, Box Elder County	2B 3A	4
Fountain Green Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4	Dunn Creek and tributaries, Box Elder County	2B 3A	4
San Pitch River and tributaries, from Highway U-132 crossing to headwaters	2B 3A	4	Indian Creek and tributaries, Box Elder County	2B 3A	4
Lost Creek from the confluence with Sevier River to U.S. National Forest boundary	2B	3C 3D 4*	Tenmile Creek and tributaries, Box Elder County	2B 3A	4
Brine Creek-Petersen Creek from the confluence with the Sevier River to Highway U-119 Crossing	2B	3C 3D 4*	Curlew (Deep) Creek, Box Elder County	2B 3A	4
Tributaries to Sevier River from Gunnison Bend Reservoir to Annabella diversion from U.S. National Forest boundary to headwaters	2B 3A	4	Blue Creek and tributaries, Box Elder County, from Bear River Bay, Great Salt Lake to Blue Creek Reservoir	2B	3D 4*
Sevier River and tributaries, from Annabella diversion to headwaters	2B 3A	4	Blue Creek and tributaries from Blue Creek Reservoir to headwaters	2B	3B 4*
Monroe Creek and tributaries, from diversion to headwaters	2B 3A	4	All perennial streams on the east slope of the Pilot Mountain Range	1C 2B 3A	4
Little Creek and tributaries, from irrigation diversion to headwaters	2B 3A	4	Donner Creek and tributaries, from irrigation diversion to Utah-Nevada state line	2B 3A	4
Pinto Creek and tributaries, from Newcastle Reservoir to headwaters	2B 3A	4	Bettridge Creek and tributaries, from irrigation diversion to Utah-Nevada state line	2B 3A	4
Coal Creek and tributaries	2B 3A	4	North Willow Creek and tributaries, Tooele County	2B 3A	4
Summit Creek and tributaries	2B 3A	4	South Willow Creek and tributaries, Tooele County	2B 3A	4
			Hickman Creek and tributaries, Tooele County	2B 3A	4
			Barlow Creek and tributaries, Tooele County	2B 3A	4
			Clover Creek and tributaries, Tooele County	2B 3A	4
			Faust Creek and tributaries, Tooele County	2B 3A	4
			Vernon Creek and tributaries, Tooele County	2B 3A	4

# NOTICES OF PROPOSED RULES

## b. Farmington Bay Drainage

Ophir Creek and tributaries, Tooele County	2B 3A	4	TABLE		
Soldier Creek and tributaries, from the Drinking Water Treatment Facility to headwaters, Tooele County	1C 2B 3A	4	Corbett Creek and tributaries, from Highway to headwaters	2B 3A	4
Settlement Canyon Creek and tributaries, Tooele County	2B 3A	4	Kays Creek and tributaries, from Farmington Bay to U.S. National Forest boundary	2B 3B	4
Middle Canyon Creek and tributaries, Tooele County	2B 3A	4	North Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4
Tank Wash and tributaries, Tooele County	2B 3A	4	Middle Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Basin Creek and tributaries, Juab and Tooele Counties	2B 3A	4	South Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Thomas Creek and tributaries, Juab County	2B 3A	4	Snow Creek and tributaries	2B 3C	4
Indian Farm Creek and tributaries, Juab County	2B 3A	4	Holmes Creek and tributaries, from Farmington Bay to U.S. National Forest boundary	2B 3B	4
Cottonwood Creek and tributaries, Juab County	2B 3A	4	Holmes Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Red Cedar Creek and tributaries, Juab County	2B 3A	4	Baer Creek and tributaries, from Farmington Bay to Interstate 15	2B 3B	4
Granite Creek and tributaries, Juab County	2B 3A	4	Baer Creek and tributaries, from Interstate 15 to U.S. Highway 89	2B 3B	4
Trout Creek and tributaries, Juab County	2B 3A	4	Baer Creek and tributaries, from U.S. Highway 89 to headwaters	1C 2B 3A	4
Birch Creek and tributaries, Juab County	2B 3A	4	Shepard Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Deep Creek and tributaries, from Rock Spring Creek to headwaters, Juab and Tooele Counties	2B 3A	4	Farmington Creek and tributaries, from Farmington Bay Waterfowl Management Area to U.S. National Forest boundary	2B 3B	4
Cold Spring, Juab County	2B 3C 3D				
Cane Spring, Juab County	2B 3C 3D				
Lake Creek, from Garrison (Pruess) Reservoir to Nevada state line	2B 3A	4	Farmington Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Snake Creek and tributaries, Millard County	2B 3B	4	Rudd Creek and tributaries, from Davis aqueduct to headwaters	2B 3A	4
Salt Marsh Spring Complex, Millard County	2B 3A		Steed Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Twin Springs, Millard County	2B 3B		Davis Creek and tributaries, from U.S. Highway 89 to headwaters	2B 3A	4
Tule Spring, Millard County	2B 3C 3D		Lone Pine Creek and tributaries, from U.S. Highway 89 to headwaters	2B 3A	4
Coyote Spring Complex, Millard County	2B 3C 3D		Ricks Creek and tributaries, from Highway Interstate 15 to headwaters	1C 2B 3A	4
Hamblin Valley Wash and tributaries, from Nevada state line to headwaters (Beaver and Iron Counties)	2B 3D	4	Barnard Creek and tributaries, from U.S. Highway 89 to headwaters	2B 3A	4
Indian Creek and tributaries, Beaver County, from Indian Creek Reservoir to headwaters	2B 3A	4	Parrish Creek and tributaries, from Davis Aqueduct to headwaters	2B 3A	4
Shoal Creek and tributaries, Iron County	2B 3A	4			
(*) Site-specific criteria are associated with this use.					



Deuel Creek and tributaries, (Centerville Canyon) from Davis Aqueduct to headwaters	2B 3A	4
Stone Creek and tributaries, from Farmington Bay Waterfowl Management Area to U.S. National Forest Boundary	2B 3A	4
Stone Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Barton Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4
Mill Creek (Davis County) and tributaries, from confluence with State Canal to U.S. National Forest boundary	2B 3B	4
Mill Creek (Davis County) and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
North Canyon Creek and tributaries from U.S. National Forest boundary to headwaters	2B 3A	4
Howard Slough	2B 3C	4
Hooper Slough	2B 3C	4
Willard Slough	2B 3C	4
Willard Creek to Headwaters	1C 2B 3A	4
Chicken Creek to Headwaters	1C 2B 3A	4
Cold Water Creek to Headwaters	1C 2B 3A	4
One House Creek to Headwaters	1C 2B 3A	4
Garner Creek to Headwaters	1C 2B 3A	4

### 13.8 Snake River Basin

#### a. Raft River Drainage (Box Elder County)

TABLE

Raft River and tributaries	2B 3A	4
Clear Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
Onemile Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
George Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
Johnson Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
Birch Creek and tributaries, from state line to headwaters	2B 3A	4
Pole Creek and tributaries, from state line to headwaters	2B 3A	4
Goose Creek and tributaries	2B 3A	4
Hardesty Creek and tributaries, from state line to headwaters	2B 3A	4

Meadow Creek and tributaries, from state line to headwaters	2B 3A	4
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13.9 All irrigation canals and ditches statewide, except as  
otherwise designated: 2B, 3E, 4

13.10 All drainage canals and ditches statewide, except as  
otherwise designated: 2B, 3E

13.11 National Wildlife Refuges and State  
Waterfowl Management Areas, and other Areas Associated  
with the Great Salt Lake

TABLE

Bear River National Wildlife Refuge, Box Elder County	2B 3B 3D
Bear River Bay	
Open Water below approximately 4,208 ft.	5C
Transitional Waters approximately 4,208 ft. to Open Water	5E
Open Water above approximately 4,208 ft.	2B 3B 3D
Browns Park Waterfowl Management Area, Daggett County	2B 3A 3D
Clear Lake Waterfowl Management Area, Millard County	2B 3C 3D
Desert Lake Waterfowl Management Area, Emery County	2B 3C 3D
Farmington Bay Waterfowl Management Area, Davis and Salt Lake Counties	2B 3C 3D
Farmington Bay	
Open Water below approximately 4,208 ft.	5D
Transitional Waters approximately 4,208 ft. to Open Water	5E
Open Water above approximately 4,208 ft.	2B 3B 3D
Fish Springs National Wildlife Refuge, Juab County	2B 3C 3D
Harold Crane Waterfowl Management Area, Box Elder County	2B 3C 3D
Gilbert Bay	
Open Water below approximately 4,208 ft.	5A
Transitional Waters approximately 4,208 ft. to Open Water	5E
Open Water above approximately 4,208 ft.	2B 3B 3D
Gunnison Bay	
Open Water below approximately 4,208 ft.	5B
Transitional Waters approximately 4,208 ft. to Open Water	5E
Open Water above approximately 4,208 ft.	2B 3B 3D
Howard Slough Waterfowl Management Area, Weber County	2B 3C 3D

## NOTICES OF PROPOSED RULES

Locomotive Springs Waterfowl  
Management Area, Box Elder County 2B 3B 3D  
Ogden Bay Waterfowl Management  
Area, Weber County 2B 3C 3D

Ouray National Wildlife Refuge,  
Uintah County 2B 3B 3D

Powell Slough Waterfowl  
Management Area, Utah County 2B 3C 3D

Public Shooting Grounds Waterfowl  
Management Area, Box Elder County 2B 3C 3D

Salt Creek Waterfowl Management  
Area, Box Elder County 2B 3C 3D

Stewart Lake Waterfowl Management  
Area, Uintah County 2B 3B 3D

Timpie Springs Waterfowl  
Management Area, Tooele County 2B 3B 3D

13.12 Lakes and Reservoirs. All lakes and any reservoirs  
greater than 10 acres not listed in 13.12 are assigned by default to the  
classification of the stream with which they are associated.

### a. Beaver County

TABLE

Anderson Meadow Reservoir 2B 3A 4  
Manderfield Reservoir 2B 3A 4  
LaBaron Reservoir 2B 3A 4  
Kents Lake 2B 3A 4  
Minersville Reservoir 2B 3A 3D 4  
Puffer Lake 2B 3A  
Three Creeks Reservoir 2B 3A 4

### b. Box Elder County

TABLE

Cutler Reservoir (including  
portion in Cache County) 2B 3B 3D 4  
Etna Reservoir 2B 3A 4  
Lynn Reservoir 2B 3A 4  
Mantua Reservoir 2B 3A 4  
Willard Bay Reservoir 1C 2A 3B 3D 4

### c. Cache County

TABLE

Hyrum Reservoir 2A 3A 4  
Newton Reservoir 2B 3A 4  
Porcupine Reservoir 2B 3A 4  
Pelican Pond 2B 3B 4  
Tony Grove Lake 2B 3A 4

### d. Carbon County

TABLE

Grassy Trail Creek Reservoir 1C 2B 3A 4  
Olsen Pond 2B 3B 4  
Scofield Reservoir 1C 2B 3A 4

### e. Daggett County

TABLE

Browne Reservoir 2B 3A 4  
Daggett Lake 2B 3A 4  
Flaming Gorge Reservoir (Utah  
portion) 1C 2A 3A 4  
Long Park Reservoir 1C 2B 3A 4  
Sheep Creek Reservoir 2B 3A 4  
Spirit Lake 2B 3A 4  
Upper Potter Lake 2B 3A 4

### f. Davis County

TABLE

Farmington Ponds 2B 3A 4  
Kaysville Highway Ponds 2B 3A 4  
Holmes Creek Reservoir 2B 3B 4

### g. Duchesne County

TABLE

Allred Lake 2B 3A 4  
Atwine Lake 2B 3A 4  
Atwood Lake 2B 3A 4  
Betsy Lake 2B 3A 4  
Big Sandwash Reservoir 1C 2B 3A 4  
Bluebell Lake 2B 3A 4  
Brown Duck Reservoir 2B 3A 4  
Butterfly Lake 2B 3A 4  
Cedarview Reservoir 2B 3A 4  
Chain Lake #1 2B 3A 4  
Chepeta Lake 2B 3A 4  
Clements Reservoir 2B 3A 4  
Cleveland Lake 2B 3A 4  
Cliff Lake 2B 3A 4  
Continent Lake 2B 3A 4  
Crater Lake 2B 3A 4

NOTICES OF PROPOSED RULES

Crescent Lake	2B 3A	4	Spirit Lake	2B 3A	4
Daynes Lake	2B 3A	4	Starvation Reservoir	1C 2A 3A	4
Dean Lake	2B 3A	4	Superior Lake	2B 3A	4
Doll Lake	2B 3A	4	Swasey Hole Reservoir	2B 3A	4
Drift Lake	2B 3A	4	Taylor Lake	2B 3A	4
Elbow Lake	2B 3A	4	Thompson Lake	2B 3A	4
Farmers Lake	2B 3A	4	Timothy Reservoir #1	2B 3A	4
Fern Lake	2B 3A	4	Timothy Reservoir #6	2B 3A	4
Fish Hatchery Lake	2B 3A	4	Timothy Reservoir #7	2B 3A	4
Five Point Reservoir	2B 3A	4	Twin Pots Reservoir	1C 2B 3A	4
Fox Lake Reservoir	2B 3A	4	Upper Stillwater Reservoir	1C 2B 3A	4
Governors Lake	2B 3A	4	X - 24 Lake	2B 3A	4
Granddaddy Lake	2B 3A	4	h. Emery County		
Hoover Lake	2B 3A	4	TABLE		
Island Lake	2B 3A	4	Cleveland Reservoir	2B 3A	4
Jean Lake	2B 3A	4	Electric Lake	2B 3A	4
Jordan Lake	2B 3A	4	Huntington Reservoir	2B 3A	4
Kidney Lake	2B 3A	4	Huntington North Reservoir	2A 3B	4
Kidney Lake West	2B 3A	4	Joes Valley Reservoir	2A 3A	4
Lily Lake	2B 3A	4	Millsite Reservoir	1C 2A 3A	4
Midview Reservoir (Lake Boreham)	2B 3B	4	i. Garfield County		
Milk Reservoir	2B 3A	4	TABLE		
Mirror Lake	2B 3A	4	Barney Lake	2B 3A	4
Mohawk Lake	2B 3A	4	Cyclone Lake	2B 3A	4
Moon Lake	1C 2A 3A	4	Deer Lake	2B 3A	4
North Star Lake	2B 3A	4	Jacobs Valley Reservoir	2B 3C 3D	4
Palisade Lake	2B 3A	4	Lower Bowns Reservoir	2B 3A	4
Pine Island Lake	2B 3A	4	North Creek Reservoir	2B 3A	4
Pinto Lake	2B 3A	4	Panguitch Lake	2B 3A	4
Pole Creek Lake	2B 3A	4	Pine Lake	2B 3A	4
Potters Lake	2B 3A	4	Oak Creek Reservoir (Upper Bowns)	2B 3A	4
Powell Lake	2B 3A	4	Pleasant Lake	2B 3A	4
Pyramid Lake	2A 3A	4	Posey Lake	2B 3A	4
Queant Lake	2B 3A	4	Purple Lake	2B 3A	4
Rainbow Lake	2B 3A	4	Raft Lake	2B 3A	4
Red Creek Reservoir	2B 3A	4	Row Lake #3	2B 3A	4
Rudolph Lake	2B 3A	4	Row Lake #7	2B 3A	4
Scout Lake	2A 3A	4	Spectacle Reservoir	2B 3A	4
Spider Lake	2B 3A	4			

## NOTICES OF PROPOSED RULES

Tropic Reservoir	2B 3A	4
West Deer Lake	2B 3A	4
Wide Hollow Reservoir	2B 3A	4

### j. Iron County

TABLE

Newcastle Reservoir	2B 3A	4
Red Creek Reservoir	2B 3A	4
Yankee Meadow Reservoir	2B 3A	4

### k. Juab County

TABLE

Chicken Creek Reservoir	2B	3C 3D	4
Mona Reservoir	2B	3B	4
Sevier Bridge (Yuba) Reservoir	2A	3B	4

### l. Kane County

TABLE

Navajo Lake	2B 3A	4
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### m. Millard County

TABLE

DMAD Reservoir	2B	3B	4
Fools Creek Reservoir	2B	3C 3D	4
Garrison Reservoir (Pruess Lake)	2B	3B	4
Gunnison Bend Reservoir	2B	3B	4

### n. Morgan County

TABLE

East Canyon Reservoir	1C 2A	3A	4
Lost Creek Reservoir	1C	2B 3A	4

### o. Piute County

TABLE

Barney Reservoir	2B 3A	4
Lower Boxcreek Reservoir	2B 3A	4
Manning Meadow Reservoir	2B 3A	4
Otter Creek Reservoir	2B 3A	4
Piute Reservoir	2B 3A	4
Upper Boxcreek Reservoir	2B 3A	4

### p. Rich County

TABLE

Bear Lake (Utah portion)	2A	3A	4
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Birch Creek Reservoir	2B 3A	4
Little Creek Reservoir	2B 3A	4
Woodruff Creek Reservoir	2B 3A	4

### q. Salt Lake County

TABLE

Decker Lake	2B	3B	3D	4
Lake Mary	1C	2B 3A		
Little Dell Reservoir	1C	2B 3A		
Mountain Dell Reservoir	1C	2B 3A		

### r. San Juan County

TABLE

Blanding Reservoir #4	1C	2B 3A		4
Dark Canyon Lake	1C	2B 3A		4
Kens Lake		2B 3A*		4
Lake Powell (Utah portion)	1C 2A	3B		4
Lloyds Lake	1C	2B 3A		4
Monticello Lake		2B 3A		4
Recapture Reservoir		2B 3A		4

(\*) Site-specific criteria are associated with this use.

### s. Sanpete County

TABLE

Duck Fork Reservoir		2B 3A		4
Fairview Lakes	1C	2B 3A		4
Ferron Reservoir		2B 3A		4
Lower Gooseberry Reservoir	1C	2B 3A		4
Gunnison Reservoir		2B	3C	4
Island Lake		2B 3A		4
Miller Flat Reservoir		2B 3A		4
Ninemile Reservoir		2B 3A		4
Palisade Reservoir	2A	3A		4
Rolfson Reservoir		2B	3C	4
Twin Lakes		2B 3A		4
Willow Lake		2B 3A		4

### t. Sevier County

TABLE

Annabella Reservoir		2B 3A		4
Big Lake		2B 3A		4
Farnsworth Lake		2B 3A		4

NOTICES OF PROPOSED RULES

Fish Lake	2B 3A	4	Marsh Lake	2B 3A	4
Forsythe Reservoir	2B 3A	4	Marshall Lake	2B 3A	4
Johnson Valley Reservoir	2B 3A	4	McPheters Lake	2B 3A	4
Koosharem Reservoir	2B 3A	4	Meadow Reservoir	2B 3A	4
Lost Creek Reservoir	2B 3A	4	Meeks Cabin Reservoir	2B 3A	4
Redmond Lake	2B 3B	4	Notch Mountain Reservoir	2B 3A	4
Rex Reservoir	2B 3A	4	Red Castle Lake	2B 3A	4
Salina Reservoir	2B 3A	4	Rockport Reservoir	1C 2A 3A	4
Sheep Valley Reservoir	2B 3A	4	Ryder Lake	2B 3A	4

u. Summit County

TABLE

Abes Lake	2B 3A	4	Smith Moorehouse Reservoir	1C 2B 3A	4
Alexander Lake	2B 3A	4	Star Lake	2B 3A	4
Amethyst Lake	2B 3A	4	Stateline Reservoir	2B 3A	4
Beaver Lake	2B 3A	4	Tamarack Lake	2B 3A	4
Beaver Meadow Reservoir	2B 3A	4	Trial Lake	1C 2B 3A	4
Big Elk Reservoir	2B 3A	4	Upper Lyman Lake	2B 3A	4
Blanchard Lake	2B 3A	4	Upper Red Castle	2B 3A	4
Bridger Lake	2B 3A	4	Wall Lake Reservoir	2B 3A	4
China Lake	2B 3A	4	Washington Reservoir	2B 3A	4
Cliff Lake	2B 3A	4	Whitney Reservoir	2B 3A	4

v. Tooele County

TABLE

Blue Lake	2B 3B	4
Clear Lake	2B 3B	4
Grantsville Reservoir	2B 3A	4
Horseshoe Lake	2B 3B	4
Kanaka Lake	2B 3B	4
Rush Lake	2B 3B	
Settlement Canyon Reservoir	2B 3A	4
Stansbury Lake	2B 3B	4
Vernon Reservoir	2B 3A	4

w. Uintah County

TABLE

Ashley Twin Lakes (Ashley Creek)	1C 2B 3A	4
Bottle Hollow Reservoir	2B 3A	4
Brough Reservoir	2B 3A	4
Calder Reservoir	2B 3A	4

## NOTICES OF PROPOSED RULES

Crouse Reservoir	2B 3A	4
East Park Reservoir	2B 3A	4
Fish Lake	2B 3A	4
Goose Lake #2	2B 3A	4
Matt Warner Reservoir	2B 3A	4
Oaks Park Reservoir	2B 3A	4
Paradise Park Reservoir	2B 3A	4
Pelican Lake	2B 3B	4
Red Fleet Reservoir	1C 2A 3A	4
Steinaker Reservoir	1C 2A 3A	4
Towave Reservoir	2B 3A	4
Weaver Reservoir	2B 3A	4
Whiterocks Lake	2B 3A	4
Workman Lake	2B 3A	4

### x. Utah County

#### TABLE

Big East Lake	2B 3A	4
Salem Pond	2A 3A	4
Silver Flat Lake Reservoir	2B 3A	4
Tibble Fork Reservoir[-]	2B 3A	4
Utah Lake	2A 3B 3D	4

### y. Wasatch County

#### TABLE

Currant Creek Reservoir	1C 2B 3A	4
Deer Creek Reservoir	1C 2A 3A	4
Jordanelle Reservoir	1C 2A 3A	4
Mill Hollow Reservoir	2B 3A	4
Strawberry Reservoir	1C 2B 3A	4

### z. Washington County

#### TABLE

Baker Dam Reservoir	2B 3A	4
Gunlock Reservoir	1C 2A 3B	4
Ivins Reservoir	2B 3B	4
Kolob Reservoir	2B 3A	4
Lower Enterprise Reservoir	2B 3A	4
Quail Creek Reservoir	1C 2A 3B	4
Sand Hollow Reservoir	1C 2A 3B	4
Upper Enterprise Reservoir	2B 3A	4

### aa. Wayne County

#### TABLE

Blind Lake	2B 3A	4
Cook Lake	2B 3A	4
Donkey Reservoir	2B 3A	4
Fish Creek Reservoir	2B 3A	4
Mill Meadow Reservoir	2B 3A	4
Raft Lake	2B 3A	4

### bb. Weber County

#### TABLE

Causey Reservoir	2B 3A	4
Pineview Reservoir	1C 2A 3A	4

### 13.13 Unclassified Waters

All waters not specifically classified are presumptively classified: 2B, 3D

### R317-2-14. Numeric Criteria.

#### TABLE 2.14.1

NUMERIC CRITERIA FOR DOMESTIC, RECREATION, AND AGRICULTURAL USES

Parameter	Domestic Source 1C(1)	Recreation and Aesthetics		Agri- culture
		2A	2B	4
BACTERIOLOGICAL (30-DAY GEOMETRIC MEAN) (NO.)/100 ML) (7)				
E. coli	206	126	206	
MAXIMUM (NO.)/100 ML) (7)				
E. coli	668	409	668	
PHYSICAL				
pH (RANGE)	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0
Turbidity Increase (NTU)		10	10	
METALS (DISSOLVED, MAXIMUM MG/L) (2)				
Arsenic	0.01			0.1
Barium	1.0			
Beryllium	<0.004			
Cadmium	0.01			0.01
Chromium	0.05			0.10
Copper				0.2
Lead	0.015			0.1
Mercury	0.002			
Selenium	0.05			0.05
Silver	0.05			
INORGANICS (MAXIMUM MG/L)				
Bromate	0.01			
Boron				0.75
Chlorite	<1.0			
Fluoride	4.0			
Nitrates as N	10			
Total Dissolved Solids (4)				1200

RADIOLOGICAL  
(MAXIMUM pCi/L)

Gross Alpha	15		15
Gross Beta	4 mrem/yr	Radium 226, 228	
(Combined)	5		
Strontium 90	8		
Tritium	20000		
Uranium	30		

ORGANICS  
(MAXIMUM UG/L)

2,4-D 94-75-7	70
2,4,5-TP 93-72-1	10
Alachlor 15972-60-8	2
Atrazine 1912-24-9	3
Carbofuran 1563-66-2	40
Dichloroethylene (cis-1,2) 156-59-2	70
Dalapon 75-99-0	200
Di(2ethylhexyl)adipate 103-23-1	400
Dibromochloropropane 96-12-8	0.2
Dinoseb 88-85-7	7
Diquat 85-00-7	20
Endothall 145-73-3	100
Ethylene Dibromide 106-93-4	0.05
Glyphosate 1071-83-6	700
Xylenes 1330-20-7	10,000

## POLLUTION

## INDICATORS (5)

BOD (MG/L)	5	5	5
Nitrate as N (MG/L)	4	4	
Total Phosphorus as P (MG/L) (6)	0.05	0.05	

## FOOTNOTES:

- (1) See also numeric criteria for water and organism in Table 2.14.6.
- (2) The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by approved laboratory methods for the required detection levels.
- (3) Reserved
- (4) SITE SPECIFIC STANDARDS FOR TOTAL DISSOLVED SOLIDS (TDS)

Blue Creek and tributaries, Box Elder County, from Bear River Bay, Great Salt Lake to Blue Creek Reservoir: March through October daily maximum 4,900 mg/l and an average of 3,800 mg/l; November through February daily maximum 6,300 mg/l and an average of 4,700 mg/l. Assessments will be based on TDS concentrations measured at the location of STORET 4960740.;

Blue Creek Reservoir and tributaries, Box Elder County, daily maximum 2,100 mg/l;

Castle Creek from confluence with the Colorado River to Seventh Day Adventist Diversion: 1,800 mg/l;

Cottonwood Creek from the confluence with Huntington Creek to Highway U-57: 3,500 mg/l;

Ferron Creek from the confluence with San Rafael River to Highway U-10: 3,500 mg/l;

Huntington Creek and tributaries from the confluence with Cottonwood Creek to Highway U-10: 4,800 mg/l;

Ivie Creek and its tributaries from the confluence with Muddy Creek to the confluence with Quitchapah Creek: 3,800 mg/l provided that total sulfate not exceed 2,000 mg/l to protect the livestock watering agricultural existing use;

Ivie Creek and its tributaries from the confluence with Quitchapah Creek to Highway U-10: 2,600 mg/l;

Kanab Creek and tributaries from immediately below the confluence with Sink Valley Wash to the confluence of Simpson Hollow Wash: April through November, daily maximum 1,900 mg/l. December through March, daily maximum 1,700 mg/l. Assessments shall be based on TDS concentrations measured in Kanab Creek.;

Kanab Creek and tributaries from immediately above Simpson Hollow Wash to irrigation diversion at confluence with Reservoir Canyon: April through November, daily maximum 1,400 mg/l. Assessments shall be based on TDS concentrations measured in Kanab Creek.;

Lost Creek from the confluence with Sevier River to U.S. National Forest boundary: 4,600 mg/l;

Muddy Creek and tributaries from the confluence with Ivie Creek to Highway U-10: 2,600 mg/l;

Muddy Creek from confluence with Fremont River to confluence with Ivie Creek: 5,800 mg/l;

North Creek from the confluence with Virgin River to headwaters: 2,035 mg/l;

Onion Creek from the confluence with Colorado River to road crossing above Stinking Springs: 3000 mg/l;

Brine Creek-Petersen Creek, from the confluence with the Sevier River to Highway U-119 Crossing: 9,700 mg/l;

Price River and tributaries from confluence with Green River to confluence with Soldier Creek: 3,000 mg/l;

Price River and tributaries from the confluence with Soldier Creek to Carbon Canal Diversion: 1,700 mg/l;

Quitchapah Creek and tributaries from the confluence with Ivie Creek to Highway U-10: 3,800 mg/l provided that total sulfate not exceed 2,000 mg/l to protect the livestock watering agricultural existing use;

Rock Canyon Creek from the confluence with Cottonwood Creek to headwaters: 3,500 mg/l;

San Pitch River from below Gunnison Reservoir to the Sevier River: 2,400 mg/l;

San Rafael River from the confluence with the Green River to Buckhorn Crossing: 4,100 mg/l;

San Rafael River from the Buckhorn Crossing to the confluence with Huntington Creek and Cottonwood Creek: 3,500 mg/l;

Sevier River between Gunnison Bend Reservoir and DMAD Reservoir: 1,725 mg/l;

Sevier River from Gunnison Bend Reservoir to Crafts Lake: 3,370 mg/l;

Silver Creek and tributaries, Summit County, from confluence with Tollgate Creek to headwaters: maximum 1,900 mg/L.

South Fork Spring Creek from confluence with Pelican Pond Slough Stream to U.S. Highway 89 1,450 mg/l (Apr.-Sept.)  
1,950 mg/l (Oct.-March)

Virgin River from the Utah/Arizona border to Pah Tempe Springs: 2,360 mg/l

(5) Investigations should be conducted to develop more information where these pollution indicator levels are exceeded. These indicators are superseded by numeric criteria in waters where promulgated.

(6) Total Phosphorus as P (mg/l) indicator for lakes and reservoirs shall be 0.025.

(7) Where the criteria are exceeded and there is a reasonable basis for concluding that the indicator bacteria *E. coli* are primarily from natural sources (~~wildlife~~), ~~(e.g.,)~~ such as in National

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Wildlife Refuges and State Waterfowl Management Areas, the criteria may be considered attained provided the density attributable to non-wildlife sources is less than the criteria. Exceedences of E. coli from nonhuman nonpoint sources will generally be addressed through appropriate Federal, State, and local nonpoint source programs.

Measurement of E. coli using the "Quanti-Tray 2000" procedure is approved as a field analysis. Other EPA approved methods may also be used.

For water quality assessment purposes, up to 10% of representative samples may exceed the 668 per 100 ml criterion (for 1C and 2B waters) and 409 per 100 ml (for 2A waters). For small data\_sets, where exceedences of these criteria are observed, follow-up ambient monitoring should be conducted to better characterize water quality.

TABLE 2.14.2  
NUMERIC CRITERIA FOR AQUATIC WILDLIFE(8)

Parameter	Aquatic Wildlife			
	3A	3B	3C	5
<b>PHYSICAL</b>				
Total Dissolved Gases	(1)	(1)		
Minimum Dissolved Oxygen (MG/L) (2)(2a)				
30 Day Average	6.5	5.5	5.0	5.0
7 Day Average	9.5/5.0	6.0/4.0		
Minimum	8.0/4.0	5.0/3.0	3.0	3.0
Max. Temperature(C)(3)	20	27	27	
Max. Temperature Change (C)(3)	2	4	4	
pH (Range)(2a)	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0
Turbidity Increase (NTU)	10	10	15	15
<b>METALS</b>				
<b>(TOTAL RECOVERABLE, UG/L)</b>				
Aluminum (4)_(5)				
4 Day Average	87	87	87	87
1 Hour Average	750	750	750	750
<b>METALS, METALLOIDS AND SUBSTANCES (4)</b>				
<b>(DISSOLVED, UG/L) (6)</b>				
<b>[UG/L)(5)</b>				
Aluminum				
4 Day Average (6)	87	87	87	87
1 Hour Average	750	750	750	750
<b>]</b>				
Arsenic (Trivalent)				
4 Day Average	150	150	150	150
1 Hour Average	340	340	340	340
Cadmium (7)				
4 Day Average	0.72	0.72	0.72	0.72
1 Hour Average	1.8	1.8	1.8	1.8
Chromium (Hexavalent)				
4 Day Average	11	11	11	11
1 Hour Average	16	16	16	16
Chromium (Trivalent) (7)				
4 Day Average	74	74	74	74
1 Hour Average	570	570	570	570
Copper (7)				
4 Day Average	9	9	9	9
1 Hour Average	13	13	13	13

Cyanide (Free)				
4 Day Average	5.2	5.2	5.2	
1 Hour Average	22	22	22	22
Iron (Maximum)	1000	1000	1000	1000
Lead (7)				
4 Day Average	2.5	2.5	2.5	2.5
1 Hour Average	65	65	65	65
Mercury				
4 Day Average	0.012	0.012	0.012	0.012
Nickel (7)				
4 Day Average	52	52	52	52
1 Hour Average	468	468	468	468
Selenium				
4 Day Average	4.6	4.6	4.6	4.6
1 Hour Average	18.4	18.4	18.4	18.4
Selenium (14)				
Gilbert Bay (Class 5A)				
Great Salt Lake				
Geometric Mean over Nesting Season (mg/kg dry wt)				12.5
Silver				
1 Hour Average (7)	3.2	3.2	3.2	3.2
Tributyltin				
4 Day Average	0.072	0.072	0.072	0.072
1 Hour Average	0.46	0.46	0.46	0.46
Zinc (7)				
4 Day Average	120	120	120	120
1 Hour Average	120	120	120	120
<b>INORGANICS</b>				
<b>(MG/L) (4)</b>				
Total Ammonia as N (9)				
30 Day Average	(9a)	(9a)	(9a)	(9a)
1 Hour Average	(9b)	(9b)	(9b)	(9b)
Chlorine (Total Residual)				
4 Day Average	0.011	0.011	0.011	0.011
1 Hour Average	0.019	0.019	0.019	0.019
Hydrogen Sulfide (Undissociated, Max. UG/L)	2.0	2.0	2.0	2.0
Phenol (Maximum)	0.01	0.01	0.01	0.01
<b>RADIOLOGICAL</b>				
<b>(MAXIMUM pCi/L)</b>				
<b>ORGANICS (UG/L) (4)</b>				
Acrolein				
4 Day Average	3.0	3.0	3.0	3.0
1 Hour Average	3.0	3.0	3.0	3.0
Aldrin				
1 Hour Average	1.5	1.5	1.5	1.5
Carbaryl				
4 Day Average	2.1	2.1	2.1	2.1
1 Hour Average	2.1	2.1	2.1	2.1
Chlordane				
4 Day Average	0.0043	0.0043	0.0043	0.0043
1 Hour Average	1.2	1.2	1.2	1.2
Chlorpyrifos				
4 Day Average	0.041	0.041	0.041	0.041
1 Hour Average	0.083	0.083	0.083	0.083



4,4' -DDT				
4 Day Average	0.0010	0.0010	0.0010	0.0010
1 Hour Average	0.55	0.55	0.55	0.55
Diazinon				
4 Day Average	0.17	0.17	0.17	0.17
1 Hour Average	0.17	0.17	0.17	0.17
Dieldrin				
4 Day Average	0.056	0.056	0.056	0.056
1 Hour Average	0.24	0.24	0.24	0.24
Alpha-Endosulfan				
4 Day Average	0.056	0.056	0.056	0.056
1 Hour Average	0.11	0.11	0.11	0.11
beta-Endosulfan				
4 Day Average	0.056	0.056	0.056	0.056
1 Day Average	0.11	0.11	0.11	0.11
Endrin				
4 Day Average	0.036	0.036	0.036	0.036
1 Hour Average	0.086	0.086	0.086	0.086
Heptachlor				
4 Day Average	0.0038	0.0038	0.0038	0.0038
1 Hour Average	0.26	0.26	0.26	0.26
Heptachlor epoxide				
4 Day Average	0.0038	0.0038	0.0038	0.0038
1 Hour Average	0.26	0.26	0.26	0.26
Hexachlorocyclohexane (Lindane)				
4 Day Average	0.08	0.08	0.08	0.08
1 Hour Average	1.0	1.0	1.0	1.0
Methoxychlor (Maximum)	0.03	0.03	0.03	0.03
Mirex (Maximum)	0.001	0.001	0.001	0.001
Nonylphenol				
4 Day Average	6.6	6.6	6.6	6.6
1 Hour Average	28.0	28.0	28.0	28.0
Parathion				
4 Day Average	0.013	0.013	0.013	0.013
1 Hour Average	0.066	0.066	0.066	0.066
PCBs				
4 Day Average	0.014	0.014	0.014	0.014
Pentachlorophenol (11)				
4 Day Average	15	15	15	15
1 Hour Average	19	19	19	19
Toxaphene				
4 Day Average	0.0002	0.0002	0.0002	0.0002
1 Hour Average	0.73	0.73	0.73	0.73
POLLUTION INDICATORS (10)				
Gross Alpha (pCi/L)	15	15	15	15
Gross Beta (pCi/L)	50	50	50	50
BOD (MG/L)	5	5	5	5
Nitrate as N (MG/L)	4	4	4	
Total Phosphorus as P(MG/L) (12)	0.05	0.05		

## FOOTNOTES:

- (1) Not to exceed 110% of saturation.
- (2) These limits are not applicable to lower water levels in deep impoundments. First number in column is for when early life stages are present, second number is for when all other life stages present.
- (2a) These criteria are not applicable to Great Salt Lake impounded wetlands. Surface water in these wetlands shall be protected from changes in pH and dissolved oxygen that create significant adverse impacts to the existing beneficial uses.

To ensure protection of uses, the Director shall develop reasonable protocols and guidelines that quantify the physical, chemical, and biological integrity of these waters. These protocols and guidelines will include input from local governments, the regulated community, and the general public. The Director will inform the Water Quality Board of any protocols or guidelines that are developed.

(3) Site Specific Standards for Temperature  
Kens Lake: From June 1st - September 20th, 27 degrees C.

(4) Where criteria are listed as 4-day average and 1-hour average concentrations, these concentrations should not be exceeded more often than once every three years on the average.

(5) ~~The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by EPA approved laboratory methods for the required detection levels.~~

~~(6)~~ The criterion for aluminum will be implemented as follows:

Until January 25, 2026, w[here] the pH [–] is equal to or greater than 7.0 and the hardness is equal to or greater than 50 ppm as CaCO<sub>3</sub> in the receiving water after mixing, the 87 ug/l chronic criterion, [–] expressed as total recoverable [–], will not apply, and aluminum will be regulated based on compliance with the 750 ug/l acute aluminum criterion [–] expressed as total recoverable [–].

On and after January 25, 2026, the one-hour and four-day aluminum criteria are incorporated by reference from Appendix K, Recommended Criteria for Various Water Chemistry Conditions, Final Ambient Water Quality Criteria for Aluminum 2018, EPA-822-R-18-001.

(5a) For water chemistry conditions not specifically listed in Appendix K, the criteria are the more stringent of the criteria bracketed by the two most similar water chemistry conditions or may be interpolated using the same equations used to create the Appendix K tables.

(5b) Criteria based on ambient water chemistry conditions must protect the water body over the full range of water chemistry conditions, including during conditions when aluminum is most toxic.

(5c) For characterizing ambient waters, total recoverable analytical methods may be used or different scientifically appropriate analytical methods that measure the bioavailable fraction of aluminum that includes the measurement of amorphous aluminum hydroxide yet minimizes the measurement of mineralized forms of aluminum such as aluminum silicates associated with suspended sediment particles or clays.

(6) The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by EPA approved laboratory methods for the required detection levels.

(7) Hardness dependent criteria. 100 mg/l used.  
Conversion factors for ratio of total recoverable metals to dissolved metals must also be applied.

In waters with a hardness greater than 400 mg/l as CaCO<sub>3</sub>, calculations will assume a hardness of 400 mg/l as CaCO<sub>3</sub>. See Table 2.14.3 for complete equations for hardness and conversion factors.

(8) See also numeric criteria for organism only in Table 2.14.6.

(9) The following equations are used to calculate Ammonia criteria concentrations:

(9a) The thirty-day average concentration of total ammonia nitrogen (in mg/l as N) does not exceed, more than once every three years on the average, the chronic criterion calculated using the following equations.

Fish Early Life Stages are Present:  
mg/l as N (Chronic) =  $((0.0577/(1+10^{0.688-pH})) + (2.487/(1+10^{pH-7.688}))) * \text{MIN}(2.85, 1.45*10^{0.028*(25-T)})$

Fish Early Life Stages are Absent:  
mg/l as N (Chronic) =  $((0.0577/(1+10^{0.688-pH})) + (2.487/(1+10^{pH-7.688}))) * 1.45*10^{0.028*(25-\text{MAX}(T, 7))}$

Mill Creek (Salt Lake County) from confluence with Jordan River to Interstate 15, Jordan River from ~~[900 South Street]~~ Farmington Bay to confluence

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with ~~Mill Creek~~ Little Cottonwood Creek, Surplus Canal from 900 South Street to diversion from the Jordan River, State Canal. Fish Early Life Stages are Present:  $\text{mg/l as N (Chronic)} = 0.9405 * ((0.0278/(1+10^{7.688-\text{pH}})) + [(1.1994/(1+10^{\text{pH}-7.688}))] * \text{MIN}(6.920, (7.547*10^{0.028*(20-\text{pH})}))])$

Mill Creek (Salt Lake County) from confluence with Jordan River to Interstate 15, Jordan River from Farmington Bay ~~900 South Street~~ to confluence

with ~~Mill Creek~~ Little Cottonwood Creek, Surplus Canal from 900 South Street to diversion from the Jordan River, State Canal. Fish Early Life Stages are Absent:

$\text{mg/L as N (chronic)} = 0.9[+]405 * [(0.0278/(1+10^{7.688-\text{pH}})) + (1.1994/(1+10^{\text{pH}-7.688}))] * (7.547*10^{0.028*(20-\text{MAX}(7,7)))}$

(9b) The one-hour average concentration of total ammonia nitrogen (in mg/l as N) does not exceed, more than once every three years on the average the acute criterion calculated using the following equations.

Class 3A:

$\text{mg/l as N (Acute)} = (0.275/(1+10^{7.204-\text{pH}})) + (39.0/1+10^{\text{pH}-7.204})$

Class 3B, 3C, 3D:

$\text{mg/l as N (Acute)} = 0.411/(1+10^{7.204-\text{pH}}) + (58.4/(1+10^{\text{pH}-7.204}))$

Mill Creek (Salt Lake County) from confluence with Jordan River to Interstate 15, Jordan River from Farmington Bay ~~900 South Street~~ to confluence

with Little Cottonwood Creek ~~Mill Creek~~, Surplus Canal from 900 South Street to diversion from the Jordan River, State Canal:

$\text{mg/l as N (Acute)} = 0.7249 * [(0.0114/(1+10^{7.204-\text{pH}})) + (1.6181/(1+10^{\text{pH}-7.204}))] * \text{MIN}(51.93, (62.15*10^{0.036*(20-\text{pH})}))$

In addition, the highest four-day average within the 30-day period should not exceed 2.5 times the chronic criterion. The "Fish Early Life Stages are Present" 30-day average total ammonia criterion will be applied by default unless it is determined by the Director, on a site-specific basis, that it is appropriate to apply the "Fish Early Life Stages are Absent" 30-day average criterion for all or some portion of the year. At a minimum, the "Fish Early Life Stages are Present" criterion will apply from the beginning of spawning through the end of the early life stages. Early life stages include the pre-hatch embryonic stage, the post-hatch free embryo or yolk-sac fry stage, and the larval stage for the species of fish expected to occur at the site. The Director will consult with the Division of Wildlife Resources in making such determinations. The Division will maintain information regarding the waterbodies and time periods where application of the "Early Life Stages are Absent" criterion is determined to be appropriate.

(10) Investigation should be conducted to develop more information where these levels are exceeded.

(11) pH dependent criteria. pH 7.8 used in table. See Table 2.14.4 for equation.

(12) Total Phosphorus as P (mg/l) as a pollution indicator for lakes and reservoirs shall be 0.025. These indicators are superseded by numeric criteria in waters where promulgated.

(13) Reserved

(14) The selenium water quality standard of 12.5 (mg/kg dry weight) for Gilbert Bay is a tissue based standard using the complete egg ~~or~~ embryo of aquatic dependent birds using Gilbert Bay based upon a minimum of five samples over the nesting season. Assessment procedures are incorporated as a part of this standard as follows:

Egg Concentration Triggers: DWQ Responses

Below 5.0 mg/kg: Routine monitoring with sufficient intensity to determine if selenium concentrations within the Great Salt Lake ecosystem are increasing.

5.0 mg/kg: Increased monitoring to address data gaps, loadings, and areas of uncertainty identified from initial Great Salt Lake selenium studies.

6.4 mg/kg: Initiation of a Level II Antidegradation review by the State for all discharge permit renewals or new discharge permits to Great Salt Lake. The Level II Antidegradation review may include an analysis of loading reductions.

9.8 mg/kg: Initiation of preliminary TMDL studies to evaluate

selenium loading sources.

12.5 mg/kg and above: Declare impairment. Formalize and implement TMDL.

Antidegradation

Level II Review procedures associated with this standard are referenced at R317-2-3.5.C.

TABLE  
1-HOUR AVERAGE (ACUTE) CONCENTRATION OF  
TOTAL AMMONIA AS N (MG/L)

pH	Class 3A	Class 3B, 3C, 3D
6.5	32.6	48.8
6.6	31.3	46.8
6.7	29.8	44.6
6.8	28.1	42.0
6.9	26.2	39.1
7.0	24.1	36.1
7.1	22.0	32.8
7.2	19.7	29.5
7.3	17.5	26.2
7.4	15.4	23.0
7.5	13.3	19.9
7.6	11.4	17.0
7.7	9.65	14.4
7.8	8.11	12.1
7.9	6.77	10.1
8.0	5.62	8.40
8.1	4.64	6.95
8.2	3.83	5.72
8.3	3.15	4.71
8.4	2.59	3.88
8.5	2.14	3.20
8.6	1.77	2.65
8.7	1.47	2.20
8.8	1.23	1.84
8.9	1.04	1.56
9.0	0.89	1.32

TABLE  
30-DAY AVERAGE (CHRONIC) CONCENTRATION OF  
TOTAL AMMONIA AS N (MG/L)

Fish Early Life Stages Present  
Temperature, C

pH	0	14	16	18	20	22	24	26	28	30
6.5	6.67	6.67	6.06	5.33	4.68	4.12	3.62	3.18	2.80	2.46
6.6	6.57	6.57	5.97	5.25	4.61	4.05	3.56	3.13	2.75	2.42
6.7	6.44	6.44	5.86	5.15	4.52	3.98	3.50	3.07	2.70	2.37
6.8	6.29	6.29	5.72	5.03	4.42	3.89	3.42	3.00	2.64	2.32
6.9	6.12	6.12	5.56	4.89	4.30	3.78	3.32	2.92	2.57	2.25
7.0	5.91	5.91	5.37	4.72	4.15	3.65	3.21	2.82	2.48	2.18
7.1	5.67	5.67	5.15	4.53	3.98	3.50	3.08	2.70	2.38	2.09
7.2	5.39	5.39	4.90	4.31	3.78	3.33	2.92	2.57	2.26	1.99
7.3	5.08	5.08	4.61	4.06	3.57	3.13	2.76	2.42	2.13	1.87
7.4	4.73	4.73	4.30	3.78	3.32	2.92	2.57	2.26	1.98	1.74
7.5	4.36	4.36	3.97	3.49	3.06	2.69	2.37	2.08	1.83	1.61
7.6	3.98	3.98	3.61	3.18	2.79	2.45	2.16	1.90	1.67	1.47
7.7	3.58	3.58	3.25	2.86	2.51	2.21	1.94	1.71	1.50	1.32
7.8	3.18	3.18	2.89	2.54	2.23	1.96	1.73	1.52	1.33	1.17
7.9	2.80	2.80	2.54	2.24	1.96	1.73	1.52	1.33	1.17	1.03
8.0	2.43	2.43	2.21	1.94	1.71	1.50	1.32	1.16	1.02	0.90
8.1	2.10	2.10	1.91	1.68	1.47	1.29	1.14	1.00	0.88	0.77
8.2	1.79	1.79	1.63	1.43	1.26	1.11	0.97	0.86	0.75	0.66
8.3	1.52	1.52	1.39	1.22	1.07	0.94	0.83	0.73	0.64	0.56
8.4	1.29	1.29	1.17	1.03	0.91	0.80	0.70	0.62	0.54	0.48
8.5	1.09	1.09	0.99	0.87	0.76	0.67	0.59	0.52	0.46	0.40
8.6	0.92	0.92	0.84	0.73	0.65	0.57	0.50	0.44	0.39	0.34
8.7	0.78	0.78	0.71	0.62	0.55	0.48	0.42	0.37	0.33	0.29
8.8	0.66	0.66	0.60	0.53	0.46	0.41	0.36	0.32	0.28	0.24
8.9	0.56	0.56	0.51	0.45	0.40	0.35	0.31	0.27	0.24	0.21
9.0	0.49	0.49	0.44	0.39	0.34	0.30	0.26	0.23	0.20	0.18

TABLE  
30-DAY AVERAGE (CHRONIC) CONCENTRATION OF  
TOTAL AMMONIA AS N (MG/L)

	Fish Early Life Stages Absent								
	Temperature, C								
pH	0-7	8	9	10	11	12	13	14	16
6.5	10.8	10.1	9.51	8.92	8.36	7.84	7.36	6.89	6.06
6.6	10.7	9.99	9.37	8.79	8.24	7.72	7.24	6.79	5.97
6.7	10.5	9.81	9.20	8.62	8.08	7.58	7.11	6.66	5.86
6.8	10.2	9.58	8.98	8.42	7.90	7.40	6.94	6.51	5.72
6.9	9.93	9.31	8.73	8.19	7.68	7.20	6.75	6.33	5.56
7.0	9.60	9.00	8.43	7.91	7.41	6.95	6.52	6.11	5.37
7.1	9.20	8.63	8.09	7.58	7.11	6.67	6.25	5.86	5.15
7.2	8.75	8.20	7.69	7.21	6.76	6.34	5.94	5.57	4.90
7.3	8.24	7.73	7.25	6.79	6.37	5.97	5.60	5.25	4.61
7.4	7.69	7.21	6.76	6.33	5.94	5.57	5.22	4.89	4.30
7.5	7.09	6.64	6.23	5.84	5.48	5.13	4.81	4.51	3.97
7.6	6.46	6.05	5.67	5.32	4.99	4.68	4.38	4.11	3.61
7.7	5.81	5.45	5.11	4.79	4.49	4.21	3.95	3.70	3.25
7.8	5.17	4.84	4.54	4.26	3.99	3.74	3.51	3.29	2.89
7.9	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89	2.54
8.0	3.95	3.70	3.47	3.26	3.05	2.86	2.68	2.52	2.21
8.1	3.41	3.19	2.99	2.81	2.63	2.47	2.31	2.17	1.91
8.2	2.91	2.73	2.56	2.40	2.25	2.11	1.98	1.85	1.63
8.3	2.47	2.32	2.18	2.04	1.91	1.79	1.68	1.58	1.39
8.4	2.09	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.17
8.5	1.77	1.66	1.55	1.46	1.37	1.28	1.20	1.13	0.990
8.6	1.49	1.40	1.31	1.23	1.15	1.08	1.01	0.951	0.836
8.7	1.26	1.18	1.11	1.04	0.976	0.915	0.858	0.805	0.707
8.8	1.07	1.01	0.944	0.885	0.829	0.778	0.729	0.684	0.601
8.9	0.917	0.860	0.806	0.758	0.709	0.664	0.623	0.584	0.513
9.0	0.790	0.740	0.694	0.651	0.610	0.572	0.536	0.503	0.442

pH	18	20	22	24	26	28	30
6.5	5.33	4.68	4.12	3.62	3.18	2.80	2.46
6.6	5.25	4.61	4.05	3.56	3.13	2.75	2.42
6.7	5.15	4.52	3.98	3.50	3.07	2.70	2.37
6.8	5.03	4.42	3.89	3.42	3.00	2.64	2.32
6.9	4.89	4.30	3.78	3.32	2.92	2.57	2.25
7.0	4.72	4.15	3.65	3.21	2.82	2.48	2.18
7.1	4.53	3.98	3.50	3.08	2.70	2.38	2.09
7.2	4.41	3.78	3.33	2.92	2.57	2.26	1.99
7.3	4.06	3.57	3.13	2.76	2.42	2.13	1.87
7.4	3.78	3.32	2.92	2.57	2.26	1.98	1.74
7.5	3.49	3.06	2.69	2.37	2.08	1.83	1.61
7.6	3.18	2.79	2.45	2.16	1.90	1.67	1.47
7.7	2.86	2.51	2.21	1.94	1.71	1.50	1.32
7.8	2.54	2.23	1.96	1.73	1.52	1.33	1.17
7.9	2.24	1.96	1.73	1.52	1.33	1.17	1.03
8.0	1.94	1.71	1.50	1.32	1.16	1.02	0.897
8.1	1.68	1.47	1.29	1.14	1.00	0.879	0.733
8.2	1.43	1.26	1.11	1.073	0.855	0.752	0.661
8.3	1.22	1.07	0.941	0.827	0.727	0.639	0.562
8.4	1.03	0.906	0.796	0.700	0.615	0.541	0.475
8.5	0.870	0.765	0.672	0.591	0.520	0.457	0.401
8.6	0.735	0.646	0.568	0.499	0.439	0.396	0.339
8.7	0.622	0.547	0.480	0.422	0.371	0.326	0.287
8.8	0.528	0.464	0.408	0.359	0.315	0.277	0.244
8.9	0.451	0.397	0.349	0.306	0.269	0.237	0.208
9.0	0.389	0.342	0.300	0.264	0.232	0.204	0.179

TABLE 2.14.3a  
EQUATIONS TO CONVERT TOTAL RECOVERABLE METALS STANDARD  
WITH HARDNESS (1) DEPENDENCE TO DISSOLVED METALS STANDARD  
BY APPLICATION OF A CONVERSION FACTOR (CF).

Parameter	4-Day Average (Chronic) Concentration (UG/L)
CADMIUM	$CF * e^{(0.7977 * \ln(\text{hardness}) - 3.909)}$ $CF = 1.101672 - \ln(\text{hardness}) (0.041838)$
CHROMIUM III	$CF * e^{(0.8190(\ln(\text{hardness})) + 0.6848)}$ $CF = 0.860$

COPPER  $CF * e^{(0.8545(\ln(\text{hardness})) - 1.702)}$   
 $CF = 0.960$

LEAD  $CF * e^{(1.273(\ln(\text{hardness})) - 4.705)}$   
 $CF = 1.46203 - \ln(\text{hardness}) (0.145712)$

NICKEL  $CF * e^{(0.8460(\ln(\text{hardness})) + 0.0584)}$   
 $CF = 0.997$

SILVER N/A

ZINC  $CF * e^{(0.8473(\ln(\text{hardness})) + 0.884)}$   
 $CF = 0.986$

TABLE 2.14.3b  
EQUATIONS TO CONVERT TOTAL RECOVERABLE METALS STANDARD  
WITH HARDNESS (1) DEPENDENCE TO DISSOLVED METALS STANDARD  
BY APPLICATION OF A CONVERSION FACTOR (CF).

Parameter	1-Hour Average (Acute) Concentration (UG/L)
CADMIUM	$CF * e^{(0.9789 * \ln(\text{hardness}) - 3.866)}$ $CF = 1.136672 - \ln(\text{hardness}) (0.041838)$
CHROMIUM (III)	$CF * e^{(0.8190(\ln(\text{hardness})) + 3.7256)}$ $CF = 0.316$
COPPER	$CF * e^{(0.9422(\ln(\text{hardness})) - 1.700)}$ $CF = 0.960$
LEAD	$CF * e^{(1.273(\ln(\text{hardness})) - 1.460)}$ $CF = 1.46203 - \ln(\text{hardness}) (0.145712)$
NICKEL	$CF * e^{(0.8460(\ln(\text{hardness})) + 2.255)}$ $CF = 0.998$
SILVER	$CF * e^{(1.72(\ln(\text{hardness})) - 6.59)}$ $CF = 0.85$
ZINC	$CF * e^{(0.8473(\ln(\text{hardness})) + 0.884)}$ $CF = 0.978$

FOOTNOTE:  
(1) Hardness as mg/l CaCO<sub>3</sub>.

TABLE 2.14.4  
EQUATIONS FOR PENTACHLOROPHENOL  
(pH DEPENDENT)

4-Day Average (Chronic) Concentration (UG/L)	1-Hour Average (Acute) Concentration (UG/L)
$e^{(1.005(\text{pH}) - 5.134)}$	$e^{(1.005(\text{pH}) - 4.869)}$

TABLE 2.14.5  
SITE SPECIFIC CRITERIA FOR\_  
DISSOLVED OXYGEN FOR  
[ ] JORDAN RIVER FROM FARMINGTON BAY TO CONFLUENCE WITH LITTLE [ ]  
COTTONWOOD CREEK, SURPLUS CANAL, AND STATE CANAL  
[SEE SECTION 2.13]

DISSOLVED OXYGEN:	
May-July	
7-day average	5.5 mg/l
30-day average	5.5 mg/l
Instantaneous minimum	4.5 mg/l
August-April	
30-day average	5.5 mg/l
Instantaneous minimum	4.0 mg/l

TABLE 2.14.6  
LIST OF HUMAN HEALTH CRITERIA (CONSUMPTION)

Chemical Parameter and CAS #	Water and Organism (ug/L)	Organism Only (ug/L)
	Class 1C	Class 3A,3B,3C,3D

# NOTICES OF PROPOSED RULES

Antimony 7440-36-0	5.6	640	1,4-Dichlorobenzene 106-46-7	300	900
Arsenic 7440-38-2	A	A	3,3-Dichlorobenzidine		
Beryllium 7440-41-7	C	C	91-94-1	0.049 B	0.15 B
Chromium III 16065-83-1	C	C	Diethyl Phthalate 84-66-2	600	600
Chromium VI 18540-29-9	C	C	Dimethyl Phthalate 131-11-3	2,000	2,000
Copper 7440-50-8	1,300		Di-n-Butyl Phthalate 84-74-2	20	30
Mercury 7439-97-6	A	A	2,4-Dinitrotoluene 121-14-2	0.049 B	1.7 B
Nickel 7440-02-0	610	4,600	Dinitrophenols 25550-58-7	10	1,000
Selenium 7782-49-2	170	4,200	1,2-Diphenylhydrazine		
Thallium 7440-28-0	0.24	0.47	122-66-7	0.03 B	0.2 B
Zinc 7440-66-6	7,400	26,000	Fluoranthene 206-44-0	20	20
Free Cyanide 57-12-5	4	400	Fluorene 86-73-7	50	70
Asbestos 1332-21-4	7 million Fibers/L		Hexachlorobenzene 118-74-1	0.000079 B	0.000079 B
2,3,7,8-TCDD Dioxin 1746-01-6	5.0 E -9 B	5.1 E-9 B	Hexachlorobutadiene 87-68-3	0.01 B	0.01 B
Acrolein 107-02-8	3	400	Hexachloroethane 67-72-1	0.1 B	0.1 B
Acrylonitrile 107-13-1	0.061	7.0	Hexachlorocyclopentadiene		
Benzene 71-43-2	2.1 B	51 B	77-47-4	4	4
Bromoform 75-25-2	7.0 B	120 B	Ideno 1,2,3-cdPyrene		
Carbon Tetrachloride 56-23-5	0.4 B	5 B	193-39-5	0.0012 B	0.0013 B
Chlorobenzene 108-90-7	100 MCL	800	Isophorone 78-59-1	34 B	1,800 B
Chlorodibromomethane 124-48-1	0.80 B	21 B	Nitrobenzene 98-95-3	10	600
Chloroform 67-66-3	60 B	2,000 B	N-Nitrosodiethylamine 55-18-5	0.0008 B	1.24 B
Dichlorobromomethane 75-27-4	0.95 B	27 B	N-Nitrosodimethylamine		
1,2-Dichloroethane 107-06-2	9.9 B	2,000 B	62-75-9	0.00069 B	3.0 B
1,1-Dichloroethylene 75-35-4	300 MCL	20,000	N-Nitrosodi-n-Propylamine		
1,2-Dichloropropane 78-87-5	0.90 B	31 B	621-64-7	0.0050 B	0.51 B
1,3-Dichloropropene 542-75-6	0.27	12	N-Nitrosodiphenylamine		
Ethylbenzene 100-41-4	68	130	86-30-6	3.3 B	6.0 B
Methyl Bromide 74-83-9	100	10,000	N-Nitrosopyrrolidine 930-55-2	0.016 B	34 B
Methylene Chloride 75-09-2	20 B	1,000 B	Pentachlorobenzene 608-93-5	0.1	0.1
1,1,2,2-Tetrachloroethane			Pyrene 129-00-0	20	30
79-34-5	0.2 B	3 B	1,2,4-Trichlorobenzene		
Tetrachloroethylene 127-18-4	10 B	29 B	120-82-1	0.071 MCL	0.076
Toluene 108-88-3	57	520	Aldrin 309-00-2	0.00000077 B	0.00000077 B
1,2 -Trans-Dichloroethylene			alpha-BHC 319-84-6	0.00036 B	0.00039 B
156-60-5	100 MCL	4,000	beta-BHC 319-85-7	0.0080 B	0.014 B
1,1,1-Trichloroethane 71-55-6	10,000 MCL	200,000	gamma-BHC (Lindane) 58-89-9	4.2 MCL	4.4
1,1,2-Trichloroethane 79-00-5	0.55 B	8.9 B	Hexachlorocyclohexane (HCH)		
Trichloroethylene 79-01-6	0.6 B	7 B	Technical 608-73-1	0.0066	0.010
Vinyl Chloride 75-01-4	0.022	1.6	Chlordane 57-74-9	0.00031 B	0.00032 B
2-Chlorophenol 95-57-8	30	800	4,4-DDT 50-29-3	0.000030 B	0.000030 B
2,4-Dichlorophenol 120-83-2	10	60	4,4-DDE 72-55-9	0.000018 B	0.000018 B
2,4-Dimethylphenol 105-67-9	100	3,000	4,4-DDD 72-54-8	0.00012 B	0.00012 B
2-Methyl-4,6-Dinitrophenol			Dieldrin 60-57-1	0.0000012 B	0.0000012 B
534-52-1	2	30	alpha-Endosulfan 959-98-8	20	30
2,4-Dinitrophenol 51-28-5	10	300	beta-Endosulfan 33213-65-9	20	40
3-Methyl-4-Chlorophenol			Endosulfan Sulfate 1031-07-8	20	40
59-50-7	500	2,000	Endrin 72-20-8	0.03	0.03
Pentachlorophenol 87-86-5	0.03 B	0.04 B	Endrin Aldehyde 7421-93-4	1	1
Phenol 108-95-2	4,000	300,000	Heptachlor 76-44-8	0.0000059 B	0.0000059 B
2,4,5-Trichlorophenol 95-95-4	300	600	Heptachlor Epoxide 1024-57-3	0.000032 B	0.000032 B
2,4,6-Trichlorophenol 88-06-2	1.5 B	2.8 B	Methoxychlor 72-43-5	0.02	0.02
Acenaphthene 83-32-9	70	90	Polychlorinated Biphenyls		
Anthracene 120-12-7	300	400	(PCBs) 1336-36-3	0.000064 B,D	0.000064 B,D
Benzidine 92-87-5	0.00014 B	0.011 B	Toxaphene 8001-35-2	0.00070 B	0.00071 B
Benzoanthracene 56-55-3	0.0012 B	0.0013 B	FOOTNOTES:		
Benzoapyrene 50-32-8	0.00012 B	0.00013 B	A. See Table 2.14.2		
Benzoofluoranthene 205-99-2	0.0012 B	0.0013 B	B. Based on carcinogenicity of 10-6 risk.		
Benzokfluoranthene 207-08-9	0.012 B	0.013 B	C. EPA has not calculated a human criterion for this		
Bis2-Chloromethylether			contaminant. However, permit authorities should address		
542-88-1	0.00015	0.017	this contaminant in NPDES permit actions using the State's existing		
Bis2-Chloromethylethylether			narrative criteria for toxics		
108-60-1	200 B	4000	D. This standard applies to total PCBs.		
Bis2-ChloroethylEther					
111-44-4	0.030 B	2.2 B			
Bis2-ChloroisopropylEther					
39638-32-9	1,400	65,000			
Bis2-EthylhexylPhthalate					
117-81-7	0.32 B	0.37 B			
Butylbenzyl Phthalate					
85-68-7	0.10	0.10			
2-Chloronaphthalene 91-58-7	800	1,000			
Chrysene 218-01-9	0.12 B	0.13 B			
DibenzoahAnthracene 53-70-3	0.00012 B	0.00013 B			
1,2-Dichlorobenzene 95-50-1	1,000	3,000			
1,3-Dichlorobenzene 541-73-1	7	10			

TABLE 2.14.7  
NUTRIENT CRITERIA FOR CLASSES 2A and 2B (1)

Nutrient Parameters	Criteria
Periphyton	125 mg/m2 chlorophyll-a or 49 g/m2 ash free dry mass

FOOTNOTES:  
(1)Applicable to all Category 1 and Category 2 streams with the following exceptions: Quitcupah Creek through Convulsion Canyon from U. S. Forest Service boundary upstream to East Spring

Canyon headwaters; North Fork of Quitchupah Creek from the U. S. Forest Service boundary upstream to its confluence with South Fork; Huntington Creek from U. S. Forest Service boundary to confluence with Crandall Creek and Crandall Creek to headwaters.

TABLE 2.14.8  
NUTRIENT CRITERIA FOR CLASSES 3A, 3B, 3C, and 3D(1)

Nutrient Parameters	Criteria(2)
Total Phosphorus	0.035 mg/L(3), and
Total Nitrogen	0.40 mg/L(3), or
Total Phosphorus	0.080 mg/L(3), and
Total Nitrogen	0.80 mg/L(3), and
Filamentous Algae	33% cover(4), or
Gross Primary Production	6 g O <sub>2</sub> /m <sup>2</sup> -day(5), or
Ecosystem Respiration	5 g O <sub>2</sub> /m <sup>2</sup> -day(5)

FOOTNOTES:

(1) Applicable to all Category 1 and Category 2 streams with the following exceptions: Quitchupah Creek through Convulsion Canyon from U. S. Forest Service boundary upstream to East Spring Canyon headwaters; North Fork of Quitchupah Creek from the U. S. Forest Service boundary upstream to its confluence with South Fork; Huntington Creek from U. S. Forest Service boundary to confluence with Crandall Creek and Crandall Creek to headwaters.

(2) For water quality assessments, Table 8, Decision Matrix That Will Be Used to Assess Support of Headwater Aquatic Life Uses for Nutrient-related Water Quality Problems, "Proposed Nutrient Criteria: Utah Headwater Streams[4], Utah Division of Water Quality, March, 2019 is incorporated by reference.

(3) Not to be exceeded seasonal average for the index period of algal growth through senescence.

(4) Not to be exceeded average based on at least [3]three transects perpendicular to stream flow and spatially dispersed along a reach of at least 50 meters

(5) Not to be exceeded during the index period of algal growth through senescence.

**KEY: water pollution, water quality standards**

**Date of Last Change:** ~~December 3, 2020~~ **2023**

**Notice of Continuation:** June 22, 2022

**Authorizing, and Implemented or Interpreted Law:** 19-5; FWPCA 33 USC 1251, 1311-1317, 1329

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R380-400</b>	<b>Filing ID:</b> <b>54963</b>
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**Agency Information**

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Administration (Health)
<b>Room number:</b>	427A
<b>Building:</b>	Martha Hughes Cannon Building
<b>Street address:</b>	288 N 1460 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 141000
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000

**Contact persons:**

Name:	Phone:	Email:
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

**General Information**

**2. Rule or section catchline:**

R380-400. Utah Medical Cannabis Act Rule

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

Rule R380-400 is repealed in its entirety and replaced with Rule R383-1 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-1. Any language not altered by S.B. 190 transfers to Rule R383-1.

(EDITOR'S NOTE: The proposed new Rule R383-1 is under ID 54952 in this issue, November 1, 2022, of the Bulletin.)

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

All requirements currently listed in Rule R380-400 are moved to the proposed new Rule R383-1. Any changes from the original rule are in the filing for Rule R383-1.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uoa>; Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uoa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

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

This fiscal impact is negligible to the state budget. The repeal of Rule R380-400 will not affect the state budget because the requirements currently listed in Rule R380-400 will be moved to the proposed new Rule R383-1.

**B) Local governments:**

The repeal of Rule R380-400 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-400 are in the proposed new Rule R383-1.

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

The repeal of Rule R380-400 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-400 are in the proposed new Rule R383-1.

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

The repeal of Rule R380-400 will not affect non-small businesses because the repeal will not result in non-small business expenditures or fiscal benefits because the requirements for Rule R380-400 are in the proposed new Rule R383-1.

**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 of Rule R380-400 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-400 are in the proposed new Rule R383-1.

**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 Rule R380-400 will not result in compliance costs for affected persons because the repeal will not result in compliance expenditures or fiscal benefits because the requirements for Rule R380-400 are in the proposed new Rule R383-1.

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

<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$900	\$900	\$900
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	\$0	\$0	\$0
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	\$0	\$0	\$0
<b>Net Fiscal Benefits</b>	\$0	\$0	\$0

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26-61a-202	Subsection 26-61a-607(1)	Subsection 26-61a-116(5)
Subsection 26-61a-505(2)	Subsection 26B-1-213(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.)

<b>A) Comments will be accepted until:</b>		12/01/2022
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R380. Health, Administration****[R380-400. Utah Medical Cannabis Act Rule.****R380-400 1. Authority and Purpose.**

Pursuant to Subsection 26-1-5(1), this rule defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act and Sections R380-400 through R380-411.

**R380-400 2. Definitions.**

(1) The definitions in Section 26-61a-102 apply in this rule. In addition the following apply in this rule.

(2) "Card" means any type of medical cannabis card or registration card, whichever is applicable, authorized under Title 26, Chapter 61a.

(3) "Cardholder area" means the area of a medical cannabis pharmacy where a product is purchased that is restricted to a medical cannabis cardholder, a medical cannabis pharmacy employee, or another individual authorized by the medical cannabis pharmacy's PIC.

(4) "Child care facility or preschool" means a child care facility approved by the Department to have a capacity of 300 or more children.

(5) "Courier agent" means a medical cannabis courier agent.

(6) "Department" means the Utah Department of Health.

(7) "Direct supervision" means that a PMP is physically present at a medical cannabis pharmacy facility and immediately available for in person face to face communication with the pharmacy agent.

(8) "EVS" means the electronic verification system established in Section 26-61-103.

(9) "ICS" means the inventory control system established in Section 4-41a-103.

(10) "Limited access area" means an indoor area of a medical cannabis pharmacy facility where medical cannabis and medical cannabis devices shall be stored, labeled, and disposed of that is separated from the cardholder and public areas of the medical cannabis pharmacy by a physical barrier with suitable locks and an electronic barrier to detect entry doors.

(11) "Pharmacy agent" means a medical cannabis pharmacy agent.

(12) "PIC" means a pharmacist in charge who oversees the operation and generally supervises a medical cannabis pharmacy.

(13) "PMP" means a medical cannabis pharmacy medical provider.

(14) "Public waiting area" means an area of the medical cannabis pharmacy where the public waits for cardholders and cardholders wait for authorization to enter the cardholder area. Non-cardholders and non-employees may be present in this area of the medical cannabis provider.

(15) "QMP" means a qualified medical provider.

(16) "UCIJS" means the Utah Criminal Justice Information System.

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

(18) "Utah resident" means an individual who has established a domicile in Utah.

**KEY: medical cannabis, marijuana**

**Date of Last Change: June 10, 2020**

**Authorizing, and Implemented or Interpreted Law: 26-1-5(1); 26-61a; 63C-3]**

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R380-401</b>	<b>Filing ID:</b>
		<b>54964</b>

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration (Health)	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

**General Information****2. Rule or section catchline:**

R380-401. Electronic Verification System and Inventory Control System



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

Rule R380-401 is repealed in its entirety and replaced with Rule R383-2 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-2. Any language not altered by S.B. 190 transfers to Rule R383-2.

(EDITOR'S NOTE: The proposed new Rule R383-2 is under ID 54953 in this issue, November 1, 2022, of the Bulletin.)

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

All requirements currently listed in Rule R380-401 are moved to the proposed new Rule R383-2. Any changes from the original rule are in the filing for Rule R383-2.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

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

This fiscal impact is negligible to the state budget. The repeal of Rule R380-401 will not affect the state budget because the requirements currently listed in Rule R380-401 will be moved to the proposed new Rule R383-2.

**B) Local governments:**

The repeal of Rule R380-401 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-401 are in the proposed new Rule R383-2.

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

The repeal of Rule R380-401 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-401 are in the proposed new Rule R383-2.

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

The repeal of Rule R380-401 will not affect non-small businesses because the repeal will not result in non-small business expenditures or fiscal benefits because the requirements for Rule R380-401 are in the proposed new Rule R383-2.

**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 of Rule R380-401 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-401 are in the proposed new Rule R383-2.

**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 Rule R380-401 will not result in compliance costs for affected persons because the repeal will not result in compliance expenditures or fiscal benefits because the requirements for Rule R380-401 are in the proposed new Rule R383-2.

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

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



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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26-61a-202	Subsection 26-61a-607(1)	Subsection 26-61a-116(5)
Subsection 26-61a-505(2)	Subsection 26B-1-213(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.)

<b>A) Comments will be accepted until:</b>		12/01/2022
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:** 12/08/2022

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R380. Health, Administration.**

**~~R380-401. Electronic Verification System and Inventory Control System.~~**

**~~R380-401-1. Authority and Purpose.~~**

~~Pursuant to Subsections 26-1-5(1) and 26-61a-103(4), this rule establishes EVS and ICS access limitations and standards and confidentiality requirements.~~

**~~R380-401-2. Definitions.~~**

~~For purposes of this section, the following definitions apply:~~

~~(1) "Law enforcement personnel" means law enforcement personnel who have access to UCHIS.~~

~~(2) "Safeguard" means to maintain the confidentiality of the information accessed and not use, release, publish, disclose or otherwise make available to any other person not authorized to access the information; for any other purpose than as specifically authorized or permitted by applicable law.~~

~~(3) "State agency employee" means an employee of the Utah Department of Health, Utah Department of Agriculture and Food, Utah Department of Technology Services and the Utah Department of Commerce, Division of Occupational and Professional Licensing.~~

~~(4) "UCHIS" means the Utah Criminal Justice Information System.~~

**~~R380-401-3. Access Limitations and Standards.~~**

~~(1) A person requests access to the data in the EVS and ICS by creating an account to begin an EVS or ICS application process.~~

~~(2) The following individual may access information in the EVS about themselves, or another cardholder for whom they are a guardian or caregiver, to the extent allowed in Title 26, Chapter 61a, Utah Medical Cannabis Act or Title 4, Chapter 41a, Utah Cannabis Production Establishments:~~

- ~~(a) a medical cannabis patient cardholder;~~
- ~~(b) a medical cannabis guardian cardholder; and~~
- ~~(c) a medical cannabis caregiver cardholder.~~

~~(3) The following individual may be granted EVS access to the extent allowed in Title 26, Chapter 61a, Utah Medical Cannabis Act or Title 4, Chapter 41a, Utah Cannabis Productions Establishments, and this rule:~~

- ~~(a) a QMP;~~
- ~~(b) a PMP;~~
- ~~(c) a pharmacy agent;~~
- ~~(d) a courier agent;~~
- ~~(e) a cannabis production establishment agent;~~
- ~~(f) a state agency employee; or~~
- ~~(g) law enforcement personnel.~~

~~(4) A medical cannabis cardholder may be granted EVS access for a purpose specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:~~

- ~~(a) to submit a card application, both initial and renewal;~~
- ~~(b) to submit an online payment of fee;~~
- ~~(c) to submit a petition to the Compassionate Use Board;~~
- ~~(d) to gain access to a home delivery medical cannabis pharmacy website, to order a product; and~~
- ~~(e) to complete a survey reporting patient outcomes and interactions with medical cannabis.~~

~~(5) A QMP may be granted EVS access and ICS access for purposes specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:~~

## NOTICES OF PROPOSED RULES

~~(a) to complete QMP registration, both initial and renewal;~~  
~~(b) to complete an online fee payment;~~  
~~(c) to submit, review, edit, or change patient medical information;~~  
~~(d) to submit a recommendation on behalf of a patient, to receive a specific dosage type and dosage amount of medical cannabis; and~~  
~~(e) to complete a survey reporting a patient outcome and interaction with medical cannabis.~~  
~~(6) A PMP may be granted EVS access and ICS access for a purpose specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:~~  
~~(a) to complete PMP registration, both initial and renewal;~~  
~~(b) to complete an online fee payment;~~  
~~(c) to review and verify a dosing parameter in a patient medical cannabis recommendation, submitted by a QMP;~~  
~~(d) to enter a dosing parameter in a medical cannabis recommendation, if it does not contain dosing parameters;~~  
~~(e) to complete a survey reporting a patient outcome and interaction with medical cannabis; and~~  
~~(f) to update employment status of a PMPs and a pharmacy agent.~~  
~~(7) An authorized state agency employee may be granted EVS access or ICS access for a purpose specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and Title 4, Chapter 41a, Utah Cannabis Productions Establishments, and this rule, including:~~  
~~(a) to process an application submitted by a licensee and a card applicant, both initial and renewal;~~  
~~(b) to review the inventory of a medical cannabis pharmacy and cannabis production establishment;~~  
~~(c) to manage a petition submitted to the Compassionate Use Board; and~~  
~~(d) to run an epidemiological report and statistics from data stored in the EVS.~~  
~~(8) A cannabis production establishment agent, pharmacy agent, and a courier agent may be granted EVS access and ICS access for any purpose specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:~~  
~~(a) for the purpose of completing agent registration, both initial and renewal;~~  
~~(b) to complete an online payment of fee;~~  
~~(c) to update employment status.~~  
~~(9) State and local law enforcement personnel may be granted EVS access through UCHHS, for the purpose of determining if an individual is in compliance with the state medical cannabis law.~~

### **R380-401-4. Applications for Access.**

~~(1) A person listed in Section R380-401-3 requests access to the data in the EVS and ICS by creating an account to begin an EVS or ICS application process.~~  
~~(2) An applicant's EVS access and ICS access is limited to the information submitted by the applicant, until the application is approved.~~  
~~(3) Once an application is approved, the level of EVS access and ICS access granted shall depend on the type of card or license issued:~~  
~~(a) a request for access shall be completed within the EVS application interface;~~  
~~(b) appropriate access shall be automatically requested with a cardholder and license application when applicable;~~

~~(c) a separate request for access may be completed, when the Department determines that a card or license application is not required;~~  
~~(d) required fields of a card or license application shall be completed by an applicant;~~  
~~(e) a request for access will not be considered submitted unless required information is provided.~~

### **R380-401-5. Confidentiality Requirements.**

~~(1) A person authorized to access information in the EVS and the ICS shall access only the minimum amount of information necessary to perform an authorized function specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, or Title 4, Chapter 41a, Utah Cannabis Productions Establishments, R68-27, Cannabis Cultivation, and this rule.~~  
~~(2) A person authorized to access information in the EVS and the ICS shall safeguard all information stored in those systems, including specific information about medical cannabis cardholders.~~  
~~(3) The Executive Director of the Department, or his or her designee, shall determine if an emergency situation shall warrant immediate release of medical cannabis cardholder information, to another state agency. The information may be released only to another governmental agency under the Memorandum of Understanding, or data sharing agreement, between the Department and the requesting agency.~~  
~~(4) A person authorized to access the EVS or ICS who fails to observe the confidentiality requirement of this rule may lose access the EVS and ICS, and may be subject to the penalties provided in Section 26-61a-103.~~

**KEY:** ~~medical cannabis, medical cannabis pharmacy, inventory control system, electronic verification system~~  
**Date of Last Change:** ~~June 10, 2020~~  
**Authorizing, and Implemented or Interpreted Law:** ~~4-41A; 26-61a; 26-61a-103(4); 63G-3]~~

## NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Repeal

**Rule or Section Number:**

**R380-402**

**Filing ID:**  
**54965**

### Agency Information

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Administration (Health)
<b>Room number:</b>	427A
<b>Building:</b>	Martha Hughes Cannon Building
<b>Street address:</b>	288 N 1460 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 141000
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000

Contact persons:		
Name:	Phone:	Email:
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

## General Information

<b>2. Rule or section catchline:</b> R380-402. Medical Cannabis Cards
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?): <p>Rule R380-402 is repealed in its entirety and replaced with Rule R383-3 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.</p> <p>S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-3. Any language not altered by S.B. 190 transfers to Rule R383-3.</p> <p>(EDITOR'S NOTE: The proposed new Rule R383-3 is under ID 54954 in this issue, November 1, 2022, of the Bulletin.)</p>
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule): <p>All requirements currently listed in Rule R380-402 are moved to the proposed new Rule R383-3. Any changes from the original rule are in the filing for Rule R383-3.</p> <p>Hearing Information for 11/07/2022, 10:00 AM:  <b>In-Person:</b> at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.</p> <p>Google Meet joining information:  <b>Video call link:</b> <a href="https://meet.google.com/eog-qbsy-uoq">https://meet.google.com/eog-qbsy-uoq</a>          Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:  <a href="https://tel.meet/eog-qbsy-uoq?pin=4354591598568">https://tel.meet/eog-qbsy-uoq?pin=4354591598568</a>  <b>Join by phone:</b> (US) +1 209-734-0016; PIN: 225961514</p>

## Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b> <p>This fiscal impact is negligible to the state budget. The repeal of Rule R380-402 will not affect the state budget because the requirements currently listed in Rule R380-402 will be moved to the proposed new Rule R383-3.</p>
<b>B) Local governments:</b> <p>The repeal of Rule R380-402 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-402 are in the proposed new Rule R383-3.</p>
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons): <p>The repeal of Rule R380-402 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-402 are in the proposed new Rule R383-3.</p>
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons): <p>The repeal of Rule R380-402 will not affect non-small businesses because the repeal will not result in non-small business expenditures or fiscal benefits because the requirements for Rule R380-402 are in the proposed new Rule R383-3.</p>
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ): <p>The repeal of Rule R380-402 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-402 are in the proposed new Rule R383-3.</p>
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?): <p>The repeal of R380-402 will not result in compliance costs for affected persons because the repeal will not result in compliance expenditures or fiscal benefits because the requirements for R380-402 are in the proposed new rule R383-3.</p>
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$900	\$900	\$900
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	\$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
<b>Total Fiscal Benefits</b>	\$0	\$0	\$0
<b>Net Fiscal Benefits</b>	\$0	\$0	\$0
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.			

#### Citation Information

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 26-61a-202	Subsection 26-61a-607(1)	Subsection 26-61a-116(5)
Subsection 26-61a-505(2)	Subsection 26B-1-213(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.)

<b>A) Comments will be accepted until:</b>	12/01/2022
<b>B) A public hearing (optional) will be held:</b>	
<b>On:</b>	<b>At:</b>
11/07/2022	10:00 AM
	Hearing information is listed above in Box 4

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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#### R380. Health, Administration.

##### ~~R380-402. Medical Cannabis Cards.~~

~~**R380-402-1. Medical Cannabis Cards—Authority and Purpose.**  
Pursuant to Subsections 26-1-5(1), 26-61a-201(8) and 26-61a-201(9), this rule establishes medical cannabis card application procedures, and renewal application procedures.~~

##### ~~**R380-402-2. Medical Cannabis Cards—Application Procedures.**~~

~~(1) The application procedures established in this section govern applications for initial issuance of a medical cannabis card, under Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

~~(2) Pursuant to Section 26-61a-201, upon issuance of a medical cannabis card, the Department shall provide the cardholder information regarding the following:~~

- ~~(a) risks associated with medical cannabis treatment;~~
- ~~(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment, or cure for that condition; and~~
- ~~(c) other relevant warnings and safety information that the Department determines.~~

~~(3) The information described in Subsection (2) shall be electronically provided to each medical cannabis cardholder, and shall be accessible to the public on the Department's website.~~

~~(4) Each card applicant shall apply upon forms available from the Department.~~

~~(5) The Department may issue a card to an applicant only if the applicant meets the card requirements established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.~~

~~(6) The Department shall provide a written notice of denial to an applicant who submits a complete application, if the Department determines that the applicant does not meet the card requirements.~~

~~(7) The Department shall provide a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.~~

~~(8) A written notice of denial and incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database, unless the cardholder has requested to be notified by regular mail.~~

~~(9) Each applicant shall maintain a current email and mailing address with the Department. Notice to the last email address on file with the Department constitutes legal notice, unless the cardholder has requested to be notified by regular mail.~~

### **~~R380-402-3. Medical Cannabis Cards—Renewal Application Procedures.~~**

~~(1) Renewal application procedures established in this section shall govern an application to renew a medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

~~(2) Each card applicant shall apply upon renewal application forms, available from the Department.~~

~~(3) The Department shall issue a card to an applicant who submits a complete renewal application, if the Department determines that the applicant meets the card requirements.~~

~~(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application, if the Department determines that the applicant does not meet the card requirements.~~

~~(5) The Department shall provide to an applicant a written notice of incomplete that the renewal application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.~~

~~(6) The Department shall send a renewal notice to each cardholder, at least 30 days before the expiration date shown on the cardholder's card. The notice shall include instructions for the cardholder to renew the card, via the Department's website.~~

~~(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database, unless the cardholder has requested to be notified by regular mail.~~

~~(8) Each cardholder shall maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice, unless the cardholder has requested to be notified by regular mail.~~

~~(9) A renewal notice shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid.~~

~~(10) If an individual's medical cannabis card expires, the individual may submit a card renewal application at any time; regardless of the length of time passed since the expiration of the card.~~

### **~~R380-402-4. Nonresident Medical Cannabis Cards—Application Procedures.~~**

~~(1) The application procedures established in this section govern applications for initial issuance of a nonresident medical cannabis card, under Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

~~(2) Pursuant to Section 26-61a-201, upon issuing a medical cannabis card, the Department shall provide the cardholder information regarding the following:~~

~~(a) risks associated with medical cannabis treatment;~~

~~(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment, or cure for that condition; and~~

~~(c) other relevant warnings and safety information that the Department determines.~~

~~(3) The information described in Subsection (2) shall be electronically provided to each nonresident medical cannabis cardholder, and shall be accessible to the public on the Department's website.~~

~~(4) Each card applicant shall apply upon forms available from the Department.~~

~~(5) The Department may issue a card to an applicant only if the applicant meets the card requirements established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.~~

~~(6) The Department shall provide a written notice of denial to an applicant who submits a complete application, if the Department determines that the applicant does not meet the card requirements.~~

~~(7) The Department shall provide a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.~~

~~(8) A written notice of denial and incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database, unless the cardholder has requested to be notified by regular mail.~~

~~(9) Each applicant shall maintain a current email and mailing address with the Department. Notice to the last email address on file with the Department constitutes legal notice, unless the cardholder has requested to be notified by regular mail.~~

### **~~R380-402-5. Nonresident Medical Cannabis Cards—Renewal Application Procedures.~~**

~~(1) Renewal application procedures established in this section shall govern an application to renew a nonresident medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

~~(2) Each card applicant shall apply upon renewal application forms, available from the Department.~~

~~(3) The Department shall issue a card to an applicant who submits a complete renewal application, if the Department determines that the applicant meets the card requirements.~~

~~(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application, if the Department determines that the applicant does not meet the card requirements.~~

~~(5) The Department shall provide to an applicant a written notice of incomplete that the renewal application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.~~

~~(6) The Department shall send a renewal notice to each cardholder, at least five days before the expiration date shown on the cardholder's card. The notice shall include instructions for the cardholder to renew the card, via the Department's website.~~

~~(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database, unless the cardholder has requested to be notified by regular mail.~~

~~(8) Each cardholder shall maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice, unless the cardholder has requested to be notified by regular mail.~~

~~(9) A renewal notice shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid.~~



## NOTICES OF PROPOSED RULES

~~(10) If an individual's medical cannabis card expires, the individual may submit a card renewal application at any time; regardless of the length of time passed since the expiration of the card.~~

**KEY:** ~~medical cannabis card, medical cannabis, marijuana~~  
**Date of Last Change:** ~~March 11, 2022~~  
**Authorizing, and Implemented or Interpreted Law:** ~~63G 3; 26-61a; 26-1-5(1); 26-61a-201(10) and (11)]~~

### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R380-403</b>	<b>Filing ID:</b> <b>54966</b>
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### Agency Information

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration (Health)	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

### General Information

<b>2. Rule or section catchline:</b>
R380-403. Qualified Medical Providers
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Rule R380-403 is repealed in its entirety and replaced with Rule R383-4 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.
S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires

the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-4. Any language not altered by S.B. 190 transfers to Rule R383-4.

(EDITOR'S NOTE: The proposed new Rule R383-4 is under ID 54955 in this issue, November 1, 2022, of the Bulletin.)

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

All requirements currently listed in Rule R380-403 are moved to the proposed new Rule R383-4. Any changes from the original rule are in the filing for Rule R383-4.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uoq>  
 Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uoq?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

### Fiscal Information

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

#### A) State budget:

This fiscal impact is negligible to the state budget. The repeal of Rule R380-403 will not affect the state budget because the requirements currently listed in Rule R380-403 will be moved to the proposed new Rule R383-4.

#### B) Local governments:

The repeal of Rule R380-403 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-403 are in the proposed new Rule R383-4.

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

The repeal of Rule R380-403 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-403 are in the proposed new Rule R383-4.

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

The repeal of Rule R380-403 will not affect non-small businesses because the repeal will not result in non-small business expenditures or fiscal benefits because the

requirements for Rule R380-403 are in the proposed new Rule R383-4.

**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 of Rule R380-403 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-403 are in the proposed new Rule R383-4.

**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 Rule R380-403 will not result in compliance costs for affected persons because the repeal will not result in compliance expenditures or fiscal benefits because the requirements for Rule R380-403 are in the proposed new Rule R383-4.

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

**Regulatory Impact Table**

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

<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26-61a-202	Subsection 26-61a-607(1)	Subsection 26-61a-116(5)
Subsection 26-61a-505(2)	Subsection 26B-1-213(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:		12/01/2022
B) A public hearing (optional) will be held:		
On:	At:	At:
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R380. Health, Administration.**

~~[R380-403. Qualified Medical Providers.~~

~~R380-403-1. Authority and Purpose.~~

~~Pursuant to Subsections 26-1-5(1) and 26-61a-106(3)(b), this rule establishes definitions of terms used in the rule and application procedures and continuing education requirements for QMPs.~~

**R380 403 2. Definitions.**

~~As used in this section:~~

~~(1) "Fundamentals of medical cannabis coursework" means a course, or combination of courses, with content that addresses the following subjects:~~

- ~~(a) endocannabinoid system and phytocannabinoids;~~
- ~~(b) general guidance and recommendations for medical cannabis; and~~
- ~~(c) history of cannabis, dosing forms, considerations, drug interactions, adverse reactions, contraindications (breastfeeding and pregnancy), and toxicology.~~

~~(2) "General medical cannabis coursework" means a course or combination of courses with content that addresses medical cannabis which may include medical cannabis law or fundamentals of medical cannabis coursework.~~

~~(3) "Medical cannabis law coursework" means a course, or combination of courses, with content that addresses Title 26, Chapter 61a, Utah Medical Cannabis Act, and other state and federal laws relating to medical cannabis; that includes, at a minimum, a review of the following:~~

- ~~(a) qualifying health conditions for which a patient may lawfully use medical cannabis, for medicinal purposes in Utah;~~
- ~~(b) forms of medical cannabis that qualifying patients are allowed, and prohibited, under Utah law;~~
- ~~(c) limits of the quantities of unprocessed cannabis, and cannabis products in medicinal form, that may be dispensed in Utah;~~
- ~~(d) requirements to initially register, and renew registration, as a QMP;~~
- ~~(e) limits to the number of active medical cannabis recommendations that a QMP can make at any given time;~~

~~(f) description of what a QMP must document in a patient's record, before recommending medical cannabis;~~

~~(g) information required from a QMP when writing a medical cannabis recommendation, and the option to make a recommendation without specifying a dosage form and dosing parameters;~~

~~(h) a PMP's role in determining the appropriate medical cannabis dosage form and dosage parameters, when a QMP chooses to recommend without specifying a dosage form and dosing parameters;~~

- ~~(i) limits on advertising by a QMP;~~
- ~~(j) types of medical cannabis cards;~~
- ~~(k) regulations controlling the distribution of product by medical cannabis pharmacies;~~

~~(l) partial fill orders;~~

~~(m) the role of the compassionate use board;~~

~~(n) that all medical cannabis purchased at medical cannabis pharmacies in Utah, is required to be cultivated at cannabis cultivation facilities, processed at cannabis processing facilities, and that samples be tested at independent cannabis testing laboratories; that are licensed in Utah and operate within Utah's medical cannabis system;~~

~~(o) the conditions of legal possession of medical cannabis under Utah law before and after January 1, 2021;~~

~~(p) legal status of medical and recreational marijuana in states surrounding Utah, and under federal law;~~

~~(q) authority to change dosage parameters in a medical cannabis recommendation, as outlined in R380 404, Dosing Parameters;~~

~~(r) home delivery of medical cannabis; and~~

~~(s) purpose of the state central patient portal.~~

**~~R380 403 3. Qualified Medical Providers Application Procedures.~~**

~~(1) The application procedures established in this section shall govern application for initial issuance of a QMP registration card under Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

~~(2) Each card applicant shall apply upon forms available in the EVS, from the Department.~~

~~(3) The Department may issue a QMP card, only if the Department determines that the applicant meets all requirements established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.~~

~~(4) The Department shall provide a written notice of denial to an applicant who submits a complete application, if the Department determines that the applicant does not meet the card requirements.~~

~~(5) The Department shall provide to the applicant a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiencies within the time period specified in the notice, and otherwise meets all card requirements.~~

~~(6) Written notices of denial or incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database, unless the applicant has requested to be notified by regular mail.~~

~~(7) Each applicant shall maintain a current email address with the Department. Notice to the last email address on file with the Department constitutes legal notice, unless the applicant has requested to be notified by regular mail.~~

**~~R380 403 4. Qualified Medical Provider Renewal Application Procedures.~~**

~~(1) Renewal application procedures established in this section shall govern applications to renew a QMP registration card.~~

~~(2) Each QMP registration card applicant shall apply upon renewal application forms, available from the Department.~~

~~(3) The Department may issue a card to an applicant who submits a complete renewal application, if the Department determines that the applicant meets the card requirements.~~

~~(4) The Department shall provide a written notice of denial to the applicant who submits a complete renewal application, if the Department determines that the applicant does not meet the card requirements.~~

~~(5) The Department shall provide to the applicant a written notice of incomplete that the renewal application will be closed, unless the applicant corrects the deficiencies within the time period specified in the notice, and otherwise meets all card requirements.~~

~~(6) The Department shall send a renewal notice to each cardholder at least 60 days prior to the expiration date shown on the QMP's card. The notice shall include instructions to renew the card in the EVS, via the Department's website.~~

~~(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database, unless the applicant has requested to be notified by regular mail.~~

~~(8) Each cardholder shall maintain a current email address and mailing address with the Department. Emailing to the last email address on file with the Department constitutes legal notice unless, the applicant has requested to be notified by regular mail.~~

~~(9) Renewal notices shall advise each cardholder that a QMP card automatically expires on the expiration date, and is no longer valid if it is not renewed prior to the expiration.~~

~~(10) If an individual's QMP registration card expires, the individual may submit a card renewal application at any time,~~



regardless of the length of time passed since the expiration of the card.

**R380-403-5. Qualified Medical Provider – Continuing Education Requirement.**

(1) Pursuant to Section Utah Code 26-61a-106, applicants for registration as a QMP shall verify completion of four hours of continuing education. Once registered as a QMP, an individual shall complete an additional four hours of continuing education every two years, as a requirement for renewal.

(2) To meet the continuing education requirement, all coursework shall include the following:

(a) approval by the Utah Department of Health;  
(b) be provided by organizations accredited through the Accreditation Council for Continuing Medical Education (ACCME), Accreditation Council for Pharmacy Education (ACPE), American Academy of Physician Assistants (AAPA), or the American Association of Nurse Practitioners (AANP);

(c) completion of a test with a passing score, as determined by the course provider, to verify comprehension of course content; and

(d) a certificate of completion.

(3) Initial registration as a QMP, requires at least four hours of continuing education, which shall include at a minimum:

(a) medical cannabis law coursework; and  
(b) fundamentals of medical cannabis coursework.

(4) A QMP shall renew registration every two years, after completing at least four hours of continuing education in general medical cannabis coursework, to be completed within two years prior to the date of the QMP's renewal application.

(5) The continuing education report shall be submitted with an individual's application for registration as a QMP, and shall include a certificate of completion for coursework completed after issuance of the most recent registration. Applications that do not include the continuing education report will be considered incomplete, and the Department will not process an application until the report is complete.

**KEY:** ~~medical cannabis, qualified medical provider, medical marijuana~~

**Date of Last Change:** June 10, 2020

**Authorizing, and Implemented or Interpreted Law:** 63C-3; 26-61a; 26-1-5(1); 26-61a-106(3)(b)

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R380-404</b>	<b>Filing ID:</b> <b>54967</b>
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**Agency Information**

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Administration (Health)
<b>Room number:</b>	427A
<b>Building:</b>	Martha Hughes Cannon Building
<b>Street address:</b>	288 N 1460 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116

<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

**2. Rule or section catchline:**

R380-404. Dosing Parameters

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

Rule R380-404 is repealed in its entirety and replaced with Rule R383-5 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-5. Any language not altered by S.B. 190 transfers to Rule R383-5.

(EDITOR'S NOTE: The proposed new Rule R383-5 is under ID 54956 in this issue, November 1, 2022, of the Bulletin.)

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

All requirements currently listed in Rule R380-404 are moved to the proposed new Rule R383-5. Any changes from the original rule are in the filing for Rule R383-5.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

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

This fiscal impact is negligible to the state budget. The repeal of Rule R380-404 will not affect the state budget because the requirements currently listed in Rule R380-404 will be moved to the proposed new Rule R383-5.

**B) Local governments:**

The repeal of Rule R380-404 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-404 are in the proposed new Rule R383-5.

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

The repeal of Rule R380-404 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-404 are in the proposed new Rule R383-5.

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

The repeal of Rule R380-404 will not affect non-small businesses because the repeal will not result in non-small business expenditures or fiscal benefits because the requirements for Rule R380-404 are in the proposed new Rule R383-5.

**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 of Rule R380-404 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-404 are in the proposed new Rule R383-5.

**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 Rule R380-404 will not result in compliance costs for affected persons because the repeal will not result in compliance expenditures or fiscal benefits because the requirements for Rule R380-404 are in the proposed new Rule R383-5.

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

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26-61a-202	Subsection 26-61a-607(1)	Subsection 26-61a-116(5)
Subsection 26-61a-505(2)	Subsection 26B-1-213(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.)

<b>A) Comments will be accepted until:</b>		12/01/2022
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R380. Health, Administration.****~~R380-404. Dosing Parameters.~~****~~R380-404.1. Authority and Purpose.~~**

~~Pursuant to Subsection 26-1-5(1), this rule establishes standards for dosing parameters in a medical cannabis recommendation.~~

**~~R380-404.2. Dosing Parameters in Medical Cannabis Recommendation.~~**

~~(1) A QMP can change the dosage form, or dosing parameters, in the EVS for their patient. A PMP shall not change the dosage form, or dosing parameters, entered in the EVS by a patient's QMP, without approval from the patient's QMP.~~

~~(2) A QMP may change the dosage form, or dosing parameters, specified by a patient's former QMP; so long as the cardholder has identified the current QMP as the QMP of record, and removed the former QMP from the EVS.~~

~~(3) If a QMP has not specified the dosage form, or dosing parameters, for a patient, a PMP may specify the dosage form, and dosing parameters. If a QMP does not specify a dosing form, and dosing parameters, for a patient, or specifies a dosage form and some or no dosing parameters for a patient, a PMP may specify the remaining dosing parameters.~~

~~(4) A state central patient portal medical provider may specify dosage form and dosing parameters for a patient recommendation in the EVS, only upon written or verbal consent from a medical cannabis cardholder; and if either the dosage form or dosing parameters are not specified in the EVS by the patient's QMP. If a QMP specifies certain dosing parameters for a patient, a state central patient portal medical provider may specify the remaining dosing parameters, with written or verbal consent of the medical cannabis cardholder.~~

**KEY:** ~~medical cannabis, medical cannabis dosing parameters, medical cannabis pharmacy~~

**Date of Last Change:** ~~June 10, 2020~~

**Authorizing, and Implemented or Interpreted Law:** ~~63C-3; 26-61a; 26-1-5(1)]~~

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R380-405</b>	<b>Filing ID:</b> <b>54968</b>
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**Agency Information**

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Center for Medical Cannabis
<b>Room number:</b>	427A
<b>Building:</b>	Martha Hughes Cannon Building
<b>Street address:</b>	288 N 1460 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 141000
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000

**Contact persons:**

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

**General Information****2. Rule or section catchline:**

R380-405. Pharmacy Medical Providers

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

Rule R380-405 is repealed in its entirety and replaced with Rule R383-6 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-6. Any language not altered by S.B. 190 transfers to Rule R383-6.

(EDITOR'S NOTE: The proposed new Rule R383-6 is under ID 54957 in this issue, November 1, 2022, of the Bulletin.)

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

All requirements currently listed in Rule R380-405 are moved to the proposed new Rule R383-6. Any changes from the original rule are in the filing for Rule R383-6.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

#### Fiscal Information

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

##### A) State budget:

This fiscal impact is negligible to the state budget. The repeal of Rule R380-405 will not affect the state budget because the requirements currently listed in Rule R380-405 will be moved to the proposed new Rule R383-6.

##### B) Local governments:

The repeal of Rule R380-405 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-405 are in the proposed new Rule R383-6.

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

The repeal of Rule R380-405 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-405 are in the proposed new Rule R383-6.

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

The repeal of Rule R380-405 will not affect non-small businesses because the repeal will not result in non-small business expenditures or fiscal benefits because the requirements for Rule R380-405 are in the proposed new Rule R383-6.

**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 of Rule R380-405 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-405 are in the proposed new Rule R383-6.

**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 Rule R380-405 will not result in compliance costs for affected persons because the repeal will not result in compliance expenditures or fiscal benefits because the requirements for Rule R380-405 are in the proposed new Rule R383-6.

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

#### Regulatory Impact Table

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26-61a-202	Subsection 26-61a-607(1)	Subsection 26-61a-116(5)
Subsection 26-61a-505(2)	Subsection 26B-1-213(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.)

<b>A) Comments will be accepted until:</b>		12/01/2022
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R380. Health, Administration.**~~**R380-405. Pharmacy Medical Providers.**~~~~**R380-405.1. Authority and Purpose.**~~

~~Pursuant to Subsections 26-1-5(1) and 26-61a-403(3)(b), this rule establishes Pharmacy Medical Provider application procedures, and Pharmacy Medical Provider continuing education requirements.~~

~~**R380-405.2. Definitions.**~~

~~As used in this section:~~

~~(1) "Fundamentals of medical cannabis coursework" means a course, or combination of courses, with content that addresses the following subjects:~~

- ~~(a) endocannabinoid system and phytocannabinoids;~~  
~~(b) general guidance and recommendations for medical cannabis; and~~  
~~(c) history of cannabis, dosing forms, considerations, drug interactions, adverse reactions, contraindications (breastfeeding and pregnancy), and toxicology.~~

~~(2) "General medical cannabis coursework" means a course, or combination of courses, with content that addresses medical cannabis; which may include medical cannabis law, or fundamentals of medical cannabis coursework.~~

~~(3) "Medical cannabis law coursework" means a course, or combination of courses, with content that addresses Title 26, Chapter 61a, Utah Medical Cannabis Act; and other state and federal laws relating to medical cannabis that include, at a minimum, a review of the following:~~

- ~~(a) qualifying health conditions for which a patient may lawfully use medical cannabis, for a medicinal purpose in Utah;~~  
~~(b) forms of medical cannabis that a qualifying patient is allowed, and prohibited, under Utah law;~~  
~~(c) the limit of the quantities of unprocessed cannabis, and cannabis products in medicinal form, that may be dispensed in Utah;~~  
~~(d) requirement to initially register and renew registration as a PMP;~~  
~~(e) limit to the number of active medical cannabis recommendations that a QMP can make at any given time;~~  
~~(f) a description of what a QMP must document in a patient's record, before recommending medical cannabis;~~  
~~(g) information required from a QMP, when writing a medical cannabis recommendation, and the option to make a recommendation without specifying a dosage form and dosing parameters;~~  
~~(h) a PMP's role in determining the appropriate medical cannabis dosage form and dosage parameters, when a QMP chooses to recommend without specifying a dosage form and dosing parameters;~~  
~~(i) limit on advertising by a QMP;~~  
~~(j) type of medical cannabis cards;~~  
~~(k) the regulation controlling the distribution of product, by a medical cannabis pharmacy;~~  
~~(l) a partial fill order;~~  
~~(m) the role of the Compassionate Use Board;~~  
~~(n) the role of a cannabis cultivation facility, a cannabis processing facility, and independent cannabis testing laboratory, that operate within Utah's medical cannabis system;~~  
~~(o) the conditions of legal possession of medical cannabis under Utah law, before and after January 1, 2021;~~  
~~(p) the legal status of medical and recreational marijuana in states surrounding Utah, and under federal law;~~  
~~(q) the authority to change dosage parameters in a medical cannabis recommendation as outlined in R380-404, Dosing Parameters;~~  
~~(r) home delivery of medical cannabis; and~~  
~~(s) the purpose of the state central patient portal.~~

~~**R380-405.3. Pharmacy Medical Providers Application Procedures.**~~

~~(1) The application procedures established in this section govern an application for initial issuance of a PMP registration card, under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.~~

~~(2) Each card applicant shall apply upon forms available in the EVS, from the Department.~~

~~(3) The Department may issue a PMP card only if an applicant meets the card requirements, established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.~~

~~(4) The Department shall provide a written notice of denial to an applicant who submits a complete application, if the Department determines that the applicant does not meet the card requirements.~~

~~(5) The Department shall provide to an applicant a written notice of incomplete application that the application will be closed,~~



## NOTICES OF PROPOSED RULES

unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets all card requirements.

(6) A written notice of denial, or incomplete application, shall be sent to an applicant's last email address shown in the Department's EVS database.

(7) Each applicant shall maintain a current email address with the Department. Notice sent to the last email address on file with the Department, constitutes legal notice.

### **~~R380-405 4. Pharmacy Medical Providers—Renewal Application Procedures.~~**

(1) Renewal application procedures established in this rule, shall govern an application for an PMP registration card.

(2) Each PMP card applicant shall apply upon a renewal application form available from the Department.

(3) The Department may issue a card to an applicant who submits a complete renewal application, if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application, if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiencies within the time period specified in the notice; and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder at least 60 days prior to the expiration date shown on the PMP cardholder's card. The notice shall include directions for the PMP to renew the card, in the EVS via the Department's website.

(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database.

(8) Each cardholder shall maintain a current email address and mailing address with the Department. Notice sent to the current email address on file with the Department constitutes legal notice, unless the applicant has requested to be notified by regular mail.

(9) Renewal notices shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid, if it is not renewed prior to the expiration.

(10) If an individual's PMP registration card expires, the individual may submit a card renewal application at any time, regardless of the length of time passed since the expiration of the card.

### **~~R380-405 5. Pharmacy Medical Providers—Continuing Education Requirement.~~**

(1) Pursuant to Subsection Utah Code 26-61a-403, an applicant for registration as a PMP shall verify completion of four hours of continuing education. Once registered as a PMP, an individual shall complete an additional four hours of continuing education every two years as a requirement for renewal.

(2) To meet the continuing education requirement, all coursework shall include the following:

(a) approval by the Utah Department of Health;

(b) be provided by an organization accredited through the Accreditation Council for Continuing Medical Education (ACCME), Accreditation Council for Pharmacy Education (ACPE), or the American Association of Nurse Practitioners (AANP);

(c) completion of a test with a passing score, as determined by the course provider, to verify comprehension of course content; and

(d) a certificate of completion.

(3) Initial registration as a PMP shall require at least four hours of continuing education, which shall include at a minimum:

(a) medical cannabis law coursework; and

(b) fundamentals of medical cannabis coursework.

(4) A PMP shall renew a registration every two years, after completing at least four hours of continuing education in general medical cannabis coursework, to be completed within two years prior to the date that the PMP submits the renewal application.

(5) The continuing education report shall be submitted with an individual's application for registration as a PMP, and shall include a certificate of completion for coursework completed after issuance of the most recent registration. An applications that does not include the continuing education report shall be considered incomplete, and the Department shall not process an application until the report is complete.

**KEY: medical cannabis, pharmacy medical providers, marijuana**

**Date of Last Change: June 10, 2020**

**Authorizing, and Implemented or Interpreted Law: 63C-3; 26-1-5(1); 26-61a-403(3)(b); 26-61a]**

### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R380-406</b>	<b>Filing ID:</b> <b>54905</b>
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### **Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration (Health)	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	801-538-6504	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

### **General Information**

**2. Rule or section catchline:**

R380-406. Medical Cannabis Pharmacy

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

Rule R380-406 is repealed in its entirety and replaced with Rule R383-7 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-7. Any language not altered by S.B. 190 transfers to Rule R383-7.

(EDITOR'S NOTE: The proposed new Rule R383-7 is under ID 54906 in this issue, November 1, 2022, of the Bulletin.)

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

All requirements currently listed in Rule R380-406 are moved to the proposed new Rule R383-7. Any changes from the original rule are in the filing for Rule R383-7.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

The repeal of Rule R380-406 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-406 are in the proposed new Rule R383-7.

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

The repeal of Rule R380-406 will not affect non-small businesses because the repeal will not result in non-small business expenditures or fiscal benefits because the requirements for Rule R380-406 are in the proposed new Rule R383-7.

**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 of Rule R380-406 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-406 are in the proposed new Rule R383-7.

**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 Rule R380-406 will not result in compliance costs for affected persons because the repeal will not result in compliance expenditures or fiscal benefits because the requirements for Rule R380-406 are in the proposed new Rule R383-7.

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

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

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

This fiscal impact is negligible to the state budget. The repeal of Rule R380-406 will not affect the state budget because the requirements currently listed in Rule R380-406 will be moved to the proposed new Rule R383-7.

**B) Local governments:**

The repeal of Rule R380-406 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-406 are in the proposed new Rule R383-7.

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

## NOTICES OF PROPOSED RULES

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26-61a-202	Subsection 26-61a-607(1)	Subsection 26-61a-116(5)
Subsection 26-61a-505(2)	Subsection 26B-1-213(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.)**

<b>A) Comments will be accepted until:</b>	12/01/2022	
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:**

12/08/2022

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	09/19/2022
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**R380. Health, Administration.**
**[R380-406. Medical Cannabis Pharmacy.**
**R380-406 1. Authority and Purpose.**

Pursuant to Subsections 26-1-5(1), 26-61a-303(2), 26-61a-305 (1), 26-61a-501(12), 26-61a-501(13), 26-61a-503(3), 26-61a-505(3), 26-61a-505(4), 26-61a-505(5), and 26-61a-605(5), this rule establishes operating and licensing standards and requirements applicable to medical cannabis pharmacies and their employees.

**R380-406 2. Definitions.**

(1) The definitions in R380-400-2 apply to this rule. In addition, the following apply in this rule.

(2) "Cannabis waste" means cannabis product that is damaged, deteriorated, mislabeled, expired, returned, subject to a recall, or enclosed within a container or package that has been opened or breached.

(3) "Educational event" means an organized event at which a medical cannabis pharmacy distributes, orally presents, or displays educational material.

(4)(a) "Educational material" means material or content used or distributed by a medical cannabis pharmacy in person or online in a business or professional capacity. Educational material includes:

(i) live or recorded content of an actual educational event;

(ii) any printed educational material such as an exit bag, placard, employee identification tag, poster, fact sheet, book, pamphlet, flyer, business card;

(iii) online content such as websites or social media posts; and

(iv) business or professional mass communications sent via email, text, or social media applications for official educational purposes.

(b) "Educational material" does not mean the packaging or labeling of medical cannabis products or medical cannabis devices sold in a medical cannabis pharmacy.

(5) "Institutional review board" or "IRB" means the same term as defined in Section 26-61-102.

(6) "Recreational disposition" means the following:

(a) slang or phrasing associated with the recreational use of cannabis;

(b) an image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;

(c) an image of a celebrity or other person whose target audience is children or minors;

(d) content that encourages, promotes, or otherwise creates an impression that the recreational use of cannabis is legal or acceptable, or that the recreational use of cannabis has potential health or therapeutic benefits;

(e) content that promotes excessive consumption; and

(f) content that is obscene or indecent.

(7) "Substantial evidence or substantial clinical data" means evidence that is supported by two or more clinical studies that meet the following criteria:

(a) was conducted under a study approved by an IRB;

(b) was conducted or approved by the federal government;

(c) is cited by the Department in educational materials posted on its website; or

(d) is of reasonable scientific rigor as determined by the Department.



**~~R380 406 3. Medical Cannabis Pharmacy—General Operating Standards.~~**

~~(1) In addition to general operating standards established in Title 26, Chapter 61a, Part 5, Utah Medical Cannabis Act, Medical Cannabis Pharmacy Operation, medical cannabis pharmacies shall comply with the operating standards established in this rule. Medical cannabis pharmacies shall:~~

- ~~(a) be well lit, well ventilated, clean, and sanitary;~~
- ~~(b) maintain a current list of employees working at the medical cannabis pharmacy;~~
- ~~(i) the list shall include employee name, Department registration license classification and license number, registration expiration date, and work schedule; and~~
- ~~(ii) the list shall be readily retrievable for inspection by the Department and may be maintained in paper or electronic form;~~
- ~~(c) have a counseling area to allow for confidential patient counseling;~~
- ~~(d) have current and retrievable editions of the following reference publications, in print or electronic format, and readily available and retrievable to medical cannabis pharmacy personnel:~~
  - ~~(i) Title 26, Chapter 61a, Utah Medical Cannabis Act; and~~
  - ~~(ii) applicable administrative rules.~~
- ~~(2) A medical cannabis pharmacy shall not distribute medical cannabis product, or medical cannabis devices, to a medical cannabis cardholder, unless an employee who is a PMP is physically present and immediately available in the medical cannabis pharmacy.~~
- ~~(3) A medical cannabis pharmacy location shall be open for a cardholder to buy a medical cannabis product, and medical device, for a minimum of 35 hours a week, except as authorized by the Department.~~
- ~~(4) A medical cannabis pharmacy that closes during normal hours of operation, shall implement procedures to notify a cardholder when the medical cannabis pharmacy will resume normal hours of operation. Procedures may include telephone system messages and conspicuously posted signs.~~
- ~~(5) Deliveries from a cannabis processing facility or another medical cannabis pharmacy shall be carried out under the direct supervision of a PMP or pharmacy agent, who shall be present to accept the delivery. Upon delivery, the medical cannabis product or medical cannabis devices shall immediately be placed in a limited access area of the medical cannabis pharmacy.~~
- ~~(6) A medical cannabis pharmacy shall protect, at all times, confidential cardholder data and information stored in the EVS to ensure that access to and use of the data and information is limited to those individuals and purposes authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule.~~
- ~~(7) A medical cannabis pharmacy shall not dispense expired, damaged, deteriorated, misbranded, adulterated, or opened medical cannabis products or medical cannabis devices.~~
- ~~(8) A medical cannabis pharmacy license cannot be assigned or transferred but a licensee may make changes to its ownership or company structure. When making a change to its ownership, a licensee shall not:~~
  - ~~(a) make an ownership change by an interest of 2% or more without notification of the Department at least 10 days before the date of the change;~~
  - ~~(b) make an ownership change by an interest of 50% or more without applying to the Department and receiving Department approval and payment of the fee authorized under Section 26-61a-109 that the Department sets in accordance with Section 63J-1-504.~~

~~(9) When applying to the Department for approval of an ownership change of more than 50%, the medical cannabis pharmacy shall submit to the Department:~~

- ~~(a) a description of how the medical cannabis pharmacy shall maintain its compliance with the minimum standards for licensure and operation of the medical cannabis pharmacy; and~~
- ~~(b) the results of a formal investigation, charge, claim or adverse action taken against the new owners or individuals with formal financial or management control who make up the new owners, during the past seven years, by any licensing jurisdiction, government agency, law enforcement agency, or court in any state.~~
- ~~(10) A medical cannabis pharmacy shall provide a copy of a certificate of analysis for a medical cannabis product to a medical cannabis cardholder or a recommending medical provider if:~~
  - ~~(a) it is requested in writing; and~~
  - ~~(b) the requestor signs a non disclosure agreement upon request by the medical cannabis pharmacy.~~

**~~R380 406 4. Medical Cannabis Pharmacy—Operating Plan.~~**

~~(1) Pursuant to Section 26-61a-301, Medical Cannabis Pharmacy License, a medical cannabis pharmacy license application shall include an operating plan that includes, at a minimum the following:~~

- ~~(a) information requested in the application;~~
- ~~(b) information listed in Section 26-61a-301, Medical Cannabis Pharmacy License;~~
- ~~(c) a plan to comply with applicable operating standards, statutes, and administrative rules, including:~~
  - ~~(i) Title 26, Chapter 61a, Utah Medical Cannabis Act; and~~
  - ~~(ii) applicable administrative rules.~~
- ~~(2) The Department may require the applicant for a medical cannabis pharmacy license to make a change to its operating plan before issuing a pharmacy license. The applicant shall submit a copy of its updated operating plan, with the required change, and receive Department approval of the plan before the Department awards the license.~~
- ~~(3) Once the Department issues a license, any change to a medical cannabis pharmacy's operating plan is subject to the approval of the Department. A medical cannabis pharmacy shall submit a notice, in a manner determined by the Department, at least 14 days before the date that it plans to implement any change to its operating plan.~~

**~~R380 406 5. Medical Cannabis Pharmacy—Operating Standards—Pharmacist In Charge.~~**

- ~~(1) A medical cannabis pharmacy's pharmacist in charge (PIC) shall have the responsibility to oversee the medical cannabis pharmacy's operation, and that it is in compliance with Chapter 26, Title 61a, Utah Medical Cannabis Act and applicable administrative rules. The PIC shall generally supervise the medical cannabis pharmacy, though the PIC is not required to be on site during business hours.~~
- ~~(2) A unique email address shall be established by the PIC, or responsible party, for the medical cannabis pharmacy; to be used for official notices, self-audits or medical cannabis pharmacy alerts, initiated by the Department. The PIC or responsible party shall notify the Department of the medical cannabis pharmacy's email address in the initial application for licensure.~~
- ~~(3) The duties of the PIC shall include:~~

~~(a) ensure that PMPs, and pharmacy agents, at the medical cannabis pharmacy appropriately interpret and distribute a recommendation from a recommending medical provider, in a suitable container, appropriately labeled for subsequent administration, or use by a patient;~~

~~(b) ensure that medical cannabis product and a medical cannabis devices are distributed safely, and accurately, with correct dosing guidelines and directions of use as recommended by a recommending medical provider;~~

~~(c) ensure that medical cannabis product, and medical cannabis devices, are distributed with information and instruction as necessary for proper utilization;~~

~~(d) ensure that PMPs and pharmacy agents communicate to a cardholder, at their request, information concerning any medical cannabis product or medical cannabis devices distributed to the cardholder;~~

~~(e) ensure that a reasonable effort is made to get, protect, record, and maintain patient records;~~

~~(f) education and training of medical cannabis pharmacy personnel;~~

~~(g) establishment of policies for procurement of medical cannabis products, medical cannabis devices, and educational material sold at the facility;~~

~~(h) distribution and disposal of medical cannabis product and medical cannabis devices, from a medical cannabis pharmacy;~~

~~(i) appropriate storage of medical cannabis product and medical cannabis devices;~~

~~(j) maintain a complete and accurate record of transactions of the medical cannabis pharmacy necessary to maintain accurate control and accountability for materials required by applicable state laws;~~

~~(k) establish effective control against theft or diversion of medical cannabis product or medical cannabis devices, and record of product;~~

~~(l) legal operation of the medical cannabis pharmacy, including inspections, and other requirements, of state laws governing the medical cannabis pharmacies;~~

~~(m) implementation of an ongoing quality assurance program, that monitors performance of the personnel at the medical cannabis pharmacy;~~

~~(n) ensure that the point of sale (POS) is in working order;~~

~~(o) ensure that relevant information is submitted to the state's ICS and EVS in a timely manner;~~

~~(p) ensure that medical cannabis pharmacy personnel have appropriate licensure and registration;~~

~~(q) ensure that no medical cannabis pharmacy operates with a ratio of PMPs to pharmacy agents that results in, or reasonably would be expected to result in, a reasonable risk of harm to public health, safety, and welfare;~~

~~(r) ensure that the PIC assigned to the medical cannabis pharmacy is recorded with the Department, and the Department is notified of a PIC change within 30 days of the change; and~~

~~(s) in regard to the unique email address used for self-audits or medical cannabis pharmacy alerts, ensure that:~~

~~(i) the medical cannabis pharmacy uses a single email address; and~~

~~(ii) the medical cannabis pharmacy notifies the Department, on the form prescribed, of any change in the email address within seven calendar days of the change.~~

~~(4) A PMP cannot be designated as PIC for more than two medical cannabis pharmacies at one time.~~

**~~R380-406.6. Medical Cannabis Pharmacy Operating Standards—Supervision.~~**

~~(1) A medical cannabis pharmacy is always under the full and actual charge of the medical cannabis pharmacy's PIC, but it shall be under the direct supervision of at least one supervising PMP, who is physically present at all times when a medical cannabis pharmacy is open to the public.~~

~~(2) A medical cannabis pharmacy PIC is not required to be in the medical cannabis pharmacy at all times, but shall be available for contact within a reasonable period with the supervising PMP.~~

~~(3) A medical cannabis pharmacy shall never operate with a supervision ratio of PMP to pharmacy agent that results in, or reasonably would be expected to result in, an unreasonable risk of harm to public health, safety, and welfare.~~

**~~R380-406.7. Medical Cannabis Pharmacy Security Standards.~~**

~~(1) A medical cannabis pharmacy shall comply with security standards established in Section 26-61a-501, Medical Cannabis Pharmacy Operation, and this rule.~~

~~(2) A medical cannabis pharmacy shall have security equipment sufficient to deter and prevent unauthorized entrance into a limited access area of the medical cannabis pharmacy that includes equipment required in this section.~~

~~(3) A medical cannabis pharmacy shall have a system to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular or private radio signals, or other mechanical or electronic device.~~

~~(4) A medical cannabis pharmacy shall be equipped with a secure lock on any entrance to the medical cannabis pharmacy.~~

~~(5) A medical cannabis pharmacy shall have electronic monitoring including:~~

~~(a) at least one 19-inch or greater call-up monitor;~~

~~(b) a printer, capable of immediately producing a clear still photo from any video camera image;~~

~~(c) a video camera with a recording resolution of at least 640 x 470, or the equivalent, which provide coverage of entrances to and exits from limited access areas; and entrances to and exits from the building, and are capable of identifying any activity occurring in or adjacent to the building;~~

~~(d) a video camera shall either record continuously, 24 hours a day, 7 days a week or be motion activated;~~

~~(e) a video camera at each point of sale and product destruction or disposal location, which will allow for the identification of a medical cannabis cardholder, visitor, or pharmacy employee;~~

~~(f) a method for storing video recordings from the video camera for at least 45 calendar days;~~

~~(g) 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 criminal theft;~~

~~(h) access to footage stored on a remote server shall be restricted to protect from employee tampering;~~

~~(i) a failure notification system that provides an audible, and visual, notification of failure in the electronic monitoring system;~~

~~(j) sufficient battery backup for video camera and recording equipment, to support at least five minutes of recording in the event of a power outage;~~

~~(k) a date and time stamp embedded on video camera recordings, which shall be set correctly; and~~

~~(l) a panic alarm in the interior of the facility, which is a silent security alarm system signal, generated by the manual activation of a device intended to signal a robbery in progress.~~

~~(6) Security measures implemented by a medical cannabis pharmacy to deter and prevent unauthorized entrance in areas containing products, theft of product, and to ensure the safety of employees and medical cannabis cardholders, shall include the following:~~

~~(a) store medical cannabis product and medical cannabis devices in a secure locked limited access area, in a manner as to prevent diversion, theft, and loss;~~

~~(b) notwithstanding (6)(a), a medical cannabis pharmacy may display, in a secure locked case, a sample of each product offered;~~

~~(i) the display case shall be transparent;~~

~~(ii) an authorized PMP, or pharmacy agent, may remove an example of medical cannabis, or medical cannabis device, from the case, and provide it to a cardholder for inspection; provided:~~

~~(A) the patient does not consume or otherwise use the sample;~~

~~(B) the processor label from the original product container or an image showing the processor label is affixed to the sample's container with the unique identifying number that links the medical cannabis product to the ICS; and~~

~~(C) destruction of the medical cannabis product shall be done in compliance with applicable laws and the pharmacy's standard operating procedures.~~

~~(iii) inside the medical cannabis pharmacy, medical cannabis product and medical cannabis devices, shall be stored in a limited access area during non business hours;~~

~~(e) keep safes, vaults, and any other equipment, or areas used for storage, including before disposal of product, securely locked and protected from entry; except for the actual time required to remove or replace medical cannabis product or medical cannabis devices;~~

~~(d) keep locks and security equipment in good working order, and shall test that equipment is functioning properly at least two times per calendar year;~~

~~(e) prohibit keys, if any, from being left in the locks, or stored or placed, in a location accessible to any person other than specifically authorized personnel;~~

~~(f) prohibit accessibility to security measures, such as combination numbers, passwords, or electronic, or biometric security systems, to any person other than specifically authorized personnel;~~

~~(g) ensure that the outside perimeter of the building is sufficiently lit, to facilitate surveillance;~~

~~(h) ensure that medical cannabis product and medical cannabis devices are kept out of plain sight, and are not visible from a public place, outside of the medical cannabis pharmacy;~~

~~(i) develop emergency policies and procedures for securing each product following any instance of diversion, theft, or loss of product, and conduct an assessment to determine whether additional safeguards are necessary;~~

~~(j) at a medical cannabis pharmacy where a cash transaction is conducted, establish a procedure for safe cash handling and cash transportation, to a financial institution to prevent theft, loss, and associated risk to the safety of employees, customers and the general public;~~

~~(k) while inside the medical cannabis pharmacy, employee shall wear an identification tag, or similar form of identification, to clearly identify them to the public;~~

~~(i) including their position at the medical cannabis pharmacy, as a PMP or pharmacy agent; and~~

~~(l) prevent an individual from remaining on the premise of the medical cannabis pharmacy, if they are not engaging in activity expressly, or by necessary implication, permitted by Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

~~(7) A medical cannabis pharmacy shall include the following areas of security:~~

~~(a) public waiting area;~~

~~(b) cardholder only area; and~~

~~(c) limited access area.~~

~~(8) A medical cannabis pharmacy shall allow only medical a cannabis cardholder, PMP, pharmacy agent, authorized vendor, contractor, and visitor, to have access to the cardholder area of the medical cannabis pharmacy.~~

~~(9) An outside vendor, contractor, and visitor must get a visitor identification badge, before entering the cardholder only, or limited access area of a medical cannabis pharmacy; to be worn at all times when on the premise of the medical cannabis pharmacy, and shall be escorted at all times by an employee authorized to enter the medical cannabis pharmacy. The visitor identification badge must be visibly displayed at all times, while in the facility. A visitor must be logged in and out, and that log shall be available for inspection by the Department at all times. The visitor identification badge shall be returned to the medical cannabis pharmacy upon exit.~~

~~(10) Product inside a medical cannabis pharmacy, shall be kept in a limited access area, inaccessible to any person other than a PMP, pharmacy agent, state employee, or an individual authorized by the medical cannabis pharmacy's PIC. The limited access area shall be identified by the posting of a sign, that shall be a minimum of 12" x 12", and states: "Limited Access Area", in lettering no smaller than one inch in height.~~

~~(11) If a cabinet or drawer is used as a limited access area, it is not required to have a "Limited Access Area" sign on it.~~

~~(12) Only a PMP, or a pharmacy agent, employed at the medical cannabis pharmacy shall have access to the medical cannabis pharmacy when the medical cannabis pharmacy is closed to the public.~~

~~(13) The medical cannabis pharmacy, or parent company, shall maintain a record of not less than five years, of the initials or identification codes that identify each PMP or pharmacy agent by name. The initial or identification code, shall be unique, to ensure that each PMP, or pharmacy agent, can be identified. An identical initial or identification code, shall not be used for two or more PMPs, or pharmacy agents.~~

#### **~~R380-406.8. Medical Cannabis Pharmacy Operating Standards—Inventory.~~**

~~(1) A medical cannabis pharmacy shall be equipped for orderly inventory, storage of medical cannabis product, and medical cannabis devices, in a manner to permit clear identification, separation, and easy retrieval of product; and an environment necessary to maintain the integrity of product inventory.~~

~~(2) A medical cannabis pharmacy shall use the state's ICS to establish a record of each transaction, sale, and disposal.~~

~~(3) A medical cannabis pharmacy shall input in the ICS information regarding the purchase of medical cannabis product, or medical cannabis devices, immediately after a transaction with a cardholder is closed, so reporting of purchases to the ICS across medical cannabis pharmacies is in real time.~~

~~(4) A medical cannabis pharmacy shall establish and document daily and weekly inventory controls of medical cannabis product and medical cannabis devices to help the pharmacy detect any diversion, theft, or loss of product in a timely matter.~~

~~(5) A PMP at each medical cannabis pharmacy shall conduct a monthly inventory which shall include a reconciliation of each medical cannabis product and medical cannabis device stored at the pharmacy with the pharmacy's inventory record in the ICS. Pharmacy agents may assist a PMP with the monthly inventory. A monthly inventory shall include:~~

- ~~(a) the time and date of completing the inventory;~~
- ~~(b) a summary of the inventory findings; and~~
- ~~(c) the name and signature or initials of the PMP who conducted the inventory.~~

~~(6) If a medical cannabis pharmacy employee identifies a reduction in the amount of medical cannabis product or medical cannabis devices in the medical cannabis pharmacy's inventory is not due to documented causes, the medical cannabis pharmacy shall determine where the loss occurred, and immediately take and document corrective action. The medical cannabis pharmacy shall immediately inform the Department of the loss by telephone, and provide written notice of the loss, and the corrective action taken within two business days after first discovery of the loss.~~

~~(7) If a reduction in the amount of medical cannabis product, or medical cannabis devices, in the inventory is due to criminal activity, or suspected criminal activity, the medical cannabis pharmacy shall immediately make a written report identifying the circumstances surrounding the reduction to the Department, and to law enforcement with jurisdiction where the suspected criminal acts occurred.~~

~~(8) If a medical cannabis pharmacy employee identifies an increase in the amount of medical cannabis product, or medical cannabis devices, in the medical cannabis pharmacy's inventory, not due to documented causes, the medical cannabis pharmacy shall determine where the increase occurred and take and document corrective action.~~

~~(9) The PIC shall conduct and complete an annual comprehensive inventory of products at a medical cannabis pharmacy within 72 hours or three working days of the pharmacy's first annual comprehensive inventory. The annual comprehensive inventory shall include:~~

- ~~(a) the time and date of completing the inventory;~~
- ~~(b) a summary of the inventory findings; and~~
- ~~(c) the name and signature or initials of the PIC who conducted the inventory.~~

~~(10) Records of each monthly inventory, and comprehensive annual inventory, shall be kept by the medical cannabis pharmacy for a period of five years. The records may be electronic or physical. If physical records are kept, the physical records must be located at the medical cannabis pharmacy where the medical cannabis products and medical cannabis devices are located. A medical cannabis pharmacy intending to maintain such records at a location other than the medical cannabis pharmacy must first send a written request to the Department. The request shall contain the medical cannabis pharmacy name and license number, and the name and address of the alternate location. The Department shall send written notification to the medical cannabis pharmacy documenting the approval, or denial, of the request. A copy of the Department's approval shall be maintained. An alternate location shall be secured and accessible only to authorized medical cannabis pharmacy employees.~~

~~(11) A medical cannabis pharmacy shall provide documentation required to be maintained in this rule to the Department for review upon request.~~

**~~R380 406 9. Medical Cannabis Pharmacy Operating Standards—Transportation.~~**

~~(1) Transport of medical cannabis from a medical cannabis pharmacy to another location shall occur only when:~~

~~(a) a home delivery medical cannabis pharmacy is delivering shipments of medical cannabis, or medical cannabis devices, to a cardholder's home address;~~

~~(b) a medical cannabis pharmacy, or cannabis production establishment, is transporting medical cannabis, or a medical cannabis device, from a medical cannabis pharmacy facility to a cannabis production establishment facility, or waste disposal location to be disposed of; and~~

~~(c) a product recall is initiated and medical cannabis, or a medical cannabis device, must be returned from a medical cannabis pharmacy to the cannabis production establishment.~~

~~(2) Medical cannabis product and medical cannabis devices to be returned to the cannabis production establishment shall be:~~

- ~~(a) logged into the ICS;~~
- ~~(b) stored in a locked container with clear and bold lettering: "Return"; and~~
- ~~(c) prepared for return in compliance with any guideline and protocol of the cannabis production establishment for collecting, storing, and labeling a returned product.~~

~~(3) A PMP or pharmacy agent accepting a shipment of medical cannabis, or medical cannabis device, at a medical cannabis pharmacy facility from a cannabis production establishment shall:~~

~~(a) get a copy of the transport manifest and safeguard the manifest for recordkeeping;~~

~~(b) not delete, void, or change information provided on the transport manifest, upon arrival at the medical cannabis pharmacy;~~

~~(c) ensure that the medical cannabis product and medical cannabis devices received from a cannabis production establishment are as described in the transport manifest, and record the amount received into the ICS;~~

~~(d) clearly record on the manifest the unique initial, or identification code of the medical cannabis pharmacy employee who compares the received inventory with the transport manifest, and the actual date and time of receipt of the medical cannabis product, or medical cannabis devices;~~

~~(e) if a difference between the quantity specified in the transport manifest and the quantity received occurs, document the difference in the ICS; and~~

~~(f) log in the ICS any change to medical cannabis product, or medical cannabis devices, that may have occurred while in transport.~~

**~~R380 406 10. Medical Cannabis Pharmacy Operating Standards—Packaging.~~**

~~(1) Medical cannabis product in the following dosage form shall be delivered to a medical cannabis pharmacy, from a cannabis processing facility, or another medical cannabis pharmacy, in their final container:~~

- ~~(a) concentrated oil;~~
- ~~(b) liquid suspension;~~
- ~~(c) topical preparation;~~

- ~~\_\_\_\_\_ (d) transdermal preparation;~~
- ~~\_\_\_\_\_ (e) gelatinous cube;~~
- ~~\_\_\_\_\_ (f) sublingual preparation; and~~
- ~~\_\_\_\_\_ (g) resin or wax.~~
- ~~\_\_\_\_\_ (2) Medical cannabis product in the following dosage form may be delivered to a medical cannabis pharmacy from a cannabis processing facility, in either a final container or a bulk container, to later be separated into a final packaging before being dispensed to a cardholder:~~
  - ~~\_\_\_\_\_ (a) tablet;~~
  - ~~\_\_\_\_\_ (b) capsule; and~~
  - ~~\_\_\_\_\_ (c) unprocessed cannabis flower.~~

**~~R380-406-11. Medical Cannabis Pharmacy — Operating Standards — Cannabis Disposal and Waste.~~**

- ~~\_\_\_\_\_ (1) A medical cannabis pharmacy's cannabis waste may be disposed of at either a medical cannabis pharmacy location, or a location of a cannabis production establishment, licensed by the UDAF.~~
- ~~\_\_\_\_\_ (2) In addition to complying with standards for cannabis disposal and waste established in Sections 26-61a-501 and 26-61a-607, a medical cannabis pharmacy shall ensure compliance with the following standards when handling cannabis waste:~~
  - ~~\_\_\_\_\_ (a) designate a location in the limited access area of the medical cannabis pharmacy where cannabis waste shall be securely locked and stored;~~
  - ~~\_\_\_\_\_ (b) designate a lockable container, or containers, that are clearly and boldly labeled with the words "Not for Sale or Use";~~
  - ~~\_\_\_\_\_ (c) ensure logging of the medical cannabis product in the ICS at the time of disposal with appropriate information including:~~
    - ~~\_\_\_\_\_ (i) a description of and reason for the medical cannabis product being disposed;~~
    - ~~\_\_\_\_\_ (ii) date of disposal;~~
    - ~~\_\_\_\_\_ (iii) method of disposal; and~~
    - ~~\_\_\_\_\_ (iv) name and registration identification number of the agent responsible for the disposal;~~
  - ~~\_\_\_\_\_ (d) wastewater generated during the cannabis waste disposal process shall be disposed of in compliance with applicable state laws and rules;~~
  - ~~\_\_\_\_\_ (e) 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;~~
  - ~~\_\_\_\_\_ (f) cannabis waste disposed of shall be rendered unusable;~~
  - ~~\_\_\_\_\_ (g) 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;~~
  - ~~\_\_\_\_\_ (h) materials used to grind and incorporate with cannabis may be compostable or non-compostable;~~
    - ~~\_\_\_\_\_ (i) compostable waste is a cannabis waste to be disposed of as compost or in another organic waste method mixed with:~~
      - ~~\_\_\_\_\_ (i) food waste;~~
      - ~~\_\_\_\_\_ (ii) yard waste; or~~
      - ~~\_\_\_\_\_ (iii) vegetable-based grease or oils;~~
    - ~~\_\_\_\_\_ (j) compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:~~
      - ~~\_\_\_\_\_ (i) paper waste;~~
      - ~~\_\_\_\_\_ (ii) cardboard waste;~~
      - ~~\_\_\_\_\_ (iii) plastic waste; or~~
      - ~~\_\_\_\_\_ (iv) soil.~~

**~~R380-406-12. Medical Cannabis Pharmacy — Operating Standards — Product Recall.~~**

- ~~\_\_\_\_\_ (1) A recall may be initiated by a cannabis production establishment, a medical cannabis pharmacy, the Department, or the UDAF.~~
- ~~\_\_\_\_\_ (2) A medical cannabis pharmacy's recall plan shall include, at a minimum:~~
  - ~~\_\_\_\_\_ (a) a designation of at least one employee who shall serve as the recall coordinator;~~
  - ~~\_\_\_\_\_ (b) if the recall is initiated by a medical cannabis pharmacy, the pharmacy will provide immediate notification to the Department, UDAF, and the cannabis production establishment from which it obtained the cannabis product in question;~~
  - ~~\_\_\_\_\_ (i) notification shall occur within 24 hours upon becoming aware of a complaint about the medical cannabis product or medical cannabis device in question;~~
  - ~~\_\_\_\_\_ (c) a procedure for identifying and isolating recalled product to prevent or minimize distribution to patients;~~
  - ~~\_\_\_\_\_ (d) a procedure to retrieve and destroy recalled product; and~~
  - ~~\_\_\_\_\_ (e) a communication plan to notify those affected by the recall.~~
- ~~\_\_\_\_\_ (3) The medical cannabis pharmacy shall track the total amount of affected medical cannabis product, and the amount of medical cannabis product returned to the medical cannabis pharmacy, as part of the recall.~~
- ~~\_\_\_\_\_ (4) The medical cannabis pharmacy shall coordinate the destruction of the medical cannabis product with the Department and the UDAF, and allow the UDAF to oversee the destruction of the final product.~~
- ~~\_\_\_\_\_ (5) A medical cannabis pharmacy shall notify the Department before initiating a voluntary recall.~~

**~~R380-406-13. Medical Cannabis Pharmacy — Partial Filling.~~**

- ~~\_\_\_\_\_ (1) A PMP or pharmacy agent who partially fills a recommendation for a medical cannabis cardholder shall specify in the ICS the following:~~
  - ~~\_\_\_\_\_ (a) date of partial fill;~~
  - ~~\_\_\_\_\_ (b) quantity supplied to cardholder;~~
  - ~~\_\_\_\_\_ (c) quantity remaining of the recommendation partially filled; and~~
  - ~~\_\_\_\_\_ (d) a brief explanation as to why the recommendation was partially filled.~~

**~~R380-406-14. Medical Cannabis Pharmacy — Operating Standards — Closing a Pharmacy.~~**

- ~~\_\_\_\_\_ (1) At least 14 days before the closing of a medical cannabis pharmacy, the PIC shall comply with the following:~~
  - ~~\_\_\_\_\_ (a) send written notice to the Department containing the following information:~~
    - ~~\_\_\_\_\_ (i) the name, address, and Department issued license number of the medical cannabis pharmacy;~~
    - ~~\_\_\_\_\_ (ii) surrender the license issued to the medical cannabis pharmacy;~~
    - ~~\_\_\_\_\_ (iii) a statement attesting:~~
      - ~~\_\_\_\_\_ (A) a comprehensive inventory was conducted;~~
      - ~~\_\_\_\_\_ (B) the manner in which the medical cannabis product and medical cannabis devices will be transferred or disposed of;~~
      - ~~\_\_\_\_\_ (C) the anticipated date of closing;~~
      - ~~\_\_\_\_\_ (D) the name, address, and Department issued license number of the medical cannabis pharmacy, or cannabis production~~

establishment, acquiring the medical cannabis and medical cannabis devices from the medical cannabis pharmacy that is closing;

\_\_\_\_\_ (E) the date of transfer when the medical cannabis product and medical cannabis devices will occur; and

\_\_\_\_\_ (F) the name and address of the medical cannabis pharmacy to which the orders, including any refill information, and patient records, will be transferred;

\_\_\_\_\_ (b) post a closing notice in a conspicuous place at public entrance doors to the medical cannabis pharmacy which shall contain the following information:

\_\_\_\_\_ (i) the date of closing; and

\_\_\_\_\_ (ii) the name, address, and telephone number of the medical cannabis pharmacy acquiring the recommendation orders, including refill information and customer records of the medical cannabis pharmacy.

\_\_\_\_\_ (2) If the medical cannabis pharmacy closed suddenly due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy, or emergency circumstances, and the PIC cannot provide notification 14 days before the closing, the PIC shall provide notification to the Department of the closing, no later than 24 hours after the closing.

\_\_\_\_\_ (3) If the PIC is not available to comply with the requirements of this section, the owner or legal representative shall be responsible for compliance with the provisions of this section.

\_\_\_\_\_ (4) On the date of the closing, the PIC shall remove medical cannabis product, and medical cannabis devices, from the medical cannabis pharmacy by one or a combination of the following methods:

\_\_\_\_\_ (a) transport them to a cannabis processing facility for credit or disposal; or

\_\_\_\_\_ (b) transfer or sell them to a person who is legally entitled to have medical cannabis products and medical cannabis devices, such as another medical cannabis pharmacy in the state of Utah.

\_\_\_\_\_ (5) The PIC shall remove signs, and notify the landlord of the property that it is unlawful to use the word "medical cannabis pharmacy", or any other word or combination of words of the same or similar meaning, or any graphic representation that would mislead, or tend to mislead the public that a medical cannabis pharmacy is located at this address.

#### **~~R380 406 15. Medical Cannabis Pharmacy—Abandonment of a License.~~**

\_\_\_\_\_ (1) The following actions constitute abandonment of a medical cannabis pharmacy license:

\_\_\_\_\_ (a) a medical cannabis pharmacy's failure to begin operations within one year after the day on which the Department issues an intent to award a medical cannabis pharmacy license.

#### **~~R380 406 16. Medical Cannabis Pharmacy—Operating Standards—Drive Thru and Curbside Service.~~**

\_\_\_\_\_ (1) A medical cannabis cardholder may contact a medical cannabis pharmacy, either by phone or online, before the time of drive thru or curbside service pick up to make an order.

\_\_\_\_\_ (2) A medical cannabis cardholder transaction may take place outside the medical cannabis pharmacy facility but it shall still occur within the total property boundary of the licensed entity. Drive thru and curbside service transactions shall occur at a licensed location that is owned, leased, or rented by the licensed entity and shall not occur on a public sidewalk or an adjacent parking lot.

\_\_\_\_\_ (3) If product is bought with cash, the cash must be taken into the medical cannabis pharmacy facility after each transaction. If a medical cannabis pharmacy obtains approval from the Division of

Finance to accept customer payments through an electronic payment provider, a medical cannabis cardholder using drive thru and curbside pick up service may make payments using the approved electronic payment provider.

\_\_\_\_\_ (4) Medical cannabis products and medical cannabis devices, including those that are awaiting pick up, shall be securely stored in the medical cannabis pharmacy facility until a medical cannabis cardholder arrives for pick up. Under no circumstances may a medical cannabis product or medical cannabis device be stored outside of a medical cannabis pharmacy facility before a customer arrives to pick up the product.

\_\_\_\_\_ (5) A medical cannabis pharmacy's video surveillance shall enable the video recording of each medical cannabis cardholder transaction. This includes video surveillance of a cardholder, cardholder vehicle, medical cannabis pharmacy employee verifying the cardholder's valid form of photo identification, and the transfer and dispensing of an item bought by a cardholder. Video cameras shall record points of entry and exit of a parking lot and shall be angled to ensure the capture of clear and certain identification of a cardholder and their vehicle's license plate.

\_\_\_\_\_ (6) The individual receiving the delivery of a product from the medical cannabis pharmacy employee via drive thru or curbside pick up shall be a cardholder. When drive thru service is used, the medical cannabis cardholder verifying their ID to the medical cannabis pharmacy shall be visible to cameras and to the medical cannabis pharmacy employee who is helping them.

\_\_\_\_\_ (7) Children under 18 may be present in a vehicle that arrives for drive thru or curbside pick up service.

\_\_\_\_\_ (8) When a PMP's consultation with a medical cannabis cardholder is required, the consultation may be provided in person, over the phone, or with another real time communications device. It is the responsibility of the medical cannabis pharmacy to ensure the privacy of these consultations regardless of where or how the consultations happen.

\_\_\_\_\_ (9) When a medical cannabis pharmacy employee transports a container of medical cannabis product to a medical cannabis cardholder via drive thru or curbside service, the container shall be contained within a box or an opaque bag.

\_\_\_\_\_ (10) When drive thru service is used, a medical cannabis pharmacy may use a secure drive thru drawer or pneumatic tube to transport medical cannabis product, valid photo identification, cash, and documents between a medical cannabis pharmacy employee and a medical cannabis cardholder.

#### **~~R380 406 17. Medical Cannabis Pharmacy—Operating Standards—Educational Material.~~**

\_\_\_\_\_ (1) A medical cannabis pharmacy shall comply with the operating standards related to educational material established in this rule.

\_\_\_\_\_ (2) Educational material related to the use of medical cannabis that makes a statement relating to side effects, consequences, contraindications, and effectiveness shall present a true statement of the information.

\_\_\_\_\_ (3) Educational material is false, lacking fair balance, or otherwise misleading if it:

\_\_\_\_\_ (a) contains a representation or suggestion that a cannabis strain, brand, or product is better, more effective, useful in a broader range of conditions or patients or safer than other drugs or treatments including other cannabis strains or products, unless the claim has been demonstrated by substantial evidence or substantial clinical data;

~~(b) contains favorable information or opinions about a medical cannabis product previously regarded as valid but which have been rendered invalid by contrary and more credible recent information;~~

~~(c) uses a quote or paraphrase out of context or without citing conflicting information from the same source, to convey a false or misleading idea;~~

~~(d) uses a study on individuals without a qualifying medical condition without disclosing that the subjects were not suffering from a qualifying medical condition;~~

~~(e) uses data favorable to a medical cannabis product derived from patients treated with a different product or dosages different from those legal in Utah; and~~

~~(f) contains favorable information or conclusions from a study that is inadequate in design, scope, or conduct to furnish significant support for the information or conclusions.~~

~~(4) Educational material shall not include:~~

~~(a) unsubstantiated health claims and other claims that are not supported by substantial evidence or substantial clinical data;~~

~~(b) claims that cannabis cures any medical condition;~~

~~(c) any statement, design, representation, picture or illustration portraying anyone under the age of 18, objects suggestive of the presence of anyone under the age of 18, or containing the use of a figure, symbol, or language that is customarily associated with or would appeal to anyone under the age of 18; and~~

~~(d) any false statement about a competitor's products.~~

~~(5) Notwithstanding the recreational disposition of some cannabis strains and medicinal dosage forms, a medical cannabis pharmacy may reference a cannabis strain or a medicinal dosage form in educational material.~~

~~(6) Beginning September 1, 2022, when posting information about a processed medical cannabis product online, a medical cannabis pharmacy shall list the concentration of each cannabinoid as a percentage and the total contained amount of each cannabinoid content measured in milligrams. When posting information about an unprocessed medical cannabis product on a website, the concentration of each cannabinoid shall be listed as a percentage. The total amount of each cannabinoid measured in milligrams is not required.~~

~~(7) A medical cannabis pharmacy may send electronic notifications via email or text to individuals over the age of 18 who have consented to receive notifications. The notifications may communicate information about a medical cannabis pharmacy's products, services, or educational events. These notifications do not constitute advertising prohibited in Section 26-61a-505.~~

#### **~~R380-406-18. Medical Cannabis Pharmacy—Operating Standards—Educational Events.~~**

~~(1) When hosting or participating in educational events, a medical cannabis pharmacy shall comply with educational event standards established in Section 26-61a-505, Advertising, and this rule.~~

~~(2) A medical cannabis pharmacy may give out educational material at an educational event but shall not give out marketing merchandise such as t-shirts, hats, or pens. If a medical cannabis pharmacy notices that a third party is giving out or selling merchandise that appears to advertise for a medical cannabis pharmacy, the medical cannabis pharmacy shall immediately contact the third party and request that the third party cease and desist giving out or selling of the merchandise at the educational event.~~

~~(3) An educational event hosted by a third party or a medical cannabis pharmacy that a medical cannabis pharmacy participates in may include a food vendor where food is available for purchase. If food is provided at no cost to the attendees at an educational event that a medical cannabis pharmacy participates in, the food may be bought and provided by a third party but it cannot not be bought or provided by a medical cannabis pharmacy. Food bought by a medical cannabis pharmacy and provided at no cost to participants of an educational event that a medical cannabis pharmacy is participating in constitutes a gift item which is prohibited under Section 26-61a-505.~~

~~(4) A medical cannabis pharmacy may get, at cost or no cost, a sponsorship or booth at an educational event hosted by a third party if the primary purpose of the event is educational.~~

~~(5) Signage and displays used by a medical cannabis pharmacy at an educational event shall comply with educational material standards established in Section R380-406-17.~~

#### **~~R380-406-19. Medical Cannabis Pharmacy—Business Name and Logo Standards.~~**

~~(1) Pursuant to Subsection 26-61a-505 (3)(b) and to ensure a medical cannabis pharmacy's name and logo have a medical rather than a recreational disposition, the name and logo of a medical cannabis pharmacy:~~

~~(a) may include terms and images associated with a medical disposition such as medical, medicinal, medicine, pharmacy, apothecary, wellness, therapeutic, health, care, cannabis, clinic, compassionate, relief, treatment, and patient;~~

~~(b) shall not include any term, statement, design representation, picture, or illustration associated with a recreational disposition or that appeals to children; and~~

~~(c) shall not include an emphasis on a psychoactive ingredient or a specific cannabis strain.~~

~~(2) A term associated with a recreational disposition that a medical cannabis pharmacy is prohibited from using in their name or logo includes: weed, pot, reefer, grass, hash, ganga, Mary Jane, high, buzz, haze, stoned, joint, bud, smoke, euphoria, dank, doobie, kush, frost, cookies, rec, bake, blunt, combust, bong, budtender, dab, blaze, toke, and 420.~~

#### **~~R380-406-20. Medical Cannabis Pharmacy—Criteria and Process for Issuance of Additional Licenses.~~**

~~(1) The Department may consider the following factors as criteria when determining if additional medical cannabis pharmacy licenses shall be issued pursuant to Subsection 26-61a-305 (1)(d):~~

~~(a) high potential for growth in the number of medical cannabis card holders located in one or more regions of the state;~~

~~(b) access to medical cannabis home delivery service in the state or in certain regions of the state;~~

~~(c) commuting patterns and economic activity in certain regions of the state;~~

~~(d) driving distance for medical cannabis cardholders or potential medical cannabis cardholders residing in certain regions of the state from their home to the nearest medical cannabis pharmacy location; or~~

~~(e) the inadequate supply, quality, or variety of medical cannabis in the state or certain regions of the state.~~

~~(2) As the Department considers one or more factors described in Subsection (1), it shall consult with and consider input from the Utah Department of Agriculture and Food, the medical cannabis industry, and the public.~~

## NOTICES OF PROPOSED RULES

~~(3) The Department's process of consultation and consideration of input shall include meetings with stakeholders and holding of a public hearing during which it will accept public comment.~~

~~(4) If the Department determines that an additional medical cannabis pharmacy license should be issued, the Department shall accept applications for the license in accordance with Title 63G, Chapter 6a, Utah Procurement Code.~~

**KEY: medical cannabis, medical cannabis pharmacy, marijuana**

**Date of Last Change: May 4, 2022**

**Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a; 26-61a-303(2); 26-61a-305(1); 26-61a-501; 26-61-501(12); 26-61a-501(13); 26-61a-503(3); 26-61a-505(3); 26-61a-505(4); 26-61a-505(5); 26-61a-605(5)]**

### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R380-407</b>	<b>Filing ID:</b> <b>54901</b>
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### Agency Information

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration (Health)	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	801-538-6504	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

### General Information

<b>2. Rule or section catchline:</b>
R380-407. Medical Cannabis Pharmacy Agent
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Rule R380-407 is repealed in its entirety and replaced with Rule R383-8 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to

reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-8. Any language not altered by S.B. 190 transfers to Rule R383-8.

(EDITOR'S NOTE: The proposed new Rule R383-8 is under ID 54904 in this issue, November 1, 2022, of the Bulletin.)

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

All requirements currently listed in Rule R380-407 are moved to the proposed new Rule R383-8. Any changes from the original filing are in the filing for Rule R383-8.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

### Fiscal Information

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

#### A) State budget:

This fiscal impact is negligible to the state budget. The repeal of Rule R380-407 will not affect the state budget because the requirements currently listed in Rule R380-407 will be moved to the proposed new Rule R383-8.

#### B) Local governments:

The repeal of Rule R380-407 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-407 are in the proposed new Rule R383-8.

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

The repeal of Rule R380-407 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-407 are in the proposed new Rule R383-8.



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

The repeal of Rule R380-407 will not affect non-small businesses because the repeal will not result in non-small business expenditures or fiscal benefits because the requirements for Rule R380-407 are in the proposed new Rule R383-8.

**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 of Rule R380-407 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-407 are in the proposed new Rule R383-8.

**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 Rule R380-407 will not result in compliance costs for affected persons because the repeal will not result in compliance expenditures or fiscal benefits because the requirements for Rule R380-407 are in the proposed new Rule R383-8.

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

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

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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:**

Subsection 26B-1-213(1)	Subsection 26-61a-401(5)(a)	
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**Public Notice Information****8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 12/01/2022

**B) A public hearing (optional) will be held:**

<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:** 12/08/2022

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	09/17/2022
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**R380. Health, Administration.**~~**R380-407. Medical Cannabis Pharmacy Agent.**~~~~**R380-407-1. Authority and Purpose.**~~

~~Pursuant to Subsections 26-1-5(1) and 26-61a-401(5), this rule establishes medical cannabis pharmacy agent duties and responsibilities, application procedures, renewal application procedures, and certification standards.~~

**~~R380-407-2. Medical Cannabis Pharmacy Agent—Duties and Responsibilities.~~**

- ~~\_\_\_\_\_ (1) A pharmacy agent may perform the following duties:~~
- ~~\_\_\_\_\_ (a) within the dosage parameters specified by a QMP or PMP, assist the cardholder with understanding available products, proper use of a medical device, medical cannabis strains, and methods of consumption or application;~~
- ~~\_\_\_\_\_ (b) using the ICS, verify the status of an individual's medical cannabis card, and dosage parameters in a patient recommendation;~~
- ~~\_\_\_\_\_ (c) enter and retrieve information from the ICS;~~
- ~~\_\_\_\_\_ (d) authorize entry of a cardholder into the cardholder counseling area;~~
- ~~\_\_\_\_\_ (e) take a refill order from a QMP;~~
- ~~\_\_\_\_\_ (f) provide pricing and product information;~~
- ~~\_\_\_\_\_ (g) accurately process cardholder payment, including issuance of receipt, refund, credit, and cash;~~
- ~~\_\_\_\_\_ (h) prepare labeling for product;~~
- ~~\_\_\_\_\_ (i) retrieve medical cannabis, and medical cannabis device, from inventory;~~
- ~~\_\_\_\_\_ (j) accept new medical cannabis, or medical cannabis device, orders left on voicemail for a PMP to review;~~
- ~~\_\_\_\_\_ (k) verbally offer to a cardholder, the opportunity for counseling with a PMP regarding medical cannabis, or a medical cannabis device;~~
- ~~\_\_\_\_\_ (l) assist with dispensing of product to a cardholder;~~
- ~~\_\_\_\_\_ (m) screen calls for a PMP;~~
- ~~\_\_\_\_\_ (n) prepare inventory of medical cannabis, and medical cannabis device;~~
- ~~\_\_\_\_\_ (o) transport medical cannabis, or medical cannabis device; and~~
- ~~\_\_\_\_\_ (p) assist with maintaining a safe, clean, and professional environment.~~
- ~~\_\_\_\_\_ (2) A pharmacy agent shall not perform the following duties:~~
- ~~\_\_\_\_\_ (a) receive dosage parameters for a patient's recommendation over the phone, or in person;~~
- ~~\_\_\_\_\_ (b) access patient information in the EVS;~~
- ~~\_\_\_\_\_ (c) view medical treatment, and medication history, in the EVS;~~
- ~~\_\_\_\_\_ (d) determine, or modify, dosage parameters in a patient's recommendation; or~~
- ~~\_\_\_\_\_ (e) provide counseling, or consultation, regarding a patient's medical condition, or medical treatment.~~

**~~R380-407-3. Medical Cannabis Pharmacy Agent—Application Procedures.~~**

- ~~\_\_\_\_\_ (1) The application procedures established in this section shall govern an application for initial issuance of a pharmacy agent registration card, under Title 26, Chapter 61a, Utah Medical Cannabis Act.~~
- ~~\_\_\_\_\_ (2) Each pharmacy agent card applicant shall apply upon forms available from the Department.~~
- ~~\_\_\_\_\_ (3) The Department may issue a card to an applicant who submits a complete application, and the Department determines that the applicant meets the card requirements.~~
- ~~\_\_\_\_\_ (4) The Department shall provide a written notice of denial to an applicant who submits a complete application, if the Department determines that the applicant does not meet the card requirements.~~
- ~~\_\_\_\_\_ (5) The Department shall provide to the applicant a written notice of incomplete application, that the application will be closed~~

~~unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets all card requirements.~~

~~\_\_\_\_\_ (6) A written notice of denial, and incomplete application, shall be sent to the applicant's last email address shown in the Department's EVS database.~~

~~\_\_\_\_\_ (7) Each applicant is required to maintain a current email address with the Department. Notice sent to the last email address on file with the Department, constitutes legal notice.~~

**~~R380-407-4. Medical Cannabis Pharmacy Agent—Renewal Application Procedures.~~**

~~\_\_\_\_\_ (1) Renewal application procedures established in the rule shall apply to applicants applying for renewal of a pharmacy agent registration card, under Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

~~\_\_\_\_\_ (2) Each card applicant shall apply upon renewal application forms, available from the Department.~~

~~\_\_\_\_\_ (3) The Department shall issue a card to an applicant who submits a complete renewal application, if the Department determines that the applicant meets the card requirements.~~

~~\_\_\_\_\_ (4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application, if the Department determines that the applicant does not meet the card requirements.~~

~~\_\_\_\_\_ (5) The Department shall provide a written notice of incomplete application to an applicant who submits an incomplete application. Which notice shall advise the applicant that the renewal application is incomplete, and that the renewal application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets all card requirements.~~

~~\_\_\_\_\_ (6) The Department shall send a renewal notice to each cardholder prior to the expiration date shown on the cardholder's card. The notice shall include directions for the cardholder to renew the card via the Department's website.~~

~~\_\_\_\_\_ (7) Renewal notices shall be sent by email, addressed to the cardholder's last email shown in the Department's EVS database.~~

~~\_\_\_\_\_ (8) Each cardholder is required to maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice.~~

~~\_\_\_\_\_ (9) A renewal notice shall advise each cardholder that a card will automatically expire on the expiration date, and is no longer valid if it is not renewed prior to the expiration date.~~

~~\_\_\_\_\_ (10) If an individual's pharmacy agent registration card expires, the individual may submit a card renewal application at any time regardless of the length of time passed since the expiration of the card.~~

**~~R380-407-5. Medical Cannabis Pharmacy Agent—Certification Standard.~~**

~~\_\_\_\_\_ The certification standard for an applicant for initial and renewal registration of a pharmacy agent card will be successful completion of an online course, or acknowledgement of information developed by the Department.~~

**~~KEY: medical cannabis, medical cannabis pharmacy, medical cannabis pharmacy agent, marijuana~~**

**~~Date of Last Change: June 10, 2020~~**

**~~Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a; 26-61a-401(5)]~~**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Rule or Section Number:	R380-408	Filing ID: 54969

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration (Health)	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

2. Rule or section catchline:
R380-408. Home Delivery and Courier
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Rule R380-408 is repealed in its entirety and replaced with Rule R383-9 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.
S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-9. Any language not altered by S.B. 190 transfers to Rule R383-9.
(EDITOR'S NOTE: The proposed new Rule R383-9 is under ID 54958 in this issue, November 1, 2022, of the Bulletin.)

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

All requirements currently listed in Rule R380-408 are moved to the proposed new Rule R383-9. Any changes from the original filing are in the filing for Rule R383-9.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

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

This fiscal impact is negligible to the state budget. The repeal of Rule R380-408 will not affect the state budget because the requirements currently listed in Rule R380-408 will be moved to the proposed new Rule R383-9.

**B) Local governments:**

The repeal of Rule R380-408 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-408 are in the proposed new Rule R383-9.

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

The repeal of Rule R380-408 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-408 are in the proposed new Rule R383-9.

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

The repeal of Rule R380-408 will not affect non-small businesses because the repeal will not result in non-small business expenditures or fiscal benefits because the requirements for Rule R380-408 are in the proposed new Rule R383-9.

**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 of Rule R380-408 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-408 are in the proposed new Rule R383-9.

**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 Rule R380-408 will not result in compliance costs for affected persons because the repeal will not result in compliance expenditures or fiscal benefits because the requirements for Rule R380-408 are in the proposed new Rule R383-9.

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

#### Regulatory Impact Table

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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:**

Subsection 26B-1-213(1)	Subsection 26-61a-401(5)(a)	
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#### Public Notice Information

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

**A) Comments will be accepted until:** 12/01/2022

**B) A public hearing (optional) will be held:**

On:	At:	At:
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:** 12/08/2022

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

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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#### R380. Health, Administration.

~~[R380-408. Home Delivery and Courier.~~

~~R380-408 1. Authority and Purpose.~~

~~Pursuant to Subsections 26-1-5(1) and 26-61a-606, this rule establishes home delivery operating standards, home delivery agent operating standards, courier agent application procedures, courier agent renewal application procedures, and courier agent certification standards.~~

~~R380-408 2. Home Delivery Service — Operating Standards.~~

~~(1) In addition to general operating standards established in Sections 26-61a-605 through 26-61a-607, home delivery medical cannabis pharmacies and couriers shall comply with the operating standards established in this rule. The following operating standards apply to home delivery medical cannabis pharmacies and couriers:~~

~~(a) maintain an updated written operating plan for the home delivery service, describing plan to comply with standards established in this section and meeting the requirements of subsection 26-61a-604(14);~~

~~(b) ensure accurate record keeping of delivery information in the ICS;~~

~~(c) maintain a record of not less than 5 years of the initials, or identification codes that identify each pharmacy agent, or courier agent, by name. The initials, or identification codes, shall be unique to ensure that each pharmacy agent, or courier agent, can be~~

identified. Identical initials, or identification codes, shall not be used for different pharmacy agents, or courier agents;

~~(d) lock medical cannabis, and medical cannabis device, that are transported in a fully enclosed box, container, or cage, that is secured inside a delivery vehicle. Ensure appropriate storage temperature throughout the delivery process to maintain the integrity of the product;~~

~~(e) maintain a current list, either paper or electronic, of any employee working for the home delivery medical cannabis pharmacy, or courier, who make home deliveries, that shall include employee name, Department registration license classification and license number, and registration expiration date;~~

~~(f) upon request, provide the Department with information regarding any vehicle used for the home delivery service; including the vehicle's make, model, color, vehicle identification number, license plate number, insurance number, and Division of Motor Vehicle registration number;~~

~~(g) ensure that a manifest is not modified in any way, after a pharmacy agent, or courier agent, departs from a home delivery medical cannabis pharmacy facility with a shipment appearing on the manifest;~~

~~(h) ensure that no person, other than a pharmacy agent or courier agent, is in a delivery vehicle during a delivery; or during the time medical cannabis, or a medical cannabis device, is in the vehicle; and~~

~~(i) ensure that trip log documentation showing a specific route of delivery exists for a route driven by a pharmacy agent, or courier agent, on a specific day is immediately available for review by the Department, upon request.~~

~~(2) When delivering medical cannabis, and a medical cannabis device, to a medical cannabis cardholder's home, a pharmacy agent, or courier agent shall not:~~

~~(a) drop off medical cannabis, or a medical cannabis device, with anyone other than a medical cannabis cardholder;~~

~~(b) perform a home delivery before 6am or after 10pm;~~

~~(c) leave medical cannabis, or a medical cannabis device, unattended in a delivery vehicle, for more than one hour;~~

~~(d) make changes in dosage, or quantity, at the request of the medical cannabis cardholder, during a delivery; and~~

~~(e) consume medical cannabis while delivering medical cannabis.~~

~~(3) When delivering medical cannabis, and a medical cannabis device, a pharmacy agent, and courier agent, employed by the home delivery medical cannabis pharmacy, or courier, shall:~~

~~(a) wear an identification tag, or similar form of identification, that clearly identify them to medical a cannabis cardholder; including their position as a pharmacy agent, or courier agent; and~~

~~(b) provide each cardholder receiving a shipment, printed material that includes a home delivery medical cannabis pharmacy's contact information, and hours when a PMP at the home delivery medical cannabis pharmacy is available for counseling over the phone.~~

~~(4) Vehicles used for the purpose of home delivery must meet the following standards:~~

~~(a) no marking, or other indication, on the exterior that may indicate what is being transported;~~

~~(b) cannot be an unmanned vehicle;~~

~~(c) have an active alarm system;~~

~~(d) have a global positioning system (GPS) monitoring device that is:~~

~~(i) not a mobile device that is easily removable;~~

~~(ii) attached to the vehicle at all times that the vehicle contains medical cannabis, or a medical cannabis device; and~~

~~(iii) capable of storing and transmitting GPS data so it can be monitored by the home delivery medical cannabis pharmacy, during transport of medical cannabis, and a medical cannabis device;~~

~~(e) be subject to inspection by the Department at any time; and~~

~~(f) not transport medical cannabis, or a medical cannabis device, beyond what appears on a manifest; or what a pharmacy agent, or courier, has picked up from a medical cannabis cardholder, to be returned to the home delivery medical cannabis pharmacy.~~

~~(5) In the case of medical cannabis, or a medical cannabis device, that goes missing during the course of a home delivery route:~~

~~(a) the pharmacy agent, or courier agent, shall notify the home delivery medical cannabis pharmacy's supervising PMP, within 24 hours of when the pharmacy agent, or courier agent, first became aware of the missing product; and~~

~~(b) information regarding missing product shall be reported by the home delivery medical cannabis pharmacy, to the Department and local law enforcement, and logged in to the ICS.~~

~~(6) A courier cannot store medical cannabis, or a medical cannabis device, at its facility. Medical cannabis, and a medical cannabis device, delivered by the courier must be picked up from a home delivery medical cannabis pharmacy facility; and either delivered to the medical cannabis cardholder's residence, or returned to the home delivery medical cannabis pharmacy facility.~~

### **~~R380-408.3. Home Delivery Agent—Operating Standards.~~**

~~(1) In addition to operating standards established in Sections 26-61a-605 through 26-61a-607, a pharmacy agent and courier agent, shall comply with the operating standards established in this rule. The following operating standards apply to a pharmacy agent, and courier agent:~~

~~(a) ensure accurate record-keeping of delivery information in the ICS;~~

~~(b) ensure locking of medical cannabis, and a medical cannabis device, that are transported in a fully enclosed box container or cage that is secured inside a delivery vehicle, that ensures appropriate storage temperature throughout the delivery process, to maintain the integrity of the product;~~

~~(c) ensure that a manifest is not modified in any way, after they depart from a home delivery medical cannabis pharmacy facility with the shipment appearing on the manifest; and~~

~~(d) ensure that no person, other than a pharmacy agent or courier agent, is in a delivery vehicle during a delivery; or during the time medical cannabis, or a medical cannabis device, is in the vehicle.~~

~~(2) When delivering medical cannabis and a medical cannabis device to a cardholder home, a pharmacy agent or courier agent shall not:~~

~~(a) drop off medical cannabis, or medical cannabis device, with anyone other than a medical cannabis cardholder;~~

~~(b) perform a home delivery before 6am or after 10pm;~~

~~(c) leave medical cannabis, or a medical cannabis device, unattended in a delivery vehicle for more than 60 minutes;~~

~~(d) make a change in dosage or quantity, on the request of the cardholder during a delivery;~~

~~(e) consume medical cannabis while delivering medical cannabis; and~~

~~(f) transport medical cannabis, or a medical cannabis device, beyond what appears on a manifest.~~

~~(3) When delivering medical cannabis, and a medical cannabis device, a pharmacy agent and courier agent shall:~~

## NOTICES OF PROPOSED RULES

~~(a) wear an identification tag or similar form of identification to clearly identify them to a cardholder, including their position as a pharmacy agent or courier agent; and~~

~~(b) provide each cardholder printed material that includes a home delivery medical cannabis pharmacy's contact information, and hours for counseling over the phone with a PMP.~~

~~(4) In the case of medical cannabis, or a medical cannabis device, that goes missing during the course of a home delivery route, the pharmacy agent, or courier agent, shall notify the home delivery medical cannabis pharmacy's supervising PMP within 24 hours of when the medical cannabis pharmacy agent first became aware of the missing product.~~

### **~~R380-408 4. Medical Cannabis Courier Agent — Application Procedures.~~**

~~(1) The application procedures established in this section shall govern applications for initial issuance of a courier agent registration card under Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

~~(2) Each card applicant shall apply upon forms available in the EVS from the Department.~~

~~(3) The Department may issue a card only if the applicant meets the card requirements, established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.~~

~~(4) The Department shall provide a written notice of denial to an applicant who submits a complete application, if the Department determines that the applicant does not meet the card requirements.~~

~~(5) The Department shall provide to the applicant a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets all card requirements.~~

~~(6) A written notice of denial and incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database, unless the applicant has requested to be notified by regular mail.~~

~~(7) Each applicant is required to maintain a current email and mailing address with the Department. Notice to the last email address on file with the Department constitutes legal notice, unless the applicant has requested to be notified by regular mail.~~

### **~~R380-408 5. Medical Cannabis Courier Agent — Renewal Application Procedures.~~**

~~(1) Renewal application procedures established in this section shall govern applications to renew a courier agent registration card under Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

~~(2) Each card applicant shall apply upon renewal application forms available from the Department.~~

~~(3) The Department shall issue a card to an applicant who submits a complete renewal application, if the Department determines that the applicant meets the card requirements.~~

~~(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application, if the Department determines that the applicant does not meet the card requirements.~~

~~(5) The Department shall provide to the applicant a written notice of incomplete application that the renewal application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets all card requirements.~~

~~(6) The Department shall send a renewal notice to each cardholder at least 60 days prior to the expiration date shown on the~~

~~cardholder's card. The notice shall include instructions to renew the card via the Department's website.~~

~~(7) A renewal notice shall be sent to the cardholder's last email shown in the Department's EVS database unless the cardholder has requested to be notified by regular mail.~~

~~(8) Each cardholder is required to maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice, unless the cardholder has requested to be notified by regular mail.~~

~~(9) It shall be the responsibility of each cardholder to maintain a current email address, and mailing address with the Department.~~

~~(10) A renewal notice shall advise each cardholder that a card automatically expires on the expiration date, and is no longer valid.~~

~~(11) If an individual's courier agent registration card expires, the individual may submit a card renewal application at any time, regardless of the length of time passed since the expiration of the card.~~

### **~~R380-408 6. Medical Cannabis Courier Agent — Certification Standard.~~**

~~The certification standard for applicants for initial and renewal registration of a courier agent card will be the successful completion of an online course developed by the Department.~~

**~~KEY: medical cannabis, medical cannabis courier agent, medical cannabis home delivery, marijuana~~**

**~~Date of Last Change: June 10, 2020~~**

**~~Authorizing, and Implemented or Interpreted Law: 63C-3; 26-1-5(1); 26-61a; 26-61a-606; 26-61a-604(14); 26-61a-607]~~**

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

**TYPE OF RULE:** Repeal

**Rule or Section Number:**

**R380-409**

**Filing ID:**  
**54970**

#### **Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration (Health)	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov



Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R380-409. State Central Patient Portal
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
<p>Rule R380-409 is repealed in its entirety and replaced with Rule R383-10 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.</p> <p>S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-10. Any language not altered by S.B. 190 transfers to Rule R383-10.</p> <p>(EDITOR'S NOTE: The proposed new Rule R383-10 is under ID 54959 in this issue, November 1, 2022, of the Bulletin.)</p>
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
<p>All requirements currently listed in Rule R380-409 are moved to the proposed new Rule R383-10. Any changes from the original rule are in the filing for Rule R383-10.</p> <p>Hearing Information for 11/07/2022, 10:00 AM:  <b>In-Person:</b> at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.</p> <p>Google Meet joining information:  <b>Video call link:</b> <a href="https://meet.google.com/eog-qbsy-uoa">https://meet.google.com/eog-qbsy-uoa</a>  Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:  <a href="https://tel.meet/eog-qbsy-uoa?pin=4354591598568">https://tel.meet/eog-qbsy-uoa?pin=4354591598568</a>  <b>Join by phone:</b> (US) +1 209-734-0016; PIN: 225961514</p>

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
<p>This fiscal impact is negligible to the state budget. The repeal of Rule R380-409 will not affect the state budget because the requirements currently listed in Rule R380-409 will be moved to the proposed new Rule R383-10.</p>

**B) Local governments:**

The repeal of Rule R380-409 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-409 are in the proposed new Rule R383-10.

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

The repeal of Rule R380-409 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-409 are in the proposed new Rule R383-10.

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

The repeal of Rule R380-409 will not affect non-small businesses because the repeal will not result in non-small business expenditures or fiscal benefits because the requirements for Rule R380-409 are in the proposed new Rule R383-10.

**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 of Rule R380-409 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-409 are in the proposed new Rule R383-10.

**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 Rule R380-409 will not result in compliance costs for affected persons because the repeal will not result in compliance expenditures or fiscal benefits because the requirements for Rule R380-409 are in the proposed new Rule R383-10.

**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

## NOTICES OF PROPOSED RULES

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.			

## Citation Information

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 26B-1-213(1)	Subsection 26-61a-401(5)(a)	

## Public Notice Information

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>		
<b>A) Comments will be accepted until:</b>	12/01/2022	
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4
<b>9. This rule change MAY become effective on:</b>		
		12/08/2022

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

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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## R380. Health, Administration.

## [R380-409. State Central Patient Portal.

## R380-409 1. Authority and Purpose.

~~Pursuant to Subsection 26-61a-601(3), Utah Medical Cannabis Act, State central patient portal; this rule establishes standards related to the state central patient portal's facilitation of an electronic medical cannabis order, to a home delivery medical cannabis pharmacy.~~

## R380-409 2. Facilitation of Online Orders.

~~To facilitate an online order, the state central patient portal website shall include links to individual websites established by home delivery medical cannabis pharmacies, where a cardholder may view available inventory and order medical cannabis product and a medical cannabis device, or educational material related to the use of medical cannabis.~~

**KEY: medical cannabis, medical cannabis patient portal, medical cannabis online orders, marijuana**

**Date of Last Change: June 10, 2020**

**Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a; 26-61a-601.]**

## NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R380-410</b>	<b>Filing ID:</b>
		<b>54971</b>

## Agency Information

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Center for Medical Cannabis	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov



Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R380-410. Agreement with a Tribe
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
<p>Rule R380-410 is repealed in its entirety and replaced with Rule R383-11 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.</p> <p>S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-11. Any language not altered by S.B. 190 transfers to Rule R383-11.</p> <p>(EDITOR'S NOTE: The proposed new Rule R383-11 is under ID 54960 in this issue, November 1, 2022, of the Bulletin.)</p>
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
<p>All requirements currently listed in Rule R380-410 are moved to the proposed new Rule R383-11. Any changes from the original rule are in the filing for Rule R383-11.</p> <p>Hearing Information for 11/07/2022, 10:00 AM: <b>In-Person:</b> at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.</p> <p>Google Meet joining information: <b>Video call link:</b> <a href="https://meet.google.com/eog-qbsy-uaa">https://meet.google.com/eog-qbsy-uaa</a> Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers: <a href="https://tel.meet/eog-qbsy-uaa?pin=4354591598568">https://tel.meet/eog-qbsy-uaa?pin=4354591598568</a> <b>Join by phone:</b> (US) +1 209-734-0016; PIN: 225961514</p>

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
<p>This fiscal impact is negligible to the state budget. The repeal of Rule R380-410 will not affect the state budget because the requirements currently listed in Rule R380-410 will be moved to the proposed new Rule R383-11.</p>

<b>B) Local governments:</b>																				
<p>The repeal of Rule R380-410 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-410 are in the proposed new Rule R383-11.</p>																				
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):																				
<p>The repeal of Rule R380-410 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-410 are in the proposed new Rule R383-11.</p>																				
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):																				
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<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):																				
<p>The repeal of Rule R380-410 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-410 are in the proposed new Rule R383-11.</p>																				
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):																				
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<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)																				
<b>Regulatory Impact Table</b>																				
<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
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State Government	\$0	\$0	\$0																	
Local Governments	\$0	\$0	\$0																	
Small Businesses	\$0	\$0	\$0																	
Non-Small Businesses	\$0	\$0	\$0																	

## NOTICES OF PROPOSED RULES

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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:**

Subsection 26B-1-213(1)	Subsection 26-61a-401(5)(a)	
-------------------------	-----------------------------	--

## Public Notice Information

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

<b>A) Comments will be accepted until:</b>	12/01/2022
<b>B) A public hearing (optional) will be held:</b>	
<b>On:</b>	<b>At:</b>
11/07/2022	10:00 AM
	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:** 12/08/2022

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

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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## R380. Health, Administration.

~~[R380 410. Agreement with a Tribe.~~

~~R380 410 1. Introduction and Authority.~~

~~This rule defines and clarifies the requirements to enter into an agreement pursuant to Section 26-61a-108 to operate a medical cannabis pharmacy on a tribal land located within Utah boundaries. This rule is authorized under Section 26-61a-108.~~

~~R380 410 2. Definitions.~~

~~(1) "Agreement with a Tribe" means a formal compact, or Memorandum of Understanding, between this state and a Tribe.~~

~~(2) "Tribal governing body and authority" means the person, or persons, acting in an official capacity as specifically authorized by the Tribe to enter into the Agreement.~~

~~(3) "Tribal land" mean Indian Country as defined in 18 U.S. Code 1151, United States Code, Indians, Indian country defined.~~

~~(4) "Tribe" means Indian Tribe as defined in 25 U.S.C. Sec. 1603(14). The Bureau of Indian Affairs (BIA) Federal Register identifies the following tribes as federally recognized in Utah:~~

- ~~(a) Confederated Tribes of the Goshute Reservation;~~
- ~~(b) Navajo Nation;~~
- ~~(c) Northwestern Band of Shoshone Nation;~~
- ~~(d) Paiute Indian Tribe of Utah;~~
- ~~(e) San Juan Southern Paiute;~~
- ~~(f) Skull Valley Band of Goshute;~~
- ~~(g) Ute Indian Tribe; and~~
- ~~(h) Ute Mountain Ute Tribe.~~

~~R380 410 3. Participating Tribes.~~

~~Only a Tribe, as defined in federal law, can enter into an agreement with the Governor.~~

~~R380 410 4. Agreement Requirements.~~

~~An agreement shall address the following matters, as set out in federal law:~~

- ~~(1) tribal sovereignty;~~
- ~~(2) tribal jurisdiction; and~~
- ~~(3) tribal ordinance or resolution.~~

~~KEY: medical cannabis, marijuana, tribe agreement, tribes~~

~~Date of Last Change: June 10, 2020~~

~~Authorizing, and Implemented or Interpreted Law: 26-61a; 26-61-108; 26 U.S.C. 1603(14); 18 U.S.C. 1151]~~

## NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R380-411</b>	<b>Filing ID:</b>
		<b>54972</b>

## Agency Information

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Administration (Health)
<b>Room number:</b>	427A

<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R380-411. Administrative Hearing Procedures
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
<p>Rule R380-411 is repealed in its entirety and replaced with Rule R383-12 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.</p> <p>S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-12. Any language not altered by S.B. 190 transfers to Rule R383-12.</p> <p>(EDITOR'S NOTE: The proposed new Rule R383-12 is under ID 54975 in this issue, November 1, 2022, of the Bulletin.)</p>
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
<p>All requirements currently listed in Rule R380-411 are moved to the proposed new Rule R383-12. Any changes from the original rule are in the filing for Rule R383-12.</p> <p>Hearing Information for 11/07/2022, 10:00 AM:  <b>In-Person:</b> at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.</p>

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uoq>  
 Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:  
<https://tel.meet/eog-qbsy-uoq?pin=4354591598568>  
**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This fiscal impact is negligible to the state budget. The repeal of Rule R380-411 will not affect the state budget because the requirements currently listed in Rule R380-411 will be moved to the proposed new Rule R383-12.
<b>B) Local governments:</b>
The repeal of Rule R380-411 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-411 are in the proposed new Rule R383-12.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
The repeal of Rule R380-411 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-411 are in the proposed new Rule R383-12.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
The repeal of Rule R380-411 will not affect non-small businesses because the repeal will not result in non-small business expenditures or fiscal benefits because the requirements for Rule R380-411 are in the proposed new Rule R383-12.
<b>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>):</b>
The repeal of Rule R380-411 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-411 are in the proposed new Rule R383-12.
<b>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</b>

The repeal of Rule R380-411 will not result in compliance costs for affected persons because the repeal will not result in compliance expenditures or fiscal benefits because the requirements for Rule R380-411 are in the proposed new Rule R383-12.

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

#### Regulatory Impact Table

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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:**

Subsection 26B-1-213(1)	Subsection 26-61a-401(5)(a)	
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#### Public Notice Information

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

A) Comments will be accepted until:		12/01/2022
B) A public hearing (optional) will be held:		
On:	At:	At:
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:** 12/08/2022

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

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/04/2022
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#### R380. Health, Administration.

##### ~~R380-411. Administrative Hearing Procedures.~~

##### ~~R380-411-1. Introduction and Authority.~~

~~(1) This rule establishes the administrative hearing procedures for the Center for Medical Cannabis.~~

~~(2) This rule is authorized by Section 26-1-24 and Section 63G-4-102.~~

##### ~~R380-411-2. Definitions.~~

~~(1) The definitions in Section R380-400-2 and Section 63G-4-103 apply to this rule.~~

~~(2) The following definitions also apply:~~

~~(a) "Action" means a denial, termination, suspension, or reduction of a license, or card, or issued, pursuant to Title 26, Chapter 61a, Utah Medical Cannabis Act; or the imposition of a penalty, or fine, authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act. An action does not include an issuance of a license to operate a medical cannabis pharmacy, pursuant to Title 63G, Chapter 6a, Utah Procurement Code.~~

~~(b) "Agency" means the Center for Medical Cannabis within the Utah Department of Health.~~

~~(c) "Aggrieved person" means any person affected by the agency's action.~~

~~(d) "Applicant" means any person who has applied for a medical cannabis card or a registration, or license, other than a medical cannabis pharmacy license, pursuant to Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

~~(e) "Ex Parte" communication means direct or indirect communication in connection with an issue of fact, or law, between the hearing officer and one party only.~~

~~(f) "Presiding Officer" means the agency head, or designee, as approved by the Executive Director, to conduct administrative a hearing pursuant to this rule.~~

~~(g) "Medical record" means a record that contains medical data submitted by an applicant.~~

~~(h) "Order" means a ruling by a hearing officer that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons.~~

### **R380-411-3. Administrative Adjudicative Procedures.**

~~(1) Except as provided in this rule, or as otherwise designated by rule, or statute, or converted, pursuant to Subsection 63G-4-202(3), all adjudicative proceedings conducted pursuant to this rule are informal proceedings.~~

~~(2) The agency head shall serve as the presiding officer for an informal hearing, except that the agency head may designate a presiding officer, as approved by the executive director.~~

~~(3) Closure of an application submitted to the agency, due to the applicant's failure to complete the application, or to provide required information, is not an action under this rule.~~

~~(4) Any provision of this rule does not apply to an action that is governed by another statute that conflicts with the procedures in this rule.~~

### **R380-411-4. Commencement of Proceedings, Response.**

~~(1) If a person is aggrieved by an action of the agency, the person may file a request for agency action and hearing within the shortest of 30 calendar days, of either receiving the initial agency determination, or the agency's mailing, or electronic notification via email, of the initial agency determination. The person shall request an agency action, and hearing, by submitting the request on a form created by the Center.~~

~~(2) If the informal adjudicative proceeding is commenced by a notice of agency action, each party in the action, except the Center, shall file a response to the allegations contained in the notice of agency action, and state whether a hearing is requested.~~

~~(3) Pursuant to this rule and Section 63G-4-201, if the informal adjudicative proceeding is commenced by a request for agency action, the Agency must consider the request, and grant or deny it, or set the request for further proceedings.~~

~~(4) If a medical issue is in dispute, each request shall include supporting medical documentation. The Agency shall schedule a hearing only when it receives sufficient medical records, and may dismiss a request for agency action, or strike the party's response, to a notice of agency action if it does not receive supporting medical documentation in a timely manner.~~

~~(5) Notice of Agency Action:~~

~~(a) An agency shall provide a written notice of action to each aggrieved person. Such action includes, but is not limited to:~~

~~(i) denial of an application for a medical cannabis card, or a QMP, PMP, pharmacy agent, or courier agent registration card;~~

~~(ii) suspension, or revocation, of a medical cannabis card or a QMP, PMP, pharmacy agent, or courier agent registration card;~~

~~(iii) suspension, or revocation, of a medical cannabis pharmacy license, or a home delivery medical cannabis pharmacy license; and~~

~~(iv) imposition of a penalty, or fine, authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

~~(b) The notice must include:~~

~~(i) a statement of the action the agency intends to take;~~

~~(ii) the date the intended action becomes effective;~~

~~(iii) the reason for the intended action;~~

~~(iv) the specific regulation that support the action, or the change in federal law, state law, or Department rule which requires the action;~~

~~(v) the right to submit a response, and request an administrative hearing;~~

~~(vi) the right to represent oneself, the right to legal counsel, or the right to use another representative at the hearing; and~~

~~(vii) if applicable, an explanation of the circumstance under which the license, or card, will continue, or may be reinstated, pursuant to this rule.~~

~~(c) The agency shall mail the notice, or electronically notify the person at the email address on file with the EVS; at least 10 calendar days before the date of the intended action.~~

~~(6) The agency may issue an order on an emergency basis pursuant to Section 63G-4-502. The aggrieved party may request an administrative hearing, pursuant to this rule.~~

### **R380-411-5. Hearing and a Request for a Hearing.**

~~(1) The Center shall conduct an informal hearing for all issues, except those specifically designated as a formal hearing pursuant to this rule. The presiding officer may convert the proceeding to a formal hearing, if an aggrieved person requests a hearing that meets the criteria pursuant to Section 63G-4-202. If a hearing under this rule is converted to a formal hearing, pursuant to Section 63G-4-202, the formal hearing shall be conducted pursuant to these rules; except as otherwise provided in Sections 63G-4-204 through 63G-4-208, or other applicable statutes.~~

~~(2) An aggrieved person shall request a hearing by submitting the request on a Center "Request for Hearing/Agency Action" form and mailing it to the Center. The request must explain why the aggrieved person is seeking agency relief.~~

~~(3) A Request for Hearing/Agency Action, or a Response, and Request for Hearing that response, which an aggrieved person sends via mail is deemed filed on the date of the postmark. If the postmark date is illegible, erroneous, or omitted, the request is deemed filed on the date that the agency receives it; unless the sender can demonstrate through competent evidence of the mailing date.~~

~~(4) Failure to submit a timely response, and request for a hearing, constitutes a waiver of an individual's due process rights.~~

~~(5) The Agency shall conduct a hearing in connection with an agency action, if the aggrieved person requests a hearing and there is a disputed issue of fact. If there is no disputed issue of fact, the presiding officer may deny a request for a hearing, and issue a recommended decision without a hearing, based on the record. There is no disputed issue of fact, if the aggrieved person submits facts that do not conflict with the facts that the agency relies upon in taking action or seeking relief. In the recommended decision, the presiding officer shall specifically set out all material, and relevant facts, that are not in dispute.~~

~~(6) The Agency may dismiss a request for a hearing, if the aggrieved person:~~

~~(a) withdraws the request in writing;~~

~~(b) verbally withdraws the hearing request at a settlement conference, or prehearing conference;~~

~~(c) fails to appear, or participate, in a scheduled proceeding without good cause;~~

~~(d) prolongs the hearing process without good cause;~~

~~(e) cannot be located, or agency mail is returned without a forwarding address; or~~

~~(f) does not respond to any correspondence from the presiding officer, or fails to provide medical records that the agency requests.~~

~~(7) If the aggrieved person objects to the hearing denial, the person may raise that objection as grounds for relief, in a request for reconsideration.~~

**R380-411-6. Notice of Hearing.**

(1) The Agency shall notify the aggrieved person, or representative, in writing of the date, time, and place of the hearing, at least 10 calendar days before the date of the hearing; unless each party agrees to an alternative time frame. Any aggrieved person must inform the Agency of a current address, email address, and telephone number.

**R380-411-7. Prehearing Procedures.**

(1) The Agency shall conduct a Settlement Conference between the Agency, and the aggrieved party, within 30 calendar days from the date it receives a request for a hearing, or agency action. If a settlement cannot be reached, including a withdrawal, dismissal or granting of the request for action, the Agency shall notify the presiding officer to set a date for the administrative hearing.

(2) The presiding officer may elect to conduct a preliminary conference to:

- (a) formulate or simplify the issues;
- (b) obtain admissions of fact, and documents that will avoid unnecessary proof;
- (c) arrange for the exchange of proposed exhibits or prepared expert testimony;
- (d) outline procedures for the hearing; or
- (e) to agree to other matters that may expedite the orderly conduct of the hearing or settlement.

(3) The presiding officer may require each party to submit a prehearing position statement setting forth the position of the party.

(4) The party may enter into a written stipulation resolving all, or part, of the adjudicative action during the preliminary conference, or at any time during the process.

(5) Ex parte communication with the presiding officer are prohibited. If a party attempts ex parte communication, the presiding officer shall inform the offender that any communication that the hearing officer receives off the record, will become part of the record, and furnished to each party. Ex parte communication does not apply to communication on the status of the hearing, and uncontested procedural matters.

(6) The Agency shall allow the aggrieved person, or a representative, to examine each document and record relevant to the adjudicative proceeding; at least three days before the hearing.

(7) The presiding officer may require each party to file a signed prehearing disclosure form, at least 10 calendar days before the scheduled hearing that identifies:

- (a) any fact witness;
- (b) any expert witness;
- (c) any exhibit and report that each party intends to offer into evidence at the hearing.

(8) Each party shall supplement the disclosure form with information that shall become available after filing the original form.

**R380-411-8. Conduct of Hearing.**

(1) The Agency shall conduct a hearing pursuant to Section 63G-4-203 for an informal adjudicative proceeding.

(2) The agency head shall appoint an impartial presiding officer to conduct a hearing. Previous involvement in the initial determination of the action precludes an officer from appointment.

(3) A telephonic hearing will be held at the discretion of the presiding officer.

(4) The presiding officer shall take testimony under oath or affirmation.

(5) Each party has the right to:

(a) present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence;

(b) introduce exhibits;

(c) impeach any witness, regardless of which party first called the witness to testify; and

(d) rebut the evidence against the party.

(6) Each party may admit any relevant evidence and use hearsay evidence to supplement, or explain other evidence, as may be required for full disclosure of each fact relevant to the disposition of the hearing. Hearsay, however, is not sufficient by itself to support a finding, unless admissible over objection in civil actions. The presiding officer shall give effect to the rules of privilege recognized by law, and may exclude irrelevant, immaterial, and unduly repetitious evidence.

(7) The presiding officer shall control the evidence, to obtain full disclosure of the relevant facts, and to safeguard the rights of each party. The presiding officer may determine the order in which he receives the evidence.

(8) The presiding officer shall maintain order, and may recess the hearing to regain order if a person engages in disrespectful, disorderly, or disruptive conduct. The presiding officer may remove any person, including a participant, from the hearing to maintain order. If a person shows persistent disregard for order and procedure, the presiding officer may:

- (a) restrict the person's participation in the hearing;
- (b) strike pleadings or evidence; or
- (c) issue an order of default.

(9) If a party desires to employ a court reporter to make a record of the hearing, it must file an original transcript of the hearing with the hearing officer, at no cost to the agency.

(10) The party who initiates the hearing process through a request for agency action, has the burden of proof as the moving party.

(11) When a party possesses but fails to introduce certain evidence, the presiding officer may infer that the evidence does not support the party's position.

(12) The presiding officer may issue an order of default against any party that fails to obey an order entered by the hearing officer.

**R380-411-9. Record.**

(1) The presiding officer shall make a complete record of each hearing. A hearing record is the sole property of the Center.

(2) Any proceedings other than a hearing may be recorded at the discretion of the hearing officer.

(3) If a party requests a copy of the recording of a hearing, that party may transcribe the recording at the party's sole cost.

**R380-411-10. Proposed Decision and Final Agency Review.**

(1) At the conclusion of the hearing, the presiding officer shall take the matter under advisement, and submit a recommended decision to the Agency Head. The recommended decision is based on the testimony and evidence entered at the hearing, Agency policy and procedure, and legal precedent.

(2) The recommended decision must contain findings of fact and conclusions of law.

(3) The Agency or the director's designee may:

- (a) adopt the recommended decision, or any portion of the decision;
- (b) reject the recommended decision, or any portion of the decision, and make an independent determination based upon the record; or



~~(c) remand the matter to the presiding officer to take additional evidence; and the presiding officer thereafter shall submit to the Agency director or the director's designee, a new recommended decision.~~

~~(4) The agency head or their designee's decision constitutes final administrative action, and is subject to judicial review.~~

~~(5) The Agency shall send a copy of the final administrative action to each party, or representative, and notify them of their right to judicial review.~~

~~(6) Each party shall comply with a final decision from the director reversing the agency's decision, within 10 calendar days.~~

#### **R380-411-11 Amending Administrative Orders.**

~~(1) The Agency may amend an order if the presiding officer determines that the order contains a clerical error.~~

~~(2) The Agency shall notify each party its intent to amend the order by serving a notice of agency action signed by the hearing officer.~~

~~(3) The Agency Director shall review the amended order and the Agency Director or the Agency Director's designee shall issue a final agency amended order.~~

~~(4) The Agency shall provide a copy of the final amended order to each party.~~

#### **R380-411-12. Reconsideration.**

~~A party to the proceeding may move for reconsideration of the final administrative order pursuant to Section 63G-4-301.~~

#### **R380-411-13. Judicial Review.**

~~A party to the proceeding may obtain judicial review pursuant to Section 63G-4-102, and Sections 63G-4-400 through 63G-4-400.~~

#### **R380-411-14. Declaratory Orders.**

~~(1) The Agency may issue a declaratory order pursuant to Rule R380-1.~~

~~(2) If the Agency does not issue a declaratory order within 60 days after receipt of the request, the petition is denied.~~

~~(3) The Agency may not issue a declaratory order if an adjudicative proceeding that involves the each party and the same issue is pending before the agency, or a federal, or state court.~~

**KEY: medical cannabis, medical cannabis hearing, marijuana**

**Date of Last Change: June 10, 2020**

**Authorizing, and Implemented or Interpreted Law: 63G-3; 63G-4-102; 26-1-24; 26-61a]**

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

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R380-412</b>	<b>Filing ID:</b> <b>54973</b>
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#### **Agency Information**

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Administration (Health)
<b>Room number:</b>	427A
<b>Building:</b>	Martha Hughes Cannon Building
<b>Street address:</b>	288 N 1460 W

<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	801-538-6504	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

#### **General Information**

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

R380-412. Compassionate Use Board

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

Rule R380-412 is repealed in its entirety and replaced with Rule R383-13 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-13. Any language not altered by S.B. 190 transfers to Rule R383-13.

(EDITOR'S NOTE: The proposed new Rule R383-13 is under ID 54961 in this issue, November 1, 2022, of the Bulletin.)

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

All requirements currently listed in Rule R380-412 are moved to the proposed new Rule R383-13. Any changes from the original rule are in the filing for Rule R383-13.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:  
<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

### Fiscal Information

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

##### A) State budget:

This fiscal impact is negligible to the state budget. The repeal of Rule R380-412 will not affect the state budget because the requirements currently listed in Rule R380-412 will be moved to the proposed new Rule R383-13.

##### B) Local governments:

The repeal of Rule R380-412 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-412 are in the proposed new Rule R383-13.

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

The repeal of Rule R380-412 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-412 are in the proposed new Rule R383-13.

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

The repeal of Rule R380-412 will not affect non-small businesses because the repeal will not result in non-small business expenditures or fiscal benefits because the requirements for Rule R380-412 are in the proposed new Rule R383-13.

##### 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 of Rule R380-412 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-412 are in the proposed new Rule R383-13.

##### 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 Rule R380-412 will not result in compliance costs for affected persons because the repeal will not result in compliance expenditures or fiscal benefits because the requirements for Rule R380-412 are in the proposed new Rule R383-13.

##### G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there

are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

### Regulatory Impact Table

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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:

Subsection 26B-1-213(1)	Subsection 26-61a-401(5)(a)	
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### Public Notice Information

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



<b>A) Comments will be accepted until:</b>		12/01/2022
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R380. Health, Administration.****~~R380-412. Compassionate Use Board.~~****~~R380-412-1. Authority and Purpose.~~**

~~Pursuant to Subsections 26-1-5(1) and 26-61a-105(6), this rule establishes a process and criteria for a petition to the Board to qualify for expedited final review and approval or denial by the Department.~~

**~~R380-412-2. Compassionate Use Board Expedited Review Criteria.~~**

~~To qualify for expedited review by the Department, an individual submitting the petition shall meet the following criteria:~~

- ~~(1) diagnosis with a terminal illness and a life expectancy of six months or less;~~
- ~~(2) present symptoms not adequately managed with standard therapies that may reasonably be expected to be alleviated by medical cannabis; and~~
- ~~(3) have a QMP recommending medical cannabis who is directly and regularly involved in the individual's medical care.~~

**~~R380-412-3. Compassionate Use Board Expedited Review Process.~~**

- ~~(1) Each individual submitting a petition for expedited review by the Department shall complete a form available from the Department.~~
- ~~(2) Within five business days of receiving a complete petition for expedited review, the Department shall review the petition and either approve the petition and issue a medical cannabis card to the applicant or prepare the petition for Board review.~~

**KEY:** ~~medical cannabis, compassionate use board, medical marijuana~~

**Date of Last Change:** ~~June 3, 2021~~

**Authorizing, and Implemented or Interpreted Law:** ~~63G-3; 26-61a; 26-1-5(1); 26-61a-105(6)]~~

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R380-413</b>	<b>Filing ID:</b> <b>54974</b>
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**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration (Health)	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	801-538-6504	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>
R380-413. Administrative Penalties
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Rule R380-413 is repealed in its entirety and replaced with Rule R383-14 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 creates new language to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.
S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-14. Any language not altered by S.B. 190 transfers to Rule R383-14.
(EDITOR'S NOTE: The proposed new Rule R383-14 is under ID 54962 in this issue, November 1, 2022, of the Bulletin.)

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

All requirements currently listed in Rule R380-413 are moved to the proposed new Rule R383-14. Any changes from the original rule are in the filing for Rule R383-14.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

#### Fiscal Information

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

##### A) State budget:

This fiscal impact is negligible to the state budget. The repeal of Rule R380-413 will not affect the state budget because the requirements currently listed in Rule R380-413 will be moved to the proposed new Rule R383-14.

##### B) Local governments:

The repeal of Rule R380-413 will not affect local governments because the repeal will not result in local government expenditures or fiscal benefits because the requirements for Rule R380-413 are in the proposed new Rule R383-14.

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

The repeal of Rule R380-413 will not affect small businesses because the repeal will not result in small business expenditures or fiscal benefits because the requirements for Rule R380-413 are in the proposed new Rule R383-14.

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

The repeal of Rule R380-413 will not affect non-small businesses because the repeal will not result in non-small business expenditures or fiscal benefits because the requirements for Rule R380-413 are in the proposed new Rule R383-14.

**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 of Rule R380-413 will not affect persons other than small businesses, non-small businesses, or state, or local governments because the requirements for Rule R380-413 are in the proposed new Rule R383-14.

**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 Rule R380-413 will not result in compliance costs for affected persons because the repeal will not result in compliance expenditures or fiscal benefits because the requirements for Rule R380-413 are in the proposed new Rule R383-14.

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

#### Regulatory Impact Table

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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:**

Subsection 26B-1-213(1)	Subsection 26-61a-401(5)(a)
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**Public Notice Information**

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

**A) Comments will be accepted until:** 12/01/2022

**B) A public hearing (optional) will be held:**

<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:** 12/08/2022

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R380. Health, Administration.**~~**R380-413. Administrative Penalties.**~~~~**R380-413-1. Authority and Purpose.**~~

~~Pursuant to Section 26-1-5 and Subsection 26-61a-702(3), this rule establishes a fine schedule for administrative penalties for violations of Title 26, Chapter 61a, Utah Medical Cannabis Act and applicable administrative rules.~~

~~**R380-413-2. Definitions.**~~

~~The definitions in Section 26-61a-102 and Subsection R380-400(2) apply in this rule.~~

~~**R380-413-3. Entities and Individuals Subject to Fine Schedule.**~~

~~This rule governs the fine schedule for which an administrative penalty is authorized pursuant to Section 26-61a-702.~~

~~**R380-413-4. Fine Schedule.**~~

~~(1) Pursuant to Section 26-61a-702 the following fine schedule shall apply:~~

~~(a) for an initial violation of Title 26, Chapter 61a, Utah Medical Cannabis Act or R380-400 et. seq., a fine of \$500-\$2,000 per violation; and~~

~~(b) for a subsequent violation of Title 26, Chapter 61a, Utah Medical Cannabis Act or R380-400 et. seq., a fine of up to \$5,000 per violation.~~

~~(2) For each violation, the Department shall determine the fine amount within the ranges specified in Subsection (1).~~

~~(3) The fine amount determined by the Department may be modified by the presiding officer following an adjudicative proceeding.~~

~~**R380-413-5. Date of Payment.**~~

~~When the Department imposes a fine, it shall establish a date on which the payment is due. Failure of an entity or individual to pay on or before that date may result in additional penalties taken by the Department against a license or registration until payment is made.~~

~~**R380-413-6. Aggravating and Mitigating Circumstances.**~~

~~(1) In determining the fine amount imposed, the Department may adjust fine amounts within the fine ranges based upon aggravating or mitigating circumstances:~~

~~(a) mitigating circumstances include:~~

~~(i) no earlier violation history;~~

~~(ii) good faith effort to prevent a violation; and~~

~~(iii) extraordinary cooperation in the violation investigation that shows the entity or individual accepts responsibility.~~

~~(b) aggravating circumstances include:~~

~~(i) earlier warnings about compliance problems;~~

~~(ii) earlier violation history;~~

~~(iii) multiple violations during an investigation;~~

~~(iv) efforts to hide a violation;~~

~~(v) intentional nature of the violation;~~

~~(vi) the violation involved a minor; and~~

~~(vii) whether the violation resulted in injury to a patient.~~

~~**R380-413-7. Additional Penalties.**~~

~~Nothing in this rule prevents the Department from suspending, revoking or refusing to renew a license or registration in addition to imposing a fine for violations of Title 26, Chapter 61a, Utah Medical Cannabis Act and applicable administrative rules.~~

~~**R380-413-8. Cease and Desist Letter.**~~

~~In addition to, or in lieu of imposing a fine, the Department may issue a cease and desist letter to the entity or individual ordering them to cease and desist from the act that constitutes the violation. Failure to comply with the cease and desist letter may constitute grounds for additional penalties.~~

~~**KEY:** administrative penalties, medical cannabis, marijuana~~

~~**Date of Last Change:** March 11, 2022~~

~~**Authorizing, and Implemented or Interpreted Law:** 63G-3; 26-61a; 26-1-5(1); 26-61a-702(3)]~~

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New

<b>Rule or Section Number:</b>	<b>R383-1</b>	<b>Filing ID:</b> <b>54952</b>
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**Agency Information**

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Center for Medical Cannabis
<b>Room number:</b>	427A

<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information****2. Rule or section catchline:**

R383-1. Definitions

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

S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services (Department) to make the necessary changes to rule. These changes are in Rule R383-1. Any language not altered by S.B. 190 and S.B. 195 transfers from Rule R380-400 to Rule R383-1. This new rule edits the old text in Rule R380-400 by removing unnecessary language and adding clarifying phrases or words. These changes are listed in Box 4 below.

Rule R383-1 replaces Rule R380-400 to reflect the restructuring of the Utah Department of Health and Human Services. The administrative rule Title R383 is created to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

(EDITOR'S NOTE: The proposed repeal of Rule R380-400 is under ID 54963 in this issue, November 1, 2022, of the Bulletin.)

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

Changes are made throughout this rule to make language comply with the Utah Rulewriting Manual.

Subsection R383-1-2(4) removes the term "child-care facility or preschool" because Title 26, Chapter 61a, no longer uses the term.

Subsection R383-1-2(5) updates the former rule with the new name of the Department.

Subsection R383-1-2(9) clarifies that a medical cannabis pharmacy's lockable cabinet located may be used as a limited access area.

Subsection R383-1-2(15) adds "RMP" an acronym for the term "recommending a medical provider." Recommending medical provider is a new term used in Title 26, Chapter 61a, and other rules. It includes qualified medical providers and limited medical providers.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

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

Rule R383-1 is replacing repealed Rule R380-400. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on the state budget because it only adds or clarifies language that has no fiscal impact.

**B) Local governments:**

Rule R383-1 is replacing repealed Rule R380-400. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on local governments because it does not establish requirements for enforcement by local governments.

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

Rule R383-1 is replacing repealed Rule R380-400. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on a small businesses because it does not establish requirements for enforcement by a small business.

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

Rule R383-1 is replacing repealed Rule R380-400. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a

fiscal impact on a non-small businesses because this rule does not establish requirements for non-small businesses.

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

Rule R383-1 is replacing repealed Rule R380-400. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on persons other than small businesses, non-small businesses, or state or local government entities because this rule does not establish new requirements for these entities.

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

This proposed new rule does not increase, or decrease, costs to affected persons.

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

**Regulatory Impact Table**

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

<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26, Chapter 61a	Subsection 26B-1-213(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:** 12/01/2022

**B) A public hearing (optional) will be held:**

<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:** 12/08/2022

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R383. Health and Human Services, Center for Medical Cannabis.**

**R383-1. Definitions.**

**R383-1-1. Authority and Purpose.**

Pursuant to Subsection 26B-1-213(1), this rule defines terms used in Title R383.

**R383-1-2. Definitions.**

(1) The definitions in Section 26-61a-102 apply to this rule. In addition, the following applies to this rule.

(2) "Card" means any type of medical cannabis card or registration card, whichever applies, authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act.



## NOTICES OF PROPOSED RULES

(3) "Cardholder area" means the area of a medical cannabis pharmacy where a product is purchased that is restricted to a medical cannabis cardholder, a medical cannabis pharmacy employee, or another individual authorized by the medical cannabis pharmacy to enter the cardholder area.

(4) "Courier agent" means a medical cannabis courier agent.

(5) "Department" means the Utah Department of Health and Human Services.

(6) "Direct supervision" means that a PMP is physically present at a medical cannabis pharmacy facility and immediately available for in-person face-to-face communication with the pharmacy agent.

(7) "EVS" means the electronic verification system.

(8) "ICS" means the inventory control system.

(9) "Limited access area" means an area of a medical cannabis pharmacy where medical cannabis and medical cannabis devices shall be stored that is:

(a) a lockable cabinet in a medical cannabis pharmacy facility to which only a pharmacy agent or PMP has access; or

(b) an indoor area or room of a medical cannabis pharmacy facility that is separated from the cardholder and public areas of the medical cannabis pharmacy by a physical barrier with suitable locks and an electronic barrier to detect entry doors.

(10) "Pharmacy agent" means a medical cannabis pharmacy agent.

(11) "PIC" means a pharmacist in charge who oversees the operation and generally supervises a medical cannabis pharmacy.

(12) "PMP" means a medical cannabis pharmacy medical provider.

(13) "Public waiting area" means an area of the medical cannabis pharmacy where the public waits for cardholders and cardholders wait for authorization to enter the cardholder area. Non-cardholders and non-employees may be present in this area of the medical cannabis provider.

(14) "QMP" means a qualified medical provider.

(15) "RMP" means a recommending medical provider.

(16) "UCIJS" means the Utah Criminal Justice Information System.

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

(18) "Utah resident" means an individual who has established a domicile in Utah.

**KEY: medical cannabis, marijuana**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: 26B-1-213(1); 26-61a; 63G-3**

### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** New

<b>Rule or Section Number:</b>	<b>R383-2</b>	<b>Filing ID:</b> <b>54953</b>
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### Agency Information

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Center for Medical Cannabis
<b>Room number:</b>	427A

<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

### General Information

#### 2. Rule or section catchline:

R383-2. Electronic Verification System and Inventory Control System

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

This proposed new rule updates definitions and removes unnecessary language from the repealed Rule R380-401. Rule R383-2 replaces Rule R380-401 to reflect the restructuring of the Utah Department of Health and Human Services (Department). The Department is creating the administrative rule Title R383 to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health. This new rule edits the old text in Rule R380-401 by removing unnecessary language and adding clarifying phrases or words. These changes are listed in Box 4 below. (EDITOR'S NOTE: The proposed repeal of Rule R380-401 is under ID 54964 in this issue, November 1, 2022, of the Bulletin.)

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

Rule R383-2 replaces Rule R380-401 to reflect the restructuring of the Department.

Changes are made throughout this rule to make language comply with the Utah Rulewriting Manual.

Subsection R383-2-2(3) updates this rule with new names of the Department and the state agency responsible for professional licensing.

Subsections R383-2-3(4) through (9) are removed because these subsections are not necessary. Title 26, Chapter 61a, establishes who may have access to the electronic verification system and the inventory control system and for what purpose and it is not necessary for the rule to repeat what the statute already authorizes.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uoa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uoa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

### Fiscal Information

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

##### A) State budget:

Rule R383-2 is replacing the repealed Rule R380-401. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on the state budget because it only adds or clarifies language that has no fiscal impact.

##### B) Local governments:

Rule R383-2 is replacing the repealed Rule R380-401. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on local governments because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-2 is replacing the repealed Rule R380-401. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on small businesses because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-2 is replacing the repealed Rule R380-401. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on non-small businesses because it only adds or clarifies language that has no fiscal impact.

##### 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**):

Rule R383-2 is replacing the repealed Rule R380-401. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on persons other than small businesses, non-small businesses, or state or local governments because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-2 is replacing the repealed Rule R380-401. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on compliance costs because it only adds or clarifies language that has no fiscal impact.

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

#### Regulatory Impact Table

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26, Chapter 61a	Subsection 26B-1-213(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.)

<b>A) Comments will be accepted until:</b>		12/01/2022
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

### Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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### **R383. Health and Human Services, Center for Medical Cannabis.**

#### **R383-2. Electronic Verification System and Inventory Control System.**

##### **R383-2-1. Authority and Purpose.**

(1) Subsections 26B-1-213(1) and 26-61a-103(4) authorize this rule.

(2) This rule establishes EVS and ICS access limitations and standards and confidentiality requirements.

##### **R383-2-2. Definitions.**

For purposes of this rule the following definitions apply:

(1) "Law enforcement personnel" means law enforcement personnel who have access to UCIJIS.

(2) "Safeguard" means to maintain the confidentiality of the information accessed and not use, release, publish, disclose, or otherwise make available to any other person not authorized to access the information; for any purpose other than those specifically authorized or permitted by applicable law.

(3) "State agency employee" means an employee of the Utah Department of Health and Human Services, Utah Department of Agriculture and Food, Utah Department of Technology Services, and the Utah Department of Commerce, Division of Professional Licensing.

(4) "UCIJIS" means the Utah Criminal Justice Information System.

#### **R383-2-3. Access Limitations and Standards.**

(1) An individual shall request access to the data in the EVS and ICS by creating an account to begin an EVS or ICS application process.

(2) The following individual may access information in the EVS about themselves, or another cardholder for whom they are a guardian or caregiver, to the extent allowed in Title 26, Chapter 61a, Utah Medical Cannabis Act or Title 4, Chapter 41a, Utah Cannabis Production Establishments:

- (a) a medical cannabis patient cardholder;
- (b) a medical cannabis guardian cardholder; and
- (c) a medical cannabis caregiver cardholder.

(3) The Department shall grant EVS access to the extent allowed in Title 26, Chapter 61a, Utah Medical Cannabis Act or Title 4, Chapter 41a, Utah Cannabis Productions Establishments, and this rule to the following individuals:

- (a) a QMP;
- (b) a PMP;
- (c) a pharmacy agent;
- (d) a courier agent;
- (e) a cannabis production establishment agent;
- (f) a state agency employee; or
- (g) law enforcement personnel.

(4) The type of EVS and ICS access granted by the Department shall depend on the type of card or license issued.

#### **R383-2-4. Confidentiality Requirements.**

(1) A person authorized to access information in the EVS and the ICS shall access only the minimum amount of information necessary to perform an authorized function specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, or Title 4, Chapter 41a, Utah Cannabis Productions Establishments, Rule R68-27, Cannabis Cultivation, and this rule.

(2) A person authorized to access information in the EVS and the ICS shall safeguard all information stored in those systems, including specific information about medical cannabis cardholders.

(3) The Executive Director of the Department, or Executive Director's designee, shall determine if an emergency shall warrant the immediate release of medical cannabis cardholder information, to another state agency. The Department may release information to another governmental agency under Title 63 Chapter 2 Government Records Access Management Act or a Memorandum of Understanding, or data sharing agreement, between the Department and the requesting agency.

(4) A person authorized to access the EVS or ICS who fails to observe the confidentiality requirement of this rule may lose access to the EVS and ICS and may be subject to the penalties provided in Section 26-61a-103.

#### **KEY: medical cannabis, medical cannabis pharmacy, inventory control system, electronic verification system**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: 4-41A; 26-61a; 26-61a-103(4); 63G-3**



NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Rule or Section Number:	R383-3	Filing ID: 54954

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Center for Medical Cannabis	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

2. Rule or section catchline:
R383-3. Medical Cannabis Cards
3. Reason for this change (Why is the agency submitting this filing?):
Rule R383-3 replaces repealed Rule R380-402 to reflect the restructuring of the Utah Department of Health and Human Services (Department). The creation of administrative rule Title R383, Center for Medical Cannabis, is to reflect that the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health. (EDITOR'S NOTE: The proposed repeal of Rule R380-402 is under ID 54965 in this issue, November 1, 2022, of the Bulletin.)
4. Summary of this change (What does this filing do?):
Proposed Rule R383-3 is being refiled as a new rule to replace repealed Rule R380-403. The citation for Subsection 26-1-5(1) is altered due to a change in statute and other citations are removed because they are unnecessary.  Hearing Information for 11/07/2022, 10:00 AM: <b>In-Person:</b> at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uoal>  
 Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:  
<https://tel.meet/eog-qbsy-uoal?pin=4354591598568>  
**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

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

This proposed rule will not result in a fiscal impact to the state budget because it only updates this rule with terms used in Title 26, Chapter 61a, and the new name of the Department, removes an unnecessary reference, and makes changes to the QMP continuing education requirement.

**B) Local government:**

This proposed rule will not result in a fiscal impact to local governments because it does not establish requirements for enforcement by local governments.

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

This proposed rule will not result in a fiscal impact to a small businesses because it does not establish requirements for enforcement by a small business.

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

This proposed rule will not result in a fiscal impact on a non-small business because this rule does not establish requirements for 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 proposed rule will not result in a fiscal impact on persons other than small businesses, non-small businesses, or state or local government entities because this rule does not establish new requirements for these entities.

**F) Compliance costs for affected persons:**

This proposed rule does not increase, or decrease, costs to affected persons.

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

Regulatory Impact Table			
Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.			

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Title 26, Chapter 61a	Subsection 26B-1-213(1)	

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	12/01/2022

<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R383. Health and Human Services, Center for Medical Cannabis.****R383-3. Medical Cannabis Cards.****R383-3-1. Authority and Purpose.**

Pursuant to Subsection 26B-1-213(1), this rule establishes medical cannabis card application procedures, and renewal application procedures.

**R383-3-2. Application Procedures.**

(1) The application procedures established in this section govern applications for the initial issuance of a medical cannabis card, under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Upon issuance of a medical cannabis card, the Department shall provide the cardholder information regarding the following:

- (a) risks associated with medical cannabis treatment;
- (b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition; and
- (c) other relevant warnings and safety information that the Department determines.

(3) The information described in Subsection (2) shall be electronically provided to each medical cannabis cardholder and shall be accessible to the public on the Department's website.

(4) Each card applicant shall apply upon forms available from the Department.

(5) The Department may issue a card to an applicant only if the applicant meets the card requirements established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.

(6) The Department shall provide written notice of denial to an applicant who submits a complete application if the Department determines that the applicant does not meet the card requirements.

(7) The Department shall provide a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.

(8) A written notice of denial and incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database unless the cardholder has requested to be notified by regular mail.

(9) Each applicant shall maintain a current email and mailing address with the Department. Notice to the last email address on file with the Department constitutes legal notice unless the cardholder has requested to be notified by regular mail.

#### **R383-3-3. Renewal Application Procedures.**

(1) Renewal application procedures established in this section shall govern an application to renew a medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each card applicant shall apply upon renewal application forms, available from the Department.

(3) The Department shall issue a card to an applicant who submits a complete renewal application if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide written notice of denial to an applicant who submits a complete renewal application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to an applicant a written notice of incomplete that the renewal application will be closed unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.

(6) The Department shall send a renewal notice to each cardholder, at least 30 days before the expiration date shown on the cardholder's card. The notice shall include instructions for the cardholder to renew the card, via the Department's website.

(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database unless the cardholder has requested to be notified by regular mail.

(8) Each cardholder shall maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice unless the cardholder has requested to be notified by regular mail.

(9) A renewal notice shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid.

(10) If an individual's medical cannabis card expires, the individual may submit a card renewal application at any time; regardless of the length of time passed since the expiration of the card.

#### **R383-3-4. Nonresident Medical Cannabis Cards -- Application Procedures.**

(1) The application procedures established in this section govern applications for the initial issuance of a nonresident medical cannabis card, under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Upon issuing a medical cannabis card, the Department shall provide the cardholder information regarding the following:

- (a) risks associated with medical cannabis treatment;
- (b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition; and
- (c) other relevant warnings and safety information that the Department determines.

(3) The information described in Subsection (2) shall be electronically provided to each nonresident medical cannabis cardholder and shall be accessible to the public on the Department's website.

(4) Each card applicant shall apply upon forms available from the Department.

(5) The Department may issue a card to an applicant only if the applicant meets the card requirements established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.

(6) The Department shall provide written notice of denial to an applicant who submits a complete application if the Department determines that the applicant does not meet the card requirements.

(7) The Department shall provide a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.

(8) A written notice of denial and incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database unless the cardholder has requested to be notified by regular mail.

(9) Each applicant shall maintain a current email and mailing address with the Department. Notice to the last email address on file with the Department constitutes legal notice unless the cardholder has requested to be notified by regular mail.

#### **R383-3-5. Nonresident Medical Cannabis Cards - Renewal Application Procedures.**

(1) Renewal application procedures established in this section shall govern an application to renew a nonresident medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each card applicant shall apply upon renewal application forms, available from the Department.

(3) The Department shall issue a card to an applicant who submits a complete renewal application if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide written notice of denial to an applicant who submits a complete renewal application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to an applicant a written notice of incomplete that the renewal application will be closed unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets the card requirements.

(6) The Department shall send a renewal notice to each cardholder, at least five days before the expiration date shown on the cardholder's card. The notice shall include instructions for the cardholder to renew the card, via the Department's website.

(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database unless the cardholder has requested to be notified by regular mail.

(8) Each cardholder shall maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice unless the cardholder has requested to be notified by regular mail.

(9) A renewal notice shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid.

(10) If an individual's medical cannabis card expires, the individual may submit a card renewal application at any time; regardless of the length of time passed since the expiration of the card.

**KEY: medical cannabis card, medical cannabis, marijuana**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: 63G-3; 26-61a; 26-1-5(1); 26-61a-201(10) and (11)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Rule or Section Number:	R383-4	Filing ID: 54955

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Center for Medical Cannabis	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

2. Rule or section catchline:
R383-4. Qualified Medical Providers
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Rule R383-4 replaces repealed Rule R380-403 to reflect the restructuring of the Utah Department of Health and Human Services (Department). The administrative rule Title R383 is created to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.
The proposed rule updates the terms used in Title 26, Chapter 61a, and adds the new name of the department, removes an unnecessary reference, and makes changes to the QMP continuing education requirement. These changes are listed in Box 4 below. (EDITOR'S NOTE: The proposed repeal of Rule R380-403 is under ID 54966 in this issue, November 1, 2022, of the Bulletin.)
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Additions are made throughout this rule to make language comply with the Utah Rulewriting Manual.

Subsection R383-4-2(3)(h) is changed to replace the phrase "dosing parameters" with "dosing guidelines" to update the rule to be consistent with terms used in Title 26, Chapter 61a. The term "QMP" is replaced with "RMP" in some cases throughout this rule. Section 26-61a-102 defines a recommending medical provider, or RMP, as either a qualified medical provider or a limited medical provider. The proposed rule is updated to refer to an RMP where applicable.

Subsection R383-4-2(3)(o) is changed to remove a date that is now passed.

Subsection R383-4-2(3)(q) changes to remove an unnecessary reference to an administrative rule.

Subsection R383-4-5(2) changes to update this rule with the new name of the Department. It is also amended to no longer require that QMP continuing education coursework be approved by the Department and an accredited organization. A course no longer requires approval by an accredited organization if it has Department approval.

Subsection R383-4-5(4) changes to require QMPs who are renewing their registration to complete medical cannabis law coursework as part of their renewal requirement. This is already a requirement for a new QMP. The amendment expands the requirement to an existing QMP who is applying for renewal. Utah's medical cannabis laws change frequently enough to justify the inclusion of Utah law coursework during each two-year renewal cycle.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uoq>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uoq?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

**Fiscal Information**

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
Rule R383-4 replaces repealed Rule R380-403. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on the state budget because it only adds or clarifies wording that have no fiscal impact.

**B) Local governments:**

Rule R383-4 replaces repealed Rule R380-403. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on local governments because it only adds or clarifies wording that has no fiscal impact.

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

Rule R383-4 replaces repealed Rule R380-403. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on small businesses because it only adds or clarifies wording that has no fiscal impact.

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

Rule R383-4 replaces repealed Rule R380-403. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on non-small businesses as it only adds or clarifies wording that has no fiscal impact.

**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**):

Subsection R383-4-5(4) requires that a qualified medical provider (QMP) complete a course that includes medical cannabis law coursework as part of their renewal of the QMP registration. New QMPs are required to complete this coursework as part of their education requirement and this rule expands the requirement to QMPs who are renewing their QMP registration. This change is not expected to have a fiscal impact on QMPs because the courses they complete for renewal purposes already include this coursework.

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

Subsection R383-4-5(4) requires that a qualified medical provider (QMP) complete a course that includes medical cannabis law coursework as part of their renewal of the QMP registration. New QMPs are required to complete this coursework as part of their education requirement and this rule expands the requirement to QMPs who are renewing their QMP registration. This change is not expected to have a fiscal impact on QMPs because the courses they complete for renewal purposes already include this coursework.

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

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26, Chapter 61a	Subsection 26-61a-106(3)(b)	Subsection 26B-1-213(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.)

<b>A) Comments will be accepted until:</b>	12/01/2022
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**B) A public hearing (optional) will be held:**

On:	At:	At:
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:**

12/08/2022

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:	Tracy Gruber, Executive Director	Date:	10/01/2022
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**R383. Health and Human Services, Center for Medical Cannabis.****R383-4. Qualified Medical Providers.****R383-4-1. Authority and Purpose.**

(1) Subsection 26B-1-213(1) authorizes this rule.  
 (2) This rule establishes wording of terms used in the rule and application procedures and continuing education requirements for QMPs.

**R383-4-2. Definitions.**

For purposes of this rule, the following wording apply:

(1) "Fundamentals of medical cannabis coursework" means a course, or combination of courses, with content that addresses the following subjects:

(a) the endocannabinoid system and phytocannabinoids;

(b) general guidance and recommendations for medical cannabis; and

(c) history of cannabis, dosing forms, considerations, drug interactions, adverse reactions, contraindications, such as breastfeeding or pregnancy, and toxicology.

(2) "General medical cannabis coursework" means a course or combination of courses with content that addresses medical cannabis which may include medical cannabis law or fundamentals of medical cannabis coursework.

(3) "Medical cannabis law coursework" means a course, or combination of courses, with content that addresses Title 26, Chapter 61a, Utah Medical Cannabis Act, and other state and federal laws relating to medical cannabis; that includes, at a minimum, a review of the following:

(a) qualifying health conditions for which a patient may lawfully use medical cannabis, for medicinal purposes in Utah;

(b) forms of medical cannabis that qualifying patients are allowed, and prohibited, under Utah law;

(c) limits of the quantities of unprocessed cannabis, and cannabis products in medicinal form, that may be dispensed in Utah;

(d) requirements to initially register, and renew a registration, as a QMP;

(e) limits to the number of active medical cannabis recommendations that an RMP can make at any given time;

(f) description of what an RMP must document in a patient's record, before recommending medical cannabis;

(g) information required from an RMP when writing a medical cannabis recommendation, and the option to make a recommendation without specifying a dosage form and dosing guidelines;

(h) a PMP's role in determining the appropriate medical cannabis dosage form and dosing guidelines, when an RMP chooses to recommend without specifying a dosage form and dosing guidelines;

(i) limits on advertising by an RMP;

(j) types of medical cannabis cards;

(k) regulations controlling the distribution of product by medical cannabis pharmacies;

(l) partial fill orders;

(m) the role of the Compassionate Use Board;

(n) that all medical cannabis purchased at medical cannabis pharmacies in Utah shall be cultivated at cannabis cultivation facilities, processed at cannabis processing facilities, and that samples be tested at independent cannabis testing laboratories; that is licensed in Utah and operate within Utah's medical cannabis system;

(o) the conditions of legal possession of medical cannabis under Utah law;

(p) the legal status of medical and recreational marijuana in states surrounding Utah, and under federal law;

(q) authority to change dosage parameters in a medical cannabis recommendation;

(r) home delivery of medical cannabis; and

(s) purpose of the state central patient portal.

**R383-4-3. Application Procedures.**

(1) The application procedures established in this section shall govern the application for the initial issuance of a QMP registration card under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each card applicant shall apply upon forms available in the EVS, from the Department.

(3) The Department may issue a QMP card, only if the Department determines that the applicant meets all requirements established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.

(4) The Department shall provide written notice of denial to an applicant who submits a complete application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of an incomplete application and that the application is closed. The Department shall not accept the application unless the applicant corrects the deficiencies within the time period specified in the notice, and otherwise meets all card requirements.

(6) The Department shall provide written notices of denial or incomplete application to the applicant's last email address shown in the Department's EVS database unless the applicant has requested to be notified by regular mail.

(7) Each applicant shall maintain a current email address with the Department. Notice to the last email address on file with the Department constitutes legal notice unless the applicant has requested to be notified by regular mail.

**R383-4-4. Renewal Application Procedures.**

(1) Renewal application procedures established in this section shall govern applications to renew a QMP registration card.

(2) Each QMP registration card applicant shall apply upon renewal application forms, available from the Department.

(3) The Department may issue a card to an applicant who submits a complete renewal application if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide written notice of denial to the applicant who submits a complete renewal application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide the applicant a written notice of incomplete that the renewal application will be closed, unless the applicant corrects the deficiencies within the time period specified in the notice, and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder at least 30 days before the expiration date shown on the OMP's card. The notice shall include instructions to renew the card in the EVS, via the Department's website.

(7) The Department shall send renewal notices to the cardholder's last email shown in the Department's EVS database unless the applicant has requested to be notified by regular mail.

(8) Each cardholder shall maintain a current email address and mailing address with the Department. Emailing to the last email address on file with the Department constitutes legal notice unless the applicant requests to be notified by regular mail.

(9) Renewal notices shall advise each cardholder that a OMP card automatically expires on the expiration date, and is no longer valid.

(10) If an individual's OMP registration card expires, the individual may submit a card renewal application at any time, regardless of the length of time passed since the expiration of the card.

#### **R383-4-5. Continuing Education Requirement.**

(1) Applicants for registration as a OMP shall verify the completion of four hours of continuing education. Once registered as a OMP, an individual shall complete an additional four hours of continuing education every two years, as a requirement for renewal.

(2) To meet the continuing education requirement, all coursework shall include the following:

(a) approval by the Department; or

(b) be provided by organizations accredited through the Accreditation Council for Continuing Medical Education, Accreditation Council for Pharmacy Education, American Academy of Physician Assistants, or the American Association of Nurse Practitioners;

(c) completion of a test with a passing score, as determined by the course provider, to verify comprehension of course content; and

(d) a certificate of completion.

(3) Initial registration as a OMP, requires at least four hours of continuing education, which shall include at a minimum:

(a) medical cannabis law coursework; and

(b) fundamentals of medical cannabis coursework.

(4) A OMP shall renew registration every two years, after completing at least four hours of continuing education in:

(a) medical cannabis law coursework; and

(b) general medical cannabis coursework.

(5) The OMP shall submit their continuing education report along with their application for registration as a OMP, and shall include a certificate of completion for coursework completed after issuance of the most recent registration. An application that does not include the continuing education report will be considered incomplete, and the Department will not process an application until the report is complete.

**KEY: medical cannabis, qualified medical provider, medical marijuana**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: 63G-3; 26-61a; 26B-1-213(1); 26-61a-106(3)(b)**

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

**TYPE OF RULE:** New

<b>Rule or Section Number:</b>	<b>R383-5</b>	<b>Filing ID:</b> <b>54956</b>
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#### **Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Center for Medical Cannabis	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

#### **General Information**

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

R383-5. Dosing Guidelines

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

The proposed new rule updates terms used in Title 26, Chapter 61a, updates a citation, and removes an unnecessary subsection. S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services (Department) to make the necessary changes to rule. These changes are in Rule R383-5. Any language not altered by S.B. 190 transfers from Rule R380-404 to Rule R383-5. This new rule edits the old text in Rule R380-404 by removing unnecessary language and adding clarifying phrases or words. These changes are listed in Box 4 below.

(EDITOR'S NOTE: The proposed repeal of Rule R380-404 is under ID 54967 in this issue, November 1, 2022, of the Bulletin.)

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

Rule R383-5 replaces repealed Rule R380-404 to reflect the restructuring of the Department. The administrative rule Title R383 is created to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

Throughout the proposed new rule, the phrase "dosing parameters" is replaced with "dosing guidelines" to update the rule to be consistent with terms used in Title 26, Chapter 61a. The term "QMP" is replaced with "RMP" in some cases throughout the rule. Section 26-61a-102 defines a recommending medical provider, or RMP, as either a qualified medical provider or a limited medical provider. The proposed new rule is updated to refer to an RMP where applicable.

Subsection R383-5-2(2) was removed to accurately portray what a patient may do when accessing the electronic verification system (EVS). A patient may no longer change their QMP on their own in the EVS.

Hearing Information for 11/07/2022, 10:00 AM:  
**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:  
**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:  
<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>  
**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

## Fiscal Information

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

### A) State budget:

Rule R383-5 replaces repealed Rule R380-404. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on the state budget because it only updates the rule with terms used in Title 26, Chapter 61a, and removes an unnecessary subsection.

### B) Local governments:

Rule R383-5 replaces repealed Rule R380-404. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on local governments because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-5 replaces repealed Rule R380-404. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on small businesses because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-5 replaces repealed Rule R380-404. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on non-small businesses because it only adds or clarifies language that has no fiscal impact.

**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**):

Rule R383-5 replaces repealed Rule R380-404. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on persons other than small businesses, non-small businesses, or local government entities because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-5 is replacing repealed Rule R380-404. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in compliance costs for affected persons because it only adds or clarifies language that has no fiscal impact.

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

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



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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26, Chapter 61a	Subsection 26B-1-213(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.)

<b>A) Comments will be accepted until:</b>		12/01/2022
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R380. Health and Human Services, Center for Medical Cannabis.**

**R383-5. Dosing Guidelines.**

**R383-5-1. Authority and Purpose.**

(1) Subsection 26B-1-213(1) authorizes this rule.

(2) This rule establishes standards for dosing guidelines in a medical cannabis recommendation.

**R383-5-2. Dosing Guidelines in Medical Cannabis Recommendation.**

(1) An RMP may change the dosage form or dosing guidelines for their patient. A PMP shall not change the dosage form, or dosing guidelines, entered in the EVS by a patient's RMP without approval from the patient's RMP.

(2) If an RMP has not specified the dosage form, or dosing guidelines, for a patient, a PMP may specify the dosage form and dosing guidelines. If an RMP does not specify a dosage form, and dosing guidelines, for a patient, or specifies a dosage form and some or no dosing guidelines for a patient, a PMP may specify the remaining dosing guidelines.

(3) A state central patient portal medical provider may specify dosage form and dosing guidelines for a patient recommendation in the EVS, only upon written or verbal consent from a medical cannabis cardholder; and if either the dosage form or dosing guidelines are not specified in the EVS by the patient's RMP. If an RMP specifies certain dosing guidelines for a patient, a state central patient portal medical provider may specify the remaining dosing guidelines, with the written or verbal consent of the medical cannabis cardholder.

**KEY: medical cannabis, medical cannabis dosing guidelines, medical cannabis pharmacy**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: 63G3; 26-61a; 26B-1-213(1)**

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New

<b>Rule or Section Number:</b>	<b>R383-6</b>	<b>Filing ID:</b> <b>54957</b>
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**Agency Information**

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Center for Medical Cannabis
<b>Room number:</b>	427A
<b>Building:</b>	Martha Hughes Cannon Building
<b>Street address:</b>	288 N 1460 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 141000
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000

Contact persons:		
Name:	Phone:	Email:
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

## General Information

### 2. Rule or section catchline:

R383-6. Pharmacy Medical Providers

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

Rule R383-6 replaces repealed Rule R380-405 to reflect the restructuring of the Utah Department of Health and Human Services (Department). The administrative rule Title R383 is created to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

The proposed rule updates the rule with terms used in Title 26, Chapter 61a, and the new name of the Department, removes an unnecessary reference, and makes changes to the pharmacy medical provider (PMP) continuing education requirement.

S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services to make the necessary changes to rule. These changes are in Rule R383-8. Any language not altered by S.B. 190 transfers from Rule R380-405 to Rule R383-6. This new rule edits the old text in Rule R380-405 by removing unnecessary language and adding clarifying phrases or words. These changes are listed in Box 4 below.

(EDITOR'S NOTE: The proposed repeal of Rule R380-405 is under ID 54968 in this issue, November 1, 2022, of the Bulletin.)

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

Language is added throughout the rule to make language comply with the Utah Rulewriting Manual.

Subsection R383-6-2(3)(h) replaces the phrase "dosing parameters" with "dosing guidelines" to update the rule to be consistent with terms used in Title 26, Chapter 61a. The term "QMP" is replaced with "RMP" in some cases throughout the rule. Section 26-61a-102 defines a recommending medical provider, or RMP, as either a qualified medical provider or a limited medical provider.

The proposed rule is updated to refer to an RMP where applicable.

Subsection R383-6-2(3)(o) is changed to remove a date that is passed and no longer necessary.

Subsection R383-6-2(3)(q) is changed to remove an unnecessary reference to an administrative rule.

Subsections R383-6-3(6) and (7) are changed to allow an applicant to request to receive notices from the Department by regular mail.

Subsection R383-6-5(2) is changed to update the rule with the new name of the Department. It is also changed to no longer require that PMP continuing education coursework be approved by the Department and an accredited organization. A course no longer requires approval by an accredited organization if it has Department approval.

Subsection R383-6-5(4) is changed to require PMPs who are renewing their registration to complete medical cannabis law coursework as part of their renewal requirement. This is already a requirement for a new PMP. The amendment expands the requirement to an existing PMP who is applying for renewal. Utah's medical cannabis laws change frequently enough to justify the inclusion of Utah law coursework during each two-year renewal cycle.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uoq>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uoq?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

## Fiscal Information

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

#### A) State budget:

This proposed rule will not result in a fiscal impact on the state budget because it only updates the rule with terms used in Title 26, Chapter 61a, and the new name of the Department, removes an unnecessary reference, and makes changes to the PMP continuing education requirement.

#### B) Local governments:

This proposed rule change will not result in a fiscal impact on local governments because it does not establish requirements for enforcement by local agencies.

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

This proposed rule change will not result in a fiscal impact on a small business because it does not establish requirements for enforcement by small businesses.

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

This proposed rule will not result in a fiscal impact on a non-small business because this rule does not establish requirements for non-small businesses.

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

Subsection R383-6-5(4) is changed to require that a pharmacy medical provider (PMP) complete a course that includes medical cannabis law coursework as part of their renewal of the PMP registration. New PMPs are already required to complete this coursework as part of their education requirement and this rule expands the requirement to PMPs who are renewing their PMP registration. This change is not expected to have a fiscal impact on PMPs because the courses they complete for renewal purposes already include this coursework.

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

Subsection R383-6-5(4) is changed to require that a pharmacy medical provider (PMP) complete a course that includes medical cannabis law coursework as part of their renewal of the PMP registration. New PMPs are already required to complete this coursework as part of their education requirement and this rule expands the requirement to PMPs who are renewing their PMP registration. This change is not expected to have a fiscal impact on PMPs because the courses they complete for renewal purposes already include this coursework.

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

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

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26-61a-403	Subsection 26B-1-213(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.)

<b>A) Comments will be accepted until:</b>	12/01/2022
<b>B) A public hearing (optional) will be held:</b>	
<b>On:</b>	<b>At:</b>
11/07/2022	10:00 AM
	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:**

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R383. Health and Human Services, Center for Medical Cannabis.****R383-6. Pharmacy Medical Providers.****R383-6-1. Authority and Purpose.**

(1) Subsection 26B-1-213(1) authorizes this rule.

(2) This rule establishes Pharmacy Medical Provider application procedures, and Pharmacy Medical Provider continuing education requirements.

**R383-6-2. Definitions.**

As used in this section:

(1) "Fundamentals of medical cannabis coursework" means a course, or combination of courses, with content that addresses the following subjects:

(a) endocannabinoid system and phytocannabinoids;

(b) general guidance and recommendations for medical cannabis; and

(c) history of cannabis, dosing forms, considerations, drug interactions, adverse reactions, contraindications, such as breastfeeding and pregnancy, and toxicology.

(2) "General medical cannabis coursework" means a course, or combination of courses, with content that addresses medical cannabis; which may include medical cannabis law, or fundamentals of medical cannabis coursework.

(3) "Medical cannabis law coursework" means a course, or combination of courses, with content that addresses Title 26, Chapter 61a, Utah Medical Cannabis Act; and other state and federal laws relating to medical cannabis that include, at a minimum, a review of the following:

(a) qualifying health conditions for which a patient may lawfully use medical cannabis, for a medicinal purpose in Utah;

(b) forms of medical cannabis that a qualifying patient is allowed to purchase from a medical cannabis pharmacy under Utah law;

(c) the limit of the quantities of unprocessed cannabis, and cannabis products in medicinal form, that may be dispensed in Utah;

(d) the requirement to initially register and renew registration as a PMP;

(e) limit to the number of active medical cannabis recommendations that an RMP can make at any given time;

(f) a description of what an RMP must document in a patient's record, before recommending medical cannabis;

(g) information required from an RMP, when writing a medical cannabis recommendation, and the option to make a recommendation without specifying a dosage form and dosing guidelines;

(h) a PMP's role in determining the appropriate medical cannabis dosage form and dosing guidelines, when an RMP chooses to recommend without specifying a dosage form and dosing guidelines;

(i) limit on advertising by a QMP;

(j) type of medical cannabis cards;

(k) the regulation controlling the distribution of products, by a medical cannabis pharmacy;

(l) a partial fill order;

(m) the role of the Compassionate Use Board;

(n) the role of a cannabis cultivation facility, a cannabis processing facility, and an independent cannabis testing laboratory, that operate within Utah's medical cannabis system;

(o) the conditions of legal possession of medical cannabis under Utah law;

(p) the legal status of medical and recreational marijuana in states surrounding Utah, and under federal law;

(q) the authority to change dosage parameters in a medical cannabis recommendation;

(r) home delivery of medical cannabis; and

(s) the purpose of the state central patient portal.

**R383-3. Application Procedures.**

(1) The application procedures established in this section govern an application for initial issuance of a PMP registration card, under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.

(2) Each card applicant shall apply upon forms available in the EVS, from the Department.

(3) The Department may issue a PMP card only if an applicant meets the card requirements, established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.

(4) The Department shall provide written notice of denial to an applicant who submits a complete application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to an applicant a written notice of incomplete application that the application is closed. The Department shall not accept the application unless the applicant corrects the deficiencies within the time period specified in the notice, and otherwise meets all card requirements.

(6) The Department shall provide written notices of denial, or incomplete application, to the applicant's last email address shown in the Department's EVS database unless the applicant has requested to be notified by regular mail.

(7) Each applicant shall maintain a current email address with the Department. Notice sent to the last email address on file with the Department constitutes legal notice unless the applicant has requested to be notified by regular mail.

**R383-6-4. Renewal Application Procedures.**

(1) Renewal application procedures established in this rule, shall govern an application for a PMP registration card.

(2) Each PMP card applicant shall apply upon a renewal application form available from the Department.

(3) The Department may issue a card to an applicant who submits a complete renewal application if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide written notice of denial to an applicant who submits a complete renewal application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide the applicant a written notice of incomplete application that the application will be closed, unless the applicant corrects the deficiencies within the time period specified in the notice; and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder at least 30 days before the expiration date shown on the PMP cardholder's card. The notice shall include directions for the PMP to renew the card, in the EVS via the Department's website.

(7) The Department shall send renewal notices to the cardholder's last email shown in the Department's EVS database.



(8) Each cardholder shall maintain a current email address and mailing address with the Department. Notice sent to the current email address on file with the Department constitutes legal notice, unless the applicant has requested to be notified by regular mail.

(9) Renewal notices shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid.

(10) If an individual's PMP registration card expires, the individual may submit a card renewal application at any time, regardless of the length of time passed since the expiration of the card.

#### **R383-6-5. Continuing Education Requirement.**

(1) An applicant for registration as a PMP shall verify the completion of four hours of continuing education. Once registered as a PMP, an individual shall complete an additional four hours of continuing education every two years as a requirement for renewal.

(2) To meet the continuing education requirement, all coursework shall include the following:

(a) approval by the Department; or

(b) be provided by an organization accredited through the Accreditation Council for Continuing Medical Education, Accreditation Council for Pharmacy Education, or the American Association of Nurse Practitioners;

(c) completion of a test with a passing score, as determined by the course provider, to verify comprehension of course content; and

(d) a certificate of completion.

(3) Initial registration as a PMP shall require at least four hours of continuing education, which shall include at a minimum:

(a) medical cannabis law coursework; and

(b) fundamentals of medical cannabis coursework.

(4) A PMP shall renew a registration every two years, after completing at least four hours of continuing education in:

(a) medical cannabis law coursework; and

(b) fundamentals of medical cannabis coursework.

(5) The PMP shall submit their continuing education report along with their application for registration as a PMP and shall include a certificate of completion for coursework completed after issuance of the most recent registration. An application that does not include the continuing education report is considered incomplete, and the Department shall not process an application until the report is complete.

**KEY: medical cannabis, pharmacy medical providers, marijuana**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a-403(3)(b); 26-61a**

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

**TYPE OF RULE:** New

<b>Rule or Section Number:</b>	<b>R383-7</b>	<b>Filing ID:</b> <b>54906</b>
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#### **Agency Information**

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Center for Medical Cannabis
<b>Room number:</b>	427A

<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	801-538-6504	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

#### **General Information**

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

R383-7. Medical Cannabis Pharmacy

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

The proposed new rule change adds and clarifies definitions related to medical cannabis pharmacy operations originally seen in Rule R380-406. It modifies multiple operating standards related to medical cannabis pharmacy operations. It replaces Rule R380-406 which is being repealed.

S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services (Department) to make the necessary changes to rule. These changes are in Rule R383-7. Any language not altered by S.B. 190 transfers from Rule R380-406 to Rule R383-7. This new rule edits the old text in Rule R380-406 by removing unnecessary language and adding clarifying phrases or words. These changes are listed in Box 4 below.

Rule R383-7 replaces Rule R380-406 to reflect the restructuring of the Department. The administrative rule Title R383 is created to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health. The Title R383 solely under the Center for Medical Cannabis.

(EDITOR'S NOTE: The proposed repeal of Rule R380-406 is under ID 54905 in this issue, November 1, 2022, of the Bulletin.)

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

Additions are made throughout the rule to make language comply with the Utah Rulewriting Manual. The below changes are made from the original Rule R380-406 to the proposed new Rule R383-7.

As a new addition, Subsection R383-7-2(2) establishes a definition of the term "Advertising." The proposed new definition allows a medical cannabis pharmacy to engage in public advertising under certain conditions. A medical cannabis pharmacy may engage in mass-market communication activities, such as a billboard, yard sign, radio, or online under certain conditions.

As a new addition, Subsection R383-7-2(3) adds the definition of an educational event to clarify that the event may be held virtually or in person.

As a new addition, Subsection R383-7-2(4) defines educational material and removes language that is being moved under the definition of targeted marketing.

As a new addition, Subsection R383-7-2(6) adds the definition of recreational disposition to include content that a reasonable person knows or should know appeals to children.

As a new addition, Subsection R383-7-2(8) establishes a definition of the term "targeting marketing." The proposed new definition allows a medical cannabis pharmacy to engage in targeted marketing of specific medical cannabis product, medical cannabis brand, medical cannabis device, under certain conditions.

As a new addition, Subsections R383-7-3(8) and (9) make changes to requirements applicable to cases when a medical cannabis pharmacy makes changes to its ownership. The changes are needed to make the rule comply with new standards established under S.B. 190.

Subsection R383-7-3(11) clarifies when a medical cannabis pharmacy may be located in the same building as a medical clinic that offers medical cannabis evaluations.

Subsection R383-7-5(1) removes an unnecessary reference to the statute and rule.

Subsection R383-7-5(3)(r) shortens the amount of time within which a medical cannabis pharmacy must notify the Department that their pharmacist-in-charge (PIC) is changing from 30 days to 14 days. It also provides for cases when a medical cannabis pharmacy must make an immediate PIC change.

Section R383-7-7 removes an unnecessary name of a particular statute.

Section R383-7-8 clarifies that a medical cannabis pharmacy must use the state's ICS to establish a record of each return of a medical cannabis product.

As a new addition, Section R383-7-9 defines a caregiver facility as a potential location to which a medical cannabis pharmacy may deliver medical cannabis.

Subsection R383-7-10(1)(h) adds aerosol to a list of dosage forms that must be delivered to a medical cannabis pharmacy in their final container. S.B. 190 added aerosol as a legal dosage form.

Subsection R383-7-13(1)(d) is removed because it is not necessary for medical cannabis pharmacy staff to record an explanation as to why a recommendation was partially filled. Recording this information is important in a regular neighborhood pharmacy but not a medical cannabis pharmacy.

Subsection R383-7-14(1)(b)(ii) is removed because this practice does not apply to medical cannabis pharmacy operations.

As a new addition, Subsection R383-7-16(10) clarifies that it is acceptable in a drive-through setting for a medical cannabis pharmacy employee to transport medical cannabis devices and educational material using a secure drawer or pneumatic tube.

Subsection R383-7-17(4) adds operating standards relative to educational material used by a medical cannabis pharmacy. The proposed new rule prohibits a medical cannabis pharmacy from including content that has a recreational disposition in its educational material. Subsections R383-7-17(6) and (7) are removed from this section and placed under the definition of targeted marketing.

Subsection R383-7-18(2) adds operating standards for educational events in which a medical cannabis pharmacy participates. The proposed new standards require verification of minimum age to ensure compliance with age restrictions established in Subsection 26-61a-505(4).

Section R383-7-19 establishes operating standards for targeted marketing used by a medical cannabis pharmacy to promote its products. These standards are very similar to those proposed new for educational material established in Section R383-7-17.

Section R383-7-22 establishes operating standards for a medical cannabis pharmacy's acceptance and processing of the "Limited Medical Provider Recommendation for Medical Cannabis" form. Medical cannabis pharmacies already comply with these standards.

Hearing Information for 11/07/2022, 10:00 AM:  
**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:  
<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

## Fiscal Information

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

#### A) State budget:

The proposed new rule must comply with S.B. 190 (2022). For this reason, most fiscal impact on the state budget is due to this new rule. There is no fiscal impact to the Department having to verify a medical cannabis pharmacy's compliance with new operating standards as prompted by S.B. 190. This fiscal impact is negligible.

Pursuant to statute, there is a \$300 licensing fee when medical cannabis pharmacy changes ownership. The Department projects that this will happen three times a year for a total cost of \$900 to these small businesses. As part of this process, the state will receive \$900 in ownership change fees.

This rule replaces the repealed Rule R380-406. The difference in cost between the old Rule R380-406 and the new Rule R383-7 is negligible.

#### B) Local governments:

This proposed new rule change will not result in a fiscal impact to local governments because it does not establish requirements for enforcement by local agencies.

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

This proposed new rule change will result in a fiscal impact on medical cannabis pharmacies as the proposed new rule modifies and establishes requirements for them. For the most part, medical cannabis pharmacies are already in compliance with the advertising, targeting marketing, educational material, and educational event definitions established in Rule R383-1. For this reason, the fiscal impact is expected to be negligible. Section R383-7-22 establishes operating standards for a medical cannabis pharmacy's acceptance and processing of the "Limited Medical Provider Recommendation for Medical Cannabis" form. Medical cannabis pharmacies also already comply with these standards so there is little impact here as well.

Pursuant to statute, there is a \$300 licensing fee when a medical cannabis pharmacy changes ownership. The Department projects that this will happen three times a year for a total cost of \$900 to these small businesses. As part of this process, the state will receive \$900 in ownership change fees.

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

This proposed new rule will not result in a fiscal impact on a non-small business because this rule does not establish requirements for non-small businesses.

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

This proposed new rule will not result in a fiscal impact on persons other than small businesses, non-small businesses, or state or local government entities because this rule does not establish new requirements for these entities.

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

This proposed new rule change will result in a fiscal impact on medical cannabis pharmacies as the proposed new rule modifies and establishes requirements for them. For the most part, medical cannabis pharmacies are already in compliance with the advertising, targeting marketing, educational material, and educational event definitions established in Section R383-7-2. For this reason, the fiscal impact is expected to be negligible. Section R383-7-22 establishes operating standards for a medical cannabis pharmacy's acceptance and processing of the "Limited Medical Provider Recommendation for Medical Cannabis" form. Medical cannabis pharmacies also already comply with these standards.

#### 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	\$900	\$900	\$900
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

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Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>(\$900)</b>	<b>(\$900)</b>	<b>(\$900)</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26-61a-202	Subsection 26-61a-607(1)	Subsection 26-61a-116(5)
Subsection 26-61a-505(2)	Subsection 26B-1-213(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.)

<b>A) Comments will be accepted until:</b>		12/01/2022
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	09/19/2022
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## R383. Health and Human Services, Center For Medical Cannabis.

### R383-7. Medical Cannabis Pharmacy.

#### R383-7-1. Authority and Purpose.

(1) Subsection 26B-1-213(1) and Title 26, Chapter 61a, Utah Medical Cannabis Act, authorize this rule.

(2) This rule establishes operating and licensing standards and requirements applicable to medical cannabis pharmacies and their employees.

### R383-7-2. Definitions.

The definitions in Section R383-1-2 apply to this rule. In addition, the following definitions apply in this rule.

(1) "Advertise" or "advertising" means information that a medical cannabis pharmacy provides to the public that:

- (a) does not restrict access to any person under age 18; and
- (b) does not include a recreational disposition.

(2) "Cannabis waste" means cannabis product that is damaged, deteriorated, mislabeled, expired, returned, subject to a recall, or enclosed within a container or package that has been opened or breached.

(3) "Educational event" means an organized event:

(a) at which a medical cannabis pharmacy distributes, orally presents, or displays educational material; and

(b) that may be held either virtually or in-person

(4) "Educational material" means material or content used, displayed, sold, or distributed for an educational purpose by a medical cannabis pharmacy in-person or online in a business or professional capacity. Educational material includes:

(a) live or recorded content of an actual educational event; or

(b) any printed educational material such as a placard, poster, fact sheet, book, pamphlet, flyer, or business card.

(5) "Institutional review board" or "IRB" means the same term as defined in Section 26-61-102.

(6) "Recreational disposition" means the following:

(a) slang words or phrasing associated with the recreational use of cannabis;

(b) an image of a celebrity or other person whose target audience is children or minors;

(c) content that encourages promotes, or otherwise creates an impression that the recreational use of cannabis is legal or acceptable, or that the recreational use of cannabis has potential health or therapeutic benefits;

(d) content that promotes excessive consumption;

(e) content that is obscene or indecent; and

(f) content that a reasonable person knows or should know appeals to children.

(7) "Substantial evidence" or "substantial clinical data" means evidence that two or more clinical studies support. The clinical studies shall meet the following criteria:

(a) were conducted under a study approved by an IRB;

(b) were conducted or approved by the federal government;

(c) are cited by the Department in educational materials posted on its website; or

(d) are of reasonable scientific rigor as determined by the Department.

(8) "Targeted marketing" means the promotion of a medical cannabis product, medical cannabis brand, or a medical cannabis device by a medical cannabis pharmacy using the following methods:

(a) electronic communication that requires acknowledgment of the person receiving or accessing the communication that they are an adult age 18 or over;

(b) an in-person marketing event that is held inside the cardholder-only area of a medical cannabis pharmacy; or



(c) other marketing material that is physically available or digitally displayed in the cardholder-only area of a medical cannabis pharmacy.

### **R383-7-3. General Operating Standards.**

(1) In addition to general operating standards established in Title 26, Chapter 61a, Utah Medical Cannabis Act, medical cannabis pharmacies shall comply with the operating standards established in this rule. Medical cannabis pharmacies shall:

(a) be well lit, well ventilated, clean, and sanitary;

(b) maintain a current list of employees working at the medical cannabis pharmacy;

(i) the list shall include employee name, Department registration license classification and license number, registration expiration date, and work schedule; and

(ii) the list shall be readily retrievable for inspection by the Department and may be maintained in paper or electronic form;

(c) have a counseling area to allow for confidential patient counseling;

(d) have current and retrievable editions of the following reference publications, in print or electronic format, and readily available and retrievable to medical cannabis pharmacy personnel:

(i) Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) applicable administrative rules.

(2) A medical cannabis pharmacy shall not distribute medical cannabis product, or medical cannabis devices, to a medical cannabis cardholder, unless an employee who is a PMP is physically present and immediately available in the medical cannabis pharmacy.

(3) A medical cannabis pharmacy location shall be open for a cardholder to buy a medical cannabis product, and medical device, for a minimum of 35 hours a week, except as authorized by the Department.

(4) A medical cannabis pharmacy that closes during normal hours of operation, shall implement procedures to notify a cardholder when the medical cannabis pharmacy will resume normal hours of operation. Procedures may include telephone system messages and conspicuously posted signs.

(5) Deliveries from a cannabis processing facility or another medical cannabis pharmacy shall be carried out under the direct supervision of a PMP or pharmacy agent, who shall be present to accept the delivery. Upon delivery, the medical cannabis product or medical cannabis devices shall immediately be placed in a limited access area of the medical cannabis pharmacy.

(6) A medical cannabis pharmacy shall protect, at all times, confidential cardholder data and information stored in the EVS to ensure that access to and use of the data and information is limited to those individuals and purposes authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule.

(7) A medical cannabis pharmacy shall not dispense expired, damaged, deteriorated, misbranded, adulterated, or opened medical cannabis products or medical cannabis devices.

(8) A medical cannabis pharmacy license cannot be assigned or transferred but a licensee may make changes to its ownership or company structure. Any changes to a pharmacy's ownership or company structure shall be reported to the Department no later than ten calendar days before the change is to take place. When making a change to its ownership, a licensee shall not:

(a) make an ownership change by an interest of 2% or more without notification of the Department at least 10 days before the date of the change; and

(b) make an ownership change by an interest of 50% or more without applying to the Department and receiving Department approval and payment of the fee authorized under Section 26-61a-109 that the Department sets in accordance with Section 63J-1-504.

(9) When applying to the Department for approval of an ownership change of more than 50%, the medical cannabis pharmacy shall submit to the Department:

(a) a complete application form provided by the Department;

(b) payment of an application fee that covers the cost of the application review;

(c) a description of how the medical cannabis pharmacy shall maintain its compliance with the minimum standards for licensure and operation of the medical cannabis pharmacy; and

(d) the results of a formal investigation, charge, claim or adverse action taken against the new owners or individuals with formal financial or management control who make up the new owners, during the past seven years, by any licensing jurisdiction, government agency, law enforcement agency, or court in any state.

(10) A medical cannabis pharmacy shall provide a copy of a certificate of analysis for a medical cannabis product to a medical cannabis cardholder or a recommending medical provider if:

(a) it is requested in writing; and

(b) the requestor signs a non-disclosure agreement upon request by the medical cannabis pharmacy.

(11) A medical cannabis pharmacy may be located in the same building as a medical clinic that offers medical cannabis evaluations under the following conditions:

(a) the building owner shall not be the medical cannabis pharmacy or an owner, director, board member, employee, or agent of the medical cannabis pharmacy; and

(b) the two businesses cannot share an outdoor entrance unless the entrance leads to a common area shared by multiple tenants of the building where the two businesses have separate facility entrances to facility reception areas separated by walls and locked doors.

### **R383-7-4. Operating Plan.**

(1) A medical cannabis pharmacy license application shall include an operating plan that includes, at a minimum the following:

(a) information requested in the application;

(b) information listed in Section 26-61a-301;

(c) a plan to comply with applicable operating standards, statutes, and administrative rules, including:

(i) Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) applicable administrative rules.

(2) The Department may require the applicant for a medical cannabis pharmacy license to make a change to its operating plan before issuing a pharmacy license. The applicant shall submit a copy of its updated operating plan, with the required change, and receive Department approval of the plan before the Department awards the license.

(3) Once the Department issues a license, any change to a medical cannabis pharmacy's operating plan is subject to the approval of the Department. A medical cannabis pharmacy shall submit a notice, in a manner determined by the Department, at least 14 days before the date that it plans to implement any change to its operating plan.

**R383-7-5. Operating Standards -- Pharmacist-In- Charge.**

(1) A medical cannabis pharmacy's pharmacist-in-charge (PIC) shall have the responsibility to oversee the medical cannabis pharmacy's operation. The PIC shall generally supervise the medical cannabis pharmacy, though the PIC is not required to be on-site during business hours.

(2) A unique email address shall be established by the PIC, or responsible party, for the medical cannabis pharmacy; to be used for official notices, self-audits, or medical cannabis pharmacy alerts, initiated by the Department. The PIC or responsible party shall notify the Department of the medical cannabis pharmacy's email address in the initial application for licensure.

(3) The duties of the PIC shall include:

(a) ensure that PMPs, and pharmacy agents, at the medical cannabis pharmacy appropriately interpret and distribute a recommendation from a recommending medical provider, in a suitable container, appropriately labeled for subsequent administration, or use by a patient;

(b) ensure that medical cannabis products and medical cannabis devices are distributed safely, and accurately, with correct dosing guidelines and directions of use as recommended by a recommended medical provider;

(c) ensure that medical cannabis products, and medical cannabis devices, are distributed with information and instruction as necessary for proper utilization;

(d) ensure that PMPs and pharmacy agents communicate to a cardholder, at their request, information concerning any medical cannabis product or medical cannabis devices distributed to the cardholder;

(e) ensure that a reasonable effort is made to get, protect, record, and maintain patient records;

(f) education and training of medical cannabis pharmacy personnel;

(g) establishment of policies for procurement of medical cannabis products, medical cannabis devices, and educational material sold at the facility;

(h) distribution and disposal of medical cannabis products and medical cannabis devices, from a medical cannabis pharmacy;

(i) appropriate storage of medical cannabis products and medical cannabis devices;

(j) maintain a complete and accurate record of transactions of the medical cannabis pharmacy necessary to maintain accurate control and accountability for materials required by applicable state laws;

(k) establish effective control against theft or diversion of medical cannabis products or medical cannabis devices, and record of the product;

(l) legal operation of the medical cannabis pharmacy, including inspections, and other requirements, of state laws governing the medical cannabis pharmacies;

(m) implementation of an ongoing quality assurance program, that monitors the performance of the personnel at the medical cannabis pharmacy;

(n) ensure that the point-of-sale (POS) is in working order;

(o) ensure that relevant information is submitted to the state's ICS and EVS in a timely manner;

(p) ensure that medical cannabis pharmacy personnel have appropriate licensure and registration;

(q) ensure that no medical cannabis pharmacy operates with a ratio of PMPs to pharmacy agents that results in, or reasonably would be expected to result in, a reasonable risk of harm to public health, safety, and welfare;

(r) ensure that the PIC assigned to the medical cannabis pharmacy is recorded with the Department, and the Department is notified of a PIC change within 14 days of the change or within 24 hours of an immediate change in a PIC's employment status in case of sudden resignation, termination, or emergency leave; and

(s) in regard to the unique email address used for self-audits or medical cannabis pharmacy alerts, ensure that:

(i) the medical cannabis pharmacy uses a single email address; and

(ii) the medical cannabis pharmacy notifies the Department, on the form prescribed, of any change in the email address within seven calendar days of the change.

(4) A PMP cannot be designated as PIC for more than two medical cannabis pharmacies at one time.

**R383-7-6. Operating Standards -- Supervision.**

(1) A medical cannabis pharmacy is always under the full and actual charge of the medical cannabis pharmacy's PIC, but it shall be under the direct supervision of at least one supervising PMP, who is physically present at all times when a medical cannabis pharmacy is open to the public.

(2) A medical cannabis pharmacy PIC is not required to be in the medical cannabis pharmacy at all times but shall be available for contact within a reasonable period with the supervising PMP.

(3) A medical cannabis pharmacy shall never operate with a supervision ratio of PMP to pharmacy agent that results in, or reasonably would be expected to result in, an unreasonable risk of harm to public health, safety, and welfare.

**R383-7-7. Security Standards.**

(1) A medical cannabis pharmacy shall comply with security standards established in Section 26-61a-501 and this rule.

(2) A medical cannabis pharmacy shall have security equipment sufficient to deter and prevent unauthorized entrance into a limited access area of the medical cannabis pharmacy that includes equipment required in this section.

(3) A medical cannabis pharmacy shall have a system to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular or private radio signals, or another mechanical or electronic device.

(4) A medical cannabis pharmacy shall be equipped with a secure lock on any entrance to the medical cannabis pharmacy.

(5) A medical cannabis pharmacy shall have electronic monitoring including:

(a) at least one 19-inch or greater call-up monitor;

(b) a printer, capable of immediately producing a clear still photo from any video camera image;

(c) a video camera with a recording resolution of at least 640 x 470, or the equivalent, which provides coverage of entrances to and exits from limited access areas; and entrances to and exits from the building, and is capable of identifying any activity occurring in or adjacent to the building;

(d) a video camera shall either record continuously, 24 hours a day, 7 days a week or be motion activated;

(e) a video camera at each point-of-sale and product destruction or disposal location, which will allow for the identification of a medical cannabis cardholder, visitor, or pharmacy employee;

(f) a method for storing video recordings from the video camera for at least 45 calendar days;

(g) for locally stored footage, the surveillance system storage device shall be secured in the facility in a lock box, cabinet, closet, or secured in another manner, to protect from employee tampering or criminal theft;

(h) access to footage stored on a remote server shall be restricted to protect from employee tampering;

(i) a failure notification system that provides an audible, and visual, notification of failure in the electronic monitoring system;

(j) sufficient battery backup for a video camera and recording equipment, to support at least five minutes of recording in the event of a power outage;

(k) a date and time stamp embedded on video camera recordings, which shall be set correctly; and

(l) a panic alarm in the interior of the facility, which is a silent security alarm system signal, generated by the manual activation of a device intended to signal a robbery in progress.

(6) Security measures implemented by a medical cannabis pharmacy to deter and prevent unauthorized entrance in areas containing products, theft of products, and to ensure the safety of employees and medical cannabis cardholders, shall include the following:

(a) store medical cannabis products and medical cannabis devices in a secure locked limited access area, in a manner as to prevent diversion, theft, and loss;

(b) notwithstanding Subsection (6)(a), a medical cannabis pharmacy may display, in a securely locked case, a sample of each product offered;

(i) the display case shall be transparent;

(ii) an authorized PMP, or pharmacy agent, may remove an example of medical cannabis, or medical cannabis device, from the case, and provide it to a cardholder for inspection; provided:

(A) the patient does not consume or otherwise use the sample;

(B) the processor label from the original product container or an image showing the processor label is affixed to the sample's container with the unique identifying number that links the medical cannabis product to the ICS; and

(C) destruction of the medical cannabis product shall be done in compliance with applicable laws and the pharmacy's standard operating procedures.

(iii) inside the medical cannabis pharmacy, a medical cannabis product and medical cannabis devices, shall be stored in a limited access area during non-business hours;

(c) keep safes, vaults, and any other equipment, or areas used for storage, including before disposal of the product, securely locked and protected from entry; except for the actual time required to remove or replace medical cannabis a product or medical cannabis devices;

(d) keep locks and security equipment in good working order, and shall test that equipment is functioning properly at least two times per calendar year;

(e) prohibit keys, if any, from being left in the locks, or stored or placed, in a location accessible to any person other than specifically authorized personnel;

(f) prohibit accessibility to security measures, such as combination numbers, passwords, or electronic, or biometric security systems, to any person other than specifically authorized personnel;

(g) ensure that the outside perimeter of the building is sufficiently lit, to facilitate surveillance;

(h) ensure that medical cannabis products and medical cannabis devices are kept out of plain sight, and are not visible from a public place, outside of the medical cannabis pharmacy;

(i) develop emergency policies and procedures for securing each product following any instance of diversion, theft, or loss of product, and conduct an assessment to determine whether additional safeguards are necessary;

(j) at a medical cannabis pharmacy where a cash transaction is conducted, establish a procedure for safe cash handling and cash transportation, to a financial institution to prevent theft, loss, and associated risk to the safety of employees, customers, and the general public;

(k) while inside the medical cannabis pharmacy, an employee shall wear an identification tag, or similar form of identification, to clearly identify them to the public;

(l) including their position at the medical cannabis pharmacy, as a PMP or pharmacy agent; and

(l) prevent an individual from remaining on the premise of the medical cannabis pharmacy, if they are not engaging in activity expressly, or by necessary implication, permitted by Title 26, Chapter 61a, Utah Medical Cannabis Act.

(7) A medical cannabis pharmacy shall include the following areas of security:

(a) public waiting area;

(b) cardholder-only area; and

(c) limited access area.

(8) A medical cannabis pharmacy shall allow only medical a cannabis cardholder, PMP, pharmacy agent, authorized vendor, contactor, and visitor, to have access to the cardholder area of the medical cannabis pharmacy.

(9) An outside vendor, contractor, and visitor shall get a visitor identification badge, before entering the cardholder-only, or limited access area of a medical cannabis pharmacy; to be worn at all times when on the premise of the medical cannabis pharmacy and shall be escorted at all times by an employee authorized to enter the medical cannabis pharmacy. The visitor identification badge shall be visibly displayed at all times, while in the facility. A visitor must be logged in and out, and that log shall be available for inspection by the Department at all times. The visitor identification badge shall be returned to the medical cannabis pharmacy upon exit.

(10) Product inside a medical cannabis pharmacy, shall be kept in a limited access area, inaccessible to any person other than a PMP, pharmacy agent, state employee, or an individual authorized by the medical cannabis pharmacy's PIC. The limited access area shall be identified by the posting of a sign, that shall be a minimum of 12" x 12", and states: "Limited Access Area," in lettering no smaller than one inch in height.

(11) If a cabinet or drawer is used as a limited access area, it is not required to have a "Limited Access Area" sign on it.

(12) Only a PMP or a pharmacy agent, employed at the medical cannabis pharmacy shall have access to the medical cannabis pharmacy when the medical cannabis pharmacy is closed to the public.

(13) The medical cannabis pharmacy, or parent company, shall maintain a record of not less than five years of the initials or identification codes that identify each PMP or pharmacy agent by name. The initial or identification code shall be unique, to ensure that each PMP, or pharmacy agent, can be identified. An identical initial or identification code, shall not be used for two or more PMPs, or pharmacy agents.

### **R383-7-8. Operating Standards -- Inventory.**

(1) A medical cannabis pharmacy shall be equipped for orderly inventory, storage of medical cannabis products, and medical cannabis devices, in a manner to permit clear identification,

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separation, and easy retrieval of a product; and an environment necessary to maintain the integrity of product inventory.

(2) A medical cannabis pharmacy shall use the state's ICS to establish a record of each transaction, sale, return, and disposal.

(3) A medical cannabis pharmacy shall input in the ICS information regarding the purchase of medical cannabis products, or medical cannabis devices, immediately after a transaction with a cardholder is closed, so reporting of purchases to the ICS across medical cannabis pharmacies is in real-time.

(4) A medical cannabis pharmacy shall establish and document daily and weekly inventory controls of a medical cannabis product and medical cannabis devices to help the pharmacy detect any diversion, theft, or loss of product in a timely matter.

(5) A PMP at each medical cannabis pharmacy shall conduct a monthly inventory which shall include a reconciliation of each medical cannabis product and medical cannabis device stored at the pharmacy with the pharmacy's inventory record in the ICS. Pharmacy agents may assist a PMP with the monthly inventory. A monthly inventory shall include:

(a) the time and date of completing the inventory;

(b) a summary of the inventory findings; and

(c) the name and signature or initials of the PMP who conducted the inventory.

(6) If a medical cannabis pharmacy employee identifies a reduction in the number of medical cannabis products or medical cannabis devices in the medical cannabis pharmacy's inventory is not due to documented causes, the medical cannabis pharmacy shall determine where the loss occurred, and immediately take and document corrective action. The medical cannabis pharmacy shall immediately inform the Department of the loss by telephone, and provide written notice of the loss, and the corrective action taken within two business days after the first discovery of the loss.

(7) If a reduction in the number of medical cannabis products, or medical cannabis devices, in the inventory is due to criminal activity, or suspected criminal activity, the medical cannabis pharmacy shall immediately make a written report identifying the circumstances surrounding the reduction to the Department, and to law enforcement with jurisdiction where the suspected criminal acts occurred.

(8) If a medical cannabis pharmacy employee identifies an increase in the amount of medical cannabis products, or medical cannabis devices, in the medical cannabis pharmacy's inventory, not due to documented causes, the medical cannabis pharmacy shall determine where the increase occurred and take and document corrective action.

(9) The PIC shall conduct and complete an annual comprehensive inventory of products at a medical cannabis pharmacy within 72 hours or three working days of the pharmacy's first annual comprehensive inventory. The annual comprehensive inventory shall include:

(a) the time and date of completing the inventory;

(b) a summary of the inventory findings; and

(c) the name and signature or initials of the PIC who conducted the inventory.

(10) Records of each monthly inventory, and comprehensive annual inventory, shall be kept by the medical cannabis pharmacy for a period of five years. The records may be electronic or physical. If physical records are kept, the physical records must be located at the medical cannabis pharmacy where the medical cannabis products and medical cannabis devices are located. A medical cannabis pharmacy intending to maintain such records at a location other than the medical cannabis pharmacy must first send

a written request to the Department. The request shall contain the medical cannabis pharmacy name and license number, and the name and address of the alternate location. The Department shall send written notification to the medical cannabis pharmacy documenting the approval, or denial, of the request. A copy of the Department's approval shall be maintained. An alternate location shall be secured and accessible only to authorized medical cannabis pharmacy employees.

(11) A medical cannabis pharmacy shall provide documentation required to be maintained in this rule to the Department for review upon request.

### **R383-7-9. Operating Standards -- Transportation.**

(1) Transport of medical cannabis from a medical cannabis pharmacy to another location shall occur only when:

(a) a home delivery medical cannabis pharmacy is delivering shipments of medical cannabis, or medical cannabis devices, to a cardholder's home address or caregiver facility;

(b) a medical cannabis pharmacy, or cannabis production establishment, is transporting medical cannabis, or a medical cannabis device, from a medical cannabis pharmacy facility to a cannabis production establishment facility, or waste disposal location to be disposed of; and

(c) a product recall is initiated and medical cannabis, or a medical cannabis device, must be returned from a medical cannabis pharmacy to the cannabis production establishment.

(2) Medical cannabis product and medical cannabis devices to be returned to the cannabis production establishment shall be:

(a) logged into the ICS;

(b) stored in a locked container with clear and bold lettering: "Return"; and

(c) prepared for return in compliance with any guideline and protocol of the cannabis production establishment for collecting, storing, and labeling a returned product.

(3) A PMP or pharmacy agent accepting a shipment of medical cannabis, or medical cannabis device, at a medical cannabis pharmacy facility from a cannabis production establishment shall:

(a) get a copy of the transport manifest and safeguard the manifest for recordkeeping;

(b) not delete, void, or change information provided on the transport manifest, upon arrival at the medical cannabis pharmacy;

(c) ensure that the medical cannabis product and medical cannabis devices received from a cannabis production establishment are as described in the transport manifest, and record the amount received into the ICS;

(d) clearly record on the manifest the unique initial, or identification code of the medical cannabis pharmacy employee who compares the received inventory with the transport manifest, and the actual date and time of receipt of the medical cannabis product, or medical cannabis devices;

(e) if a difference between the quantity specified in the transport manifest and the quantity received occurs, document the difference in the ICS; and

(f) log in the ICS any change to medical cannabis product, or medical cannabis devices, that may have occurred while in transport.

### **R383-7-10. Operating Standards -- Product Labeling and Packaging.**

(1) Medical cannabis product in the following dosage form shall be delivered to a medical cannabis pharmacy, from a cannabis

processing facility, or another medical cannabis pharmacy, in their final container:

- (a) concentrated oil;
- (b) liquid suspension;
- (c) topical preparation;
- (d) transdermal preparation;
- (e) gelatinous cube;
- (f) sublingual preparation;
- (g) resin or wax; and
- (h) aerosol.

(2) Medical cannabis product in the following dosage form may be delivered to a medical cannabis pharmacy from a cannabis processing facility, in either a final container or a bulk container, to later be separated into a final packaging before being dispensed to a cardholder:

- (a) tablet;
- (b) capsule; and
- (c) unprocessed cannabis flower.

### **R383-7-11. Operating Standards -- Cannabis Disposal and Waste.**

(1) A medical cannabis pharmacy's cannabis waste may be disposed of at either a medical cannabis pharmacy location, or a location of a cannabis production establishment, licensed by the UDAF.

(2) In addition to complying with standards for cannabis disposal and waste established in Sections 26-61a-501 and 26-61a-607, a medical cannabis pharmacy shall ensure compliance with the following standards when handling cannabis waste:

- (a) designate a location in the limited access area of the medical cannabis pharmacy where cannabis waste shall be securely locked and stored;
- (b) designate a lockable container, or containers, that are clearly and boldly labeled with the words "Not for Sale or Use";
- (c) ensure logging of the medical cannabis product in the ICS at the time of disposal with appropriate information including:
  - (i) a description of and reason for the medical cannabis product being disposed;
  - (ii) date of disposal;
  - (iii) method of disposal; and
  - (iv) name and registration identification number of the agent responsible for the disposal;

(d) wastewater generated during the cannabis waste disposal process shall be disposed of in compliance with applicable state laws and rules;

(e) 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;

(f) cannabis waste disposed of shall be made unusable;

(g) cannabis waste, which is not designated as hazardous, shall be made 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;

(h) materials used to grind and incorporate with cannabis may be compostable or non-compostable;

(i) compostable waste is a cannabis waste to be disposed of as compost or in another organic waste method mixed with:

- (i) food waste;
- (ii) yard waste; or
- (iii) vegetable-based grease or oils;

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

- (i) paper waste;
- (ii) cardboard waste;
- (iii) plastic waste; or
- (iv) soil.

### **R383-7-12. Operating Standards -- Product Recall.**

(1) A recall may be initiated by a cannabis production establishment, a medical cannabis pharmacy, the Department, or UDAF.

(2) A medical cannabis pharmacy's recall plan shall include, at a minimum:

(a) a designation of at least one employee who shall serve as the recall coordinator;

(b) if the recall is initiated by a medical cannabis pharmacy, the pharmacy will provide immediate notification to the Department, UDAF, and the cannabis production establishment from which it obtained the cannabis product in question;

(i) notification shall occur within 24 hours upon becoming aware of a complaint about the medical cannabis product or medical cannabis device in question;

(c) a procedure for identifying and isolating recalled product to prevent or minimize distribution to patients;

(d) a procedure to retrieve and destroy recalled product; and

(e) a communication plan to notify those affected by the recall.

(3) The medical cannabis pharmacy shall track the total amount of affected medical cannabis product, and the amount of medical cannabis product returned to the medical cannabis pharmacy, as part of the recall.

(4) The medical cannabis pharmacy shall coordinate the destruction of the medical cannabis product with the Department and UDAF and allow UDAF to oversee the destruction of the final product.

(5) A medical cannabis pharmacy shall notify the Department before initiating a voluntary recall.

### **R383-7-13. Partial Filling.**

(1) A PMP or pharmacy agent who partially fills a recommendation for a medical cannabis cardholder shall specify in the ICS the following:

- (a) date of partial fill;
- (b) quantity supplied to cardholder; and
- (c) quantity remaining of the recommendation partially filled.

### **R383-7-14. Operating Standards -- Closing a Pharmacy.**

(1) At least 14 days before the closing of a medical cannabis pharmacy, the PIC shall:

(a) send written notice to the Department containing the following information:

(i) the name, address, and Department issued license number of the medical cannabis pharmacy;

(ii) surrender the license issued to the medical cannabis pharmacy;

(iii) a statement attesting:

(A) a comprehensive inventory was conducted;

(B) the manner in which the medical cannabis product and medical cannabis devices will be transferred or disposed of;

- (C) the anticipated date of closing;
- (D) the name, address, and Department issued license number of the medical cannabis pharmacy, or cannabis production establishment, acquiring the medical cannabis and medical cannabis devices from the medical cannabis pharmacy that is closing;
- (E) the date of transfer when the medical cannabis product and medical cannabis devices will occur; and
- (F) the name and address of the medical cannabis pharmacy to which the orders, including any refill information, and patient records, will be transferred; and
- (b) post a closing notice in a conspicuous place at public entrance doors to the medical cannabis pharmacy which shall state the closing date.
- (2) If the medical cannabis pharmacy closed suddenly due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy, or emergency circumstances, and the PIC cannot provide notification 14 days before the closing, the PIC shall provide notification to the Department of the closing, no later than 24 hours after the closing.
- (3) If the PIC is not available to comply with the requirements of this section, the owner or legal representative shall be responsible for compliance with this section.
- (4) On the date of the closing, the PIC shall remove medical cannabis product, and medical cannabis devices, from the medical cannabis pharmacy by one or a combination of the following methods:
  - (a) transport them to a cannabis processing facility for credit or disposal; or
  - (b) transfer or sell them to a person who is legally entitled to have medical cannabis products and medical cannabis devices, such as another medical cannabis pharmacy in Utah.
- (5) The PIC shall remove signs and notify the landlord of the property that it is unlawful to use the word "medical cannabis pharmacy," or any other word or combination of words of the same or similar meaning, or any graphic representation that would mislead, or tend to mislead the public that a medical cannabis pharmacy is located at this address.

**R383-7-15. Abandonment of a License.**

- (1) The following actions constitute abandonment of a medical cannabis pharmacy license:
  - (a) a medical cannabis pharmacy's failure to begin operations within one year after the day on which the Department issues an intent to award a medical cannabis pharmacy license.

**R383-7-16. Operating Standards -- Drive-Thru and Curbside Service.**

- (1) A medical cannabis cardholder may contact a medical cannabis pharmacy, either by phone or online, before the time of drive-thru or curbside service pick-up to make an order.
- (2) A medical cannabis cardholder transaction may take place outside the medical cannabis pharmacy facility, but it shall still occur within the total property boundary of the licensed entity. Drive-thru and curbside service transactions shall occur at a licensed location that is owned, leased, or rented by the licensed entity and shall not occur on a public sidewalk or an adjacent parking lot.
- (3) If product is bought with cash, the cash must be taken into the medical cannabis pharmacy facility after each transaction. If a medical cannabis pharmacy obtains approval from the Division of Finance to accept customer payments through an electronic payment provider, a medical cannabis cardholder using drive-thru and

curbside pick-up service may make payments using the approved electronic payment provider.

(4) Medical cannabis products and medical cannabis devices, including those that are awaiting pick-up, shall be securely stored in the medical cannabis pharmacy facility until a medical cannabis cardholder arrives for pick-up. Under no circumstances may a medical cannabis product or medical cannabis device be stored outside of a medical cannabis pharmacy facility before a customer arrives to pick-up the product.

(5) A medical cannabis pharmacy's video surveillance shall enable the video recording of each medical cannabis cardholder transaction. This includes video surveillance of a cardholder, cardholder vehicle, medical cannabis pharmacy employee verifying the cardholder's valid form of photo identification, and the transfer and dispensing of an item bought by a cardholder. Video cameras shall record points of entry and exit of a parking lot and shall be angled to ensure the capture of clear and certain identification of a cardholder and their vehicle's license plate.

(6) The individual receiving the delivery of a product from the medical cannabis pharmacy employee via drive-thru or curbside pick-up shall be a cardholder. When drive-thru service is used, the medical cannabis cardholder verifying their ID to the medical cannabis pharmacy shall be visible to cameras and to the medical cannabis pharmacy employee who is helping them.

(7) Children under age 18 may be present in a vehicle that arrives for drive-thru or curbside pick-up service.

(8) When a PMP's consultation with a medical cannabis cardholder is required, the consultation may be provided in-person, over the phone, or with another real-time communications device. It is the responsibility of the medical cannabis pharmacy to ensure the privacy of these consultations regardless of where or how the consultations happen.

(9) When a medical cannabis pharmacy employee transports a container of medical cannabis product to a medical cannabis cardholder via drive-thru or curbside service, the container shall be contained within a box or an opaque bag.

(10) When drive-thru service is used, a medical cannabis pharmacy may use a secure drive-thru drawer or pneumatic tube to transport medical cannabis product, medical cannabis device, educational materials, valid photo identification, cash, and documents between a medical cannabis pharmacy employee and a medical cannabis cardholder.

**R383-7-17. Operating Standards -- Educational Material.**

(1) A medical cannabis pharmacy shall comply with the operating standards related to educational material established in this rule.

(2) Educational material related to the use of medical cannabis that makes a statement relating to side effects, consequences, contraindications, and effectiveness shall present a true statement of the information.

(3) Educational material is false, lacking fair balance, or otherwise misleading if it:

(a) contains a representation or suggestion that a cannabis strain, brand, or product is better, more effective, useful in a broader range of conditions or patients or safer than other drugs or treatments including other cannabis strains or products, unless the claim has been demonstrated by substantial evidence or substantial clinical data;

(b) contains favorable information or opinions about a medical cannabis product previously regarded as valid but which have been made invalid by contrary and more credible recent information;

(c) uses a quote or paraphrase out of context or without citing conflicting information from the same source, to convey a false or misleading idea;

(d) uses a study on individuals without a qualifying medical condition without disclosing that the subjects were not suffering from a qualifying medical condition;

(e) uses data favorable to a medical cannabis product derived from patients treated with a different product or dosages different from those legal in Utah; and

(f) contains favorable information or conclusions from a study that is inadequate in design, scope, or conduct to furnish significant support for the information or conclusions.

(4) Educational material shall not include:

(a) unsubstantiated health claims and other claims that are not supported by substantial evidence or substantial clinical data;

(b) claims that cannabis cures any medical condition; and

(c) any content with a recreational disposition.

(5) Notwithstanding the recreational disposition of some cannabis strains and medicinal dosage forms, a medical cannabis pharmacy may reference a cannabis strain or a medicinal dosage form in educational material.

### **R383-7-18. Operating Standards -- Educational Events.**

(1) When hosting or participating in educational events, a medical cannabis pharmacy shall comply with educational event standards established in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule.

(2) To comply with educational event minimum age restrictions established in Title 26, Chapter 61a, Utah Medical Cannabis Act, entry to an educational event in which a medical cannabis pharmacy participates requires verification of a:

(i) valid form of photo identification for individuals 21 years and older; or

(ii) a valid form of photo identification and a valid Utah medical cannabis card for individuals age 18 to 20.

(3) A medical cannabis pharmacy may give out educational material at an educational event but shall not give out marketing merchandise such as t-shirts, hats, or pens. If a medical cannabis pharmacy notices that a third-party is giving out or selling merchandise that appears to advertise for a medical cannabis pharmacy, the medical cannabis pharmacy shall immediately contact the third-party and request that the third-party cease and desist giving out or selling of the merchandise at the educational event.

(4) An educational event hosted by a third-party or a medical cannabis pharmacy that a medical cannabis pharmacy participates in may include a food vendor where food is available for purchase. If food is provided at no cost to the attendees at an educational event that a medical cannabis pharmacy participates in, the food may be bought and provided by a third-party, but it cannot not be bought or provided by a medical cannabis pharmacy. Food bought by a medical cannabis pharmacy and provided at no cost to participants of an educational event that a medical cannabis pharmacy is participating in constitutes a gift item which is prohibited under Section 26-61a-505.

(5) A medical cannabis pharmacy may get at cost or no cost, a sponsorship or booth at an educational event hosted by a third-party if the primary purpose of the event is educational.

(6) Signage and displays used by a medical cannabis pharmacy at an educational event shall comply with educational material standards established in Section R380-406-17.

### **R383-7-19. Targeted Marketing.**

(1) A medical cannabis pharmacy may engage in targeted marketing as it is defined in Section R380-406-2.

(2) Targeted marketing that makes a statement relating to side effects, consequences, contraindications, and effectiveness shall present a true statement of the information.

(3) Targeted marketing is false, lacking fair balance, or otherwise misleading if it:

(a) contains a representation or suggestion that a cannabis strain, brand, or product is better, more effective, useful in a broader range of conditions or patients or safer than other drugs or treatments including other cannabis strains or products, unless the claim has been demonstrated by substantial evidence or substantial clinical data;

(b) contains favorable information or opinions about a medical cannabis product previously regarded as valid but which have been made invalid by contrary and more credible recent information;

(c) uses a quote or paraphrase out of context or without citing conflicting information from the same source, to convey a false or misleading idea;

(d) uses a study on individuals without a qualifying medical condition without disclosing that the subjects were not suffering from a qualifying medical condition;

(e) uses data favorable to a medical cannabis product derived from patients treated with a different product or dosages different from those legal in Utah; and

(f) contains favorable information or conclusions from a study that is inadequate in design, scope, or conduct to furnish significant support for the information or conclusions.

(4) Targeted marketing shall not include:

(a) unsubstantiated health claims and other claims that are not supported by substantial evidence or substantial clinical data;

(b) claims that cannabis cures any medical condition; and

(c) content that has a recreational disposition.

(5) Notwithstanding the recreational disposition of some cannabis strains and medicinal dosage forms, a medical cannabis pharmacy may reference a cannabis strain or a medicinal dosage form in their targeted marketing.

(6) When posting promotional information about a medical cannabis product for sale online, a medical cannabis pharmacy shall list online the total contained amount of each cannabinoid content measured in milligrams.

### **R383-7-20. Business Name and Logo Standards.**

(1) Pursuant to Subsection 26-61a-505(3)(b) and to ensure a medical cannabis pharmacy's name and logo have a medical rather than a recreational disposition, the name and logo of a medical cannabis pharmacy:

(a) may include terms and images associated with a medical disposition such as medical, medicinal, medicine, pharmacy, apothecary, wellness, therapeutic, health, care, cannabis, clinic, compassionate, relief, treatment, patient, and the plant form of cannabis, including leaf, flower, and bloom;

(b) shall not include any term, statement, design representation, picture, or illustration associated with a recreational disposition or that appeals to children; and

## NOTICES OF PROPOSED RULES

(c) shall not include an emphasis on a psychoactive ingredient or a specific cannabis strain.

(2) A medical cannabis pharmacy is prohibited from using a term associated with a recreational disposition in their name or logo includes:

- (a) weed;
- (b) pot;
- (c) reefer;
- (d) grass;
- (e) hash;
- (f) ganja;
- (g) Mary Jane;
- (h) high;
- (i) buzz;
- (j) haze;
- (k) stoned;
- (l) joint;
- (m) bud;
- (n) smoke;
- (o) euphoria;
- (p) dank;
- (q) doobie;
- (r) kush;
- (s) frost;
- (t) cookies;
- (u) rec;
- (v) bake;
- (w) blunt;
- (x) combust;
- (y) bong;
- (z) budtender;
- (aa) dab;
- (ab) blaze;
- (ac) toke;
- (ad) 420.

### **R383-7-21. Criteria and Process for Issuance of Additional Licenses.**

(1) The Department may consider the following factors as criteria when determining if additional medical cannabis pharmacy licenses shall be issued pursuant to Subsection 26-61a-305(1)(d):

(a) high potential for growth in the number of medical cannabis card holders located in one or more regions of the state;

(b) access to medical cannabis home delivery service in the state or in certain regions of the state;

(c) commuting patterns and economic activity in certain regions of the state;

(d) driving distance for medical cannabis cardholders or potential medical cannabis cardholders residing in certain regions of the state from their home to the nearest medical cannabis pharmacy location; or

(e) the inadequate supply, quality, or variety of medical cannabis in the state or certain regions of the state.

(2) As the Department considers one or more factors described in Subsection (1), it shall consult with and consider input from the Utah Department of Agriculture and Food, the medical cannabis industry, and the public.

(3) The Department's process of consultation and consideration of input shall include meetings with stakeholders and holding of a public hearing during which it will accept public comment.

(4) If the Department determines that an additional medical cannabis pharmacy license should be issued, the Department shall accept applications for the license in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

### **R383-7-22. Operating Standards - Limited Medical Provider Recommendation Form.**

(1) A medical cannabis pharmacy may accept and process a completed "Limited Medical Provider Recommendation for Medical Cannabis" form. A pharmacy agent or a PMP employed by a medical cannabis pharmacy may perform a form verification but only a PMP may make changes or additions to a form after documenting verbal or written approval of changes or additions that are communicated by an LMP. An LMP recommendation cannot be entered into the EVS by a PMP or pharmacy agent without a complete Department-approved form that is hand-delivered, emailed, or faxed to the medical cannabis pharmacy. When verifying the validity of the form, a medical cannabis pharmacy shall verify:

(a) the form is complete and no information on the form appears to have been adulterated;

(b) the suffix of the state-issued professional license number matches specific numbers assigned to the provider's state-issued professional license type;

(c) there are nine digits in the Drug Enforcement Agency (DEA) license number;

(d) the clinic name, email address, mailing address, and telephone number appear to be legitimate; and

(e) with the clinic that an LMP at that clinic completed a form for the patient named in the form.

(2) If the form fails any part of the verification, a PMP shall investigate any missing or incorrect information. If a PMP is initially unable to receive verification of the form from the clinic, the form cannot be processed and the PMP shall continue to contact the clinic to seek verification of the information on the form.

(3) The pharmacy shall maintain a record of the pharmacy employee having received or not received verification of a valid form from the clinic. For hand-delivered and electronically delivered forms, the pharmacy shall upload the form to the patient's EVS account. The verification of the form shall be recorded in the "Medical Cannabis Pharmacy Use Only" at the bottom of the form or in the patient's EVS profile. If a PMP corrected or added information on the form upon order of the LMP, a note documenting the change shall be recorded.

(4) If a form is believed to be fraudulent, a medical cannabis pharmacy shall notify the Department in writing via email within 24 hours of the first receipt of the form.

**KEY: medical cannabis, medical cannabis pharmacy, marijuana**

**Date of Last Change: 2022**  
**Authorizing, and Implemented or Interpreted Law: 63G-3; 26B-1-213(1); 26-61a; 26-61a-303(2); 26-61a-305(1); 26-61a-501; 26-61a-501(12); 26-61a-501(13); 26-61a-503(3); 26-61a-505(3); 26-61a-505(4); 26-61a-505(5); 26-61a-605(5)**

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

**TYPE OF RULE:** New: Rule

**Rule or Section Number:**

**R383-8**

**Filing ID:**  
**54904**



**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Center for Medical Cannabis	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R383-8. Medical Cannabis Pharmacy Agent
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
<p>S.B. 190 passed during the 2022 General Session changes the Utah Medical Cannabis Act. The bill requires the Department of Health and Human Services (Department) to make the necessary changes to rule. These changes are in Rule R383-8. Any language not altered by S.B. 190 transfers from Rule R380-407 to Rule R383-8. This new rule edits the old text in Rule R380-407 by removing unnecessary language and adding clarifying phrases or words. These changes are listed in Box 4 below.</p> <p>Rule R380-407 replaces repealed Rule R383-8 to reflect the restructuring of the Department. It replaces Rule R380-407 which is being repealed. The administrative rule Title R383 was created to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.</p> <p>The new rule is updated with terms used in Title 26, Chapter 61a, makes the rule consistent with Title 26, Chapter 61a, and law changes under S.B. 190, and clarifies the pharmacy agent certification standard and the new continuing education requirement related to patient privacy and federal health information privacy laws.</p>

The proposed new rule change adds, amends, and clarifies definitions related to medical cannabis pharmacy operations. It also modifies multiple operating standards related to medical cannabis pharmacy operations. (EDITOR'S NOTE: The proposed repeal of Rule R380-407 is under ID 54901 in this issue, November 1, 2022, of the Bulletin.)

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

Changes are made throughout the rule to make language comply with the Utah Rulewriting Manual.

The below changes are made from the original Rule R380-407 to the proposed new Rule R383-8.

Subsection R383-8-2(1)(a) replaces the term "QMP" with "RMP" in some cases throughout the rule. Section 26-61a-102 defines a recommending medical provider, or RMP, as either a qualified medical provider or a limited medical provider. The proposed rule is updated to refer to an RMP where applicable.

Subsection R383-8-2(2) changes to be consistent with the statute. S.B. 190 required that the department allow pharmacy agents to have access to the electronic verification system (EVS) and the rule is amended to no longer restrict pharmacy agents from having EVS access.

Subsection R383-8-4(10) changes to be consistent with Subsection 26-61a-401(3)(b). The proposed new rule inserts language in Subsection R383-8-4(10) stipulating that a courier agent shall renew their pharmacy agent registration card within one year of its expiration date. Failure to do will result in the pharmacy agent following the same process as a first-time applicant.

Section R383-8-5 clarifies the pharmacy agent certification standard and the new continuing education requirement. Added language consolidates the existing certification standard into the new continuing education requirement required under S.B. 190. This legislation requires that a medical cannabis pharmacy agent complete continuing education related to patient privacy and federal health information privacy laws.

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uoq>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uoq?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

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

This proposed new Rule R383-8 replaces Rule R380-407 which is being repealed and will not result in a fiscal impact on the state budget because it only updates the rule with a term used in Title 26, Chapter 61a. The proposed new rule will be consistent with Title 26, Chapter 61a, and law changes under S.B. 190 (2022) and clarifies the pharmacy agent certification standard and the new continuing education requirement related to patient privacy and federal health information privacy laws. These alterations will not cause an increase or decrease in the state budget.

**B) Local governments:**

This proposed new Rule R383-8 replacing Rule R380-407 will not result in a fiscal impact on local governments because it does not establish requirements for enforcement by local agencies.

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

This proposed new Rule R383-8 replaces Rule R380-407. It is difficult to estimate a fiscal impact of a small business producing a continuing education course. There is a wide range of costs associated with producing such courses.

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

This proposed new Rule R383-8 replaces repealed Rule R380-407. It is difficult to estimate a fiscal impact of a non-small business producing a continuing education course. There is a wide range of costs associated with producing such courses.

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

This proposed new Rule R383-8 replaces repealed Rule R380-407. As part of the compliance process, the proposed rule change will increase the cost for pharmacy agents. A person could take the Continuing Medical Education course before starting their employment. To fall under compliance, pharmacy agents will have to take a continuing medical cannabis education course as part of their initial, or renewal, application process. For example, HIPAA CME online courses currently have a price range of \$25 to \$100. The Department would develop, or co-develop with an accredited third party, a similar course teaching the student about how to handle patient privacy information. While such a course is not yet available in Utah, the Department estimates that the course will be \$25 once the Department, or a stakeholder, develops an approved Continuing Medical Education course on patient privacy specifically for the Medical Cannabis program.

The assumed cost of this course is \$25 USD. There are currently 460 active pharmacy agents. The Department is assuming that at least 230 pharmacy agents will be taking this course every year as not every pharmacy agent renews their license annually. Multiply 230 pharmacy agents, by \$25, the cost is \$5,750.

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

This proposed new Rule R383-8 replaces repealed Rule R380-407. As part of the compliance process, the proposed rule change will increase the cost for pharmacy agents. To fall under compliance, pharmacy agents will have to take a continuing medical cannabis education course as part of their initial, or renewal, application process. HIPAA CME online courses currently range from a price range of \$25 to \$100. While such a course is not yet available in Utah, the Department estimates that the course will be \$25 once the Department, or a stakeholder, develops an approved Continuing Medical Education course.

The assumed cost of this course is \$25 USD. There are currently 460 active pharmacy agents. The Department is assuming that at least 230 pharmacy agents will be taking this course every year as not every pharmacy agent renews their license annually. Multiply 230 pharmacy agents, by \$25, the cost is \$5,750.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$5,750	\$5,750	\$5,750
<b>Total Fiscal Cost</b>	<b>\$5,750</b>	<b>\$5,750</b>	<b>\$5,750</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	\$0	\$0	\$0
<b>Net Fiscal Benefits</b>	(\$5,750)	(\$5,750)	(\$5,750)
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.			

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 26B-1-213(1)	Subsection 26-61a-401(5)(a)	

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
<b>A) Comments will be accepted until:</b>	12/01/2022	
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R383. Health and Human Services, Center for Medical Cannabis.****R383-8. Medical Cannabis Pharmacy Agent.****R383-8-1. Authority and Purpose.**

(1) Subsection 26B-1-213(1) authorizes this rule.

(2) This rule establishes medical cannabis pharmacy agent duties and responsibilities, application procedures, renewal application procedures, and certification standards.

**R383-8-2. Duties and Responsibilities.**

- (1) A pharmacy agent may perform the following duties:
- (a) within the dosing guidelines specified by an RMP or PMP, assist the cardholder with understanding available products, proper use of a medical device, medical cannabis strains, and methods of consumption or application;
  - (b) using the ICS, verify the status of an individual's medical cannabis card, and dosing guidelines in a patient recommendation;
  - (c) enter and retrieve information from the ICS;
  - (d) authorize entry of a cardholder into the cardholder counseling area;
  - (e) take a refill order from an RMP;
  - (f) provide pricing and product information;
  - (g) accurately process cardholder payment, including the issuance of receipt, refund, credit, and cash;
  - (h) prepare labeling for a product;
  - (i) retrieve medical cannabis, and medical cannabis device, from inventory;
  - (j) accept a new order of medical cannabis, or medical cannabis device, orders left on voicemail for a PMP to review;
  - (k) verbally offer to a cardholder, the opportunity for counseling with a PMP regarding medical cannabis, or a medical cannabis device;
  - (l) assist with dispensing of product to a cardholder;
  - (m) screen calls for a PMP;
  - (n) prepare an inventory of medical cannabis and medical cannabis device;
  - (o) transport medical cannabis, or medical cannabis device; and
  - (p) assist with maintaining a safe, clean, and professional environment.
- (2) A pharmacy agent shall not perform the following duties:
- (a) receive dosing guidelines for a patient's recommendation over the phone, or in person;
  - (c) determine, or modify, dosing guidelines in a patient's recommendation; or
  - (d) provide counseling, or consultation, regarding a patient's medical condition, or medical treatment.

**R383-8-3. Application Procedures.**

- (1) The application procedures established in this section shall govern an application for initial issuance of a pharmacy agent registration card, under Title 26, Chapter 61a, Utah Medical Cannabis Act.
- (2) Each pharmacy agent card applicant shall apply upon forms available from the Department.
- (3) The Department may issue a card to an applicant who submits a complete application, and the Department determines that the applicant meets the card requirements.
- (4) The Department shall provide written notice of denial to an applicant who submits a complete application if the Department determines that the applicant does not meet the card requirements.
- (5) The Department shall provide to the applicant a written notice of an incomplete application. It will notify the pharmacy agent that their application is closed unless the applicant corrects the

## NOTICES OF PROPOSED RULES

deficiency within the time period specified in the notice, and otherwise meets all card requirements.

(6) A written notice of denial, and incomplete application, shall be sent to the applicant's last email address shown in the Department's EVS database.

(7) Each applicant shall maintain a current email address with the Department. Notice sent to the last email address on file with the Department constitutes legal notice.

### **R383-8-4. Renewal Application Procedures.**

(1) Renewal application procedures established in the rule shall apply to applicants applying for renewal of a pharmacy agent registration card, under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each card applicant shall apply upon renewal application forms, available from the Department.

(3) The Department shall issue a card to an applicant who submits a complete renewal application if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide written notice of denial to an applicant who submits a complete renewal application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide written notice of the incomplete application to an applicant who submits an incomplete application. The notice shall advise the applicant that the renewal application is incomplete and that their renewal application is closed unless the applicant corrects the deficiency within the time period specified in the notice; and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder before the expiration date shown on the cardholder's card. The notice shall include directions for the cardholder to renew the card via the Department's website.

(7) Renewal notices shall be sent by email, addressed to the cardholder's last email shown in the Department's EVS database.

(8) Each cardholder shall maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice.

(9) A renewal notice shall advise each cardholder that a card will automatically expire on the expiration date and will no longer be valid.

(10) A pharmacy agent shall renew their pharmacy agent registration card with the Department within one year of its expiration date. Failure to renew an expired card within one year shall result in the applicant having to submit a new online registration form for a pharmacy agent registration card if they choose to obtain a card again in the future.

### **R383-8-5. Continuing Education Requirements.**

The certification standard for initial or renewal registration of a pharmacy agent card will be successful completion of a continuing education course regarding state medical cannabis law and patient privacy and federal health information privacy laws that is offered or approved by the Department.

**KEY: medical cannabis, medical cannabis pharmacy, medical cannabis pharmacy agent, marijuana**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: 63G-3; 26B-1-213(1); 26-61a; 26-61a-401(5)**

## **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New

<b>Rule or Section Number:</b>	<b>R383-9</b>	<b>Filing ID:</b> <b>54958</b>
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### **Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Center for Medical Cannabis	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

### **General Information**

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

R383-9. Home Delivery and Courier

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

The proposed rule updates the rule to allow for delivery of medical cannabis to a caregiver facility, amends medical cannabis delivery standards and renewal requirements and establishes a continuing education requirement.

Rule R383-9 replaces repealed Rule R380-408 to reflect the restructuring of the Utah Department of Health and Human Services (Department). The administrative rule Title R383 is created to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

(EDITOR'S NOTE: The proposed repeal of Rule R380-408 is under ID 54969 in this issue, November 1, 2022, of the Bulletin.)

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

Amendments are made throughout the rule to make language comply with the Utah Rulewriting Manual.



Sections R383-9-2 and R383-9-3 are amended to allow for a caregiver facility such as a long-term care facility to receive a medical cannabis shipment on behalf of a medical cannabis cardholder. S.B. 195, passed in the 2022 General Session, amended Title 26, Chapter 61a, to allow for this and the rule must be amended to comply with the statute.

Section R383-9-3 is amended to allow a medical cannabis courier or pharmacy agent to leave medical cannabis product or a medical cannabis device unattended in a delivery vehicle for more than 60 minutes if they are staying overnight in the process of conducting a delivery. The proposed rule change provides medical cannabis courier agents and pharmacy agents flexibility when doing deliveries to remote regions. It also provides patients better access to medical cannabis products as the delivering pharmacy may conduct deliveries over multiple days in the same region.

Subsection R383-9-5(11) is amended to be consistent with Subsection 26-61a-606(2)(b). The proposed rule inserts language in Subsection R380-9-5(11) stipulating that a courier agent shall renew their courier agent registration card within one year of its expiration date. Failure to do so will result in the courier agent having to follow the same process as a first-time applicant.

Section R383-9-6 is amended to include a continuing education requirement within the courier agent certification standard. Added language consolidates the existing certification standard into the new continuing education requirement that will be required for medical cannabis couriers and pharmaceutical agents. Each medical cannabis courier shall complete continuing education related to patient privacy and federal health information privacy laws.

Hearing Information for 11/07/2022, 10:00 AM:  
**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uoq>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uoq?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

## Fiscal Information

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

#### A) State budget:

This proposed new Rule R383-9 replaces repealed Rule R380-408 and will not result in a fiscal impact on the state budget because it only updates the rule with a term used in Title 26, Chapter 61a. The proposed new rule will be consistent with Title 26, Chapter 61a, and law changes under S.B. 190 (2022) and clarifies the pharmacy agent

certification standard and the new continuing education requirement related to patient privacy and federal health information privacy laws. These alterations will not cause an increase or decrease in the state budget.

#### B) Local governments:

This proposed new Rule R383-9 replacing repealed Rule R380-408 will not result in a fiscal impact on local governments because it does not establish requirements for enforcement by local agencies.

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

This proposed new Rule R383-9 replaces repealed Rule R380-408. It is difficult to estimate a fiscal impact on small businesses producing a continuing education course. There is a wide range of costs associated with producing such courses.

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

This proposed new Rule R383-9 replaces repealed Rule R380-408. It is difficult to estimate a fiscal impact on non-small businesses producing a continuing education course. There is a wide range of costs associated with producing such courses.

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

This proposed new Rule R383-9 replaces repealed Rule R380-408. As part of the compliance process, the proposed rule will increase the cost for courier agents. A person could take the Continuing Medical Education course before starting their employment. To fall under compliance, courier agents will have to take a continuing medical cannabis education course as part of their initial, or renewal, application process. For example, HIPAA CME online courses currently have a price range of \$25 to \$100. The Department would develop, or co-develop with an accredited third party, a similar course. While such a course is not yet available in Utah, the Department estimates that the course will be \$25 once the Department, or a stakeholder, develops an approved Continuing Medical Education course on patient privacy specifically for the Medical Cannabis program.

The assumed cost of this course is \$25 USD. There are currently 120 courier agents. The Department is assuming that at least 60 courier agents will be taking this course every year as not every courier agent renews their license annually. Multiply 60 courier agents, by \$25, the cost is \$1,500.

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

This proposed new Rule R383-9 replaces repealed Rule R380-408. As part of the compliance process, the proposed rule will increase the cost for courier agents. To fall under compliance, courier agents will have to take a continuing medical cannabis education course as part of their initial, or renewal, application process. HIPAA CME online courses currently range from a price range of \$25 to \$100. While such a course is not yet available in Utah, the Department estimates that the course will be \$25 once the Department, or a stakeholder, develops an approved Continuing Medical Education course.

The assumed cost of this course is \$25 USD. There are currently 120 courier agents. The Department is assuming that at least 60 courier agents will be taking this course every year as not every courier agent renews their license annually. Multiply 60 courier agents, by \$25, the cost is \$1,500.

**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	\$1,500	\$1,500	\$1,500
<b>Total Fiscal Cost</b>	<b>\$1,500</b>	<b>\$1,500</b>	<b>\$1,500</b>
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Net Benefits	Fiscal (\$1,500)	(\$1,500)	(\$1,500)
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**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26-61a-202	Section 26-61a-607	Section 26-61a-606
Subsection 26B-1-213(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.)

<b>A) Comments will be accepted until:</b>		12/01/2022
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:**

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R383. Health and Human Services, Center for Medical Cannabis.****R383-9. Home Delivery and Courier.****R383-9-1. Authority and Purpose.**

(1) Subsection 26B-1-213(1) authorizes this rule.  
 (2) This rule establishes home delivery operating standards, home delivery agent operating standards, courier agent application procedures, courier agent renewal application procedures, and courier agent certification standards.

**R383-9-2. Home Delivery Service -- Operating Standards.**

(1) In addition to general operating standards established in Sections 26-61a-605 through 26-61a-607, home delivery medical

cannabis pharmacies, pharmacy agents, and couriers shall comply with the operating standards established in this rule. The following operating standards apply to home, or caregiver facility delivery medical cannabis pharmacies and couriers:

(a) maintain an updated written operating plan for the home delivery service, describing a plan to comply with standards established in this section and meeting the requirements of Subsection 26-61a-604(14);

(b) ensure accurate record keeping of delivery information in the ICS;

(c) maintain a record of not less than five years of the initials, or identification codes that identify each pharmacy agent, or courier agent, by name. The initials, or identification codes, shall be unique to ensure that each pharmacy agent or courier agent is identified. Identical initials, or identification codes, shall not be used for different pharmacy agents, or courier agents;

(d) lock medical cannabis, and medical cannabis devices that are transported in a fully enclosed box, container, or cage, that is secured inside a delivery vehicle. Ensure appropriate storage temperature throughout the delivery process to maintain the integrity of the product;

(e) maintain a current list, either paper or electronic, of any employee working for the home delivery medical cannabis pharmacy, or courier, who makes deliveries, that shall include employee name, Department registration license classification and license number, and registration expiration date;

(f) upon request, provide the Department with information regarding any vehicle used for the delivery service; including the vehicle's make, model, color, vehicle identification number, license plate number, insurance number, and Division of Motor Vehicle registration number;

(g) ensure that a manifest is not modified in any way, after a pharmacy agent, or courier agent, departs from a home delivery medical cannabis pharmacy facility with a shipment appearing on the manifest;

(h) ensure that no person, other than a pharmacy agent or courier agent, is in a delivery vehicle during delivery; or during the time medical cannabis, or a medical cannabis device, is in the vehicle; and

(i) ensure that trip log documentation showing a specific route of delivery exists for a route driven by a pharmacy agent, or courier agent, on a specific day is immediately available for review by the Department, upon request.

(2) When delivering medical cannabis, and a medical cannabis device, to a medical cannabis cardholder's home, or a caregiver facility, a pharmacy agent, or courier agent shall not:

(a) drop off medical cannabis, or a medical cannabis device, with anyone other than a medical cannabis cardholder, or a caregiver facility;

(b) perform a home delivery before 6 a.m or after 10 p.m;

(c) leave medical cannabis, or a medical cannabis device, unattended in a delivery vehicle, for more than one hour;

(d) make changes in dosage, or quantity, at the request of the medical cannabis cardholder, during delivery; and

(e) consume medical cannabis while delivering medical cannabis.

(3) When delivering medical cannabis, and a medical cannabis device, a pharmacy agent, or courier agent, employed by the home delivery medical cannabis pharmacy, or courier, shall:

(a) wear an identification tag, or similar form of identification, that clearly identifies them to a medical cannabis

cardholder; including their position as a pharmacy agent, or courier agent; and

(b) provide each cardholder, or caregiver facility, receiving a shipment, printed material that includes a home delivery medical cannabis pharmacy's contact information, and hours when a PMP at the home delivery medical cannabis pharmacy is available for counseling over the phone;

(4) Vehicles used for home delivery must meet the following standards:

(a) no marking, or other indication, on the exterior that may indicate what is being transported;

(b) cannot be an unmanned vehicle;

(c) have an active alarm system;

(d) have a global positioning system (GPS) monitoring device that is:

(i) not a mobile device that is easily removable;

(ii) attached to the vehicle at all times that the vehicle contains medical cannabis or a medical cannabis device; and

(iii) capable of storing and transmitting GPS data so it can be monitored by the home delivery medical cannabis pharmacy, during transport of medical cannabis, and a medical cannabis device;

(e) be subject to inspection by the Department at any time; and

(f) not transport medical cannabis, or a medical cannabis device, beyond what appears on a manifest; or what a pharmacy agent, or courier, has picked up from a medical cannabis cardholder, to be returned to the home delivery medical cannabis pharmacy.

(5) In the case of medical cannabis, or a medical cannabis device, that goes missing during a home delivery route, the pharmacy agent, or courier agent, shall:

(a) notify the home delivery medical cannabis pharmacy's supervising PMP within 24 hours of when the pharmacy agent, or courier agent, first became aware of the missing product; and

(b) provide information regarding the missing product to the Department and local law enforcement, and logged in to the ICS; and

(c) log the missing products into the ICS.

(6) A courier cannot store medical cannabis, or a medical cannabis device, at its facility. Medical cannabis and a medical cannabis device, delivered by the courier must be picked up from a home delivery medical cannabis pharmacy facility, and either delivered to the medical cannabis cardholder's residence or returned to the home delivery medical cannabis pharmacy facility.

### **R383-9-3. Home Delivery Agent -- Operating Standards.**

(1) In addition to operating standards established in Sections 26-61a-605 through 26-61a-607, a pharmacy agent and courier agent, shall comply with the operating standards established in this rule. The following operating standards apply to a pharmacy agent, and courier agent:

(a) ensure accurate record keeping of delivery information in the ICS;

(b) ensure locking of medical cannabis, and a medical cannabis device, that is transported in a fully enclosed box container or cage that is secured inside a delivery vehicle, that ensures appropriate storage temperature throughout the delivery process, to maintain the integrity of the product;

(c) ensure that a manifest is not modified in any way after they depart from a home delivery medical cannabis pharmacy facility with the shipment appearing on the manifest; and



(d) ensure that no person, other than a pharmacy agent or courier agent, is in a delivery vehicle during delivery; or during the time medical cannabis, or a medical cannabis device, is in the vehicle.

(2) When delivering medical cannabis and a medical cannabis device to a cardholder's home, a pharmacy agent or courier agent shall not:

(a) drop off medical cannabis, or medical cannabis device, with anyone other than a medical cannabis cardholder or a caregiver facility employee;

(b) perform a home delivery before 6 a.m or after 10 p.m;

(c) leave medical cannabis, or a medical cannabis device, unattended in a delivery vehicle for more than 60 minutes unless the courier agent or pharmacy agent is staying overnight in the process of conducting a delivery;

(d) make a change in dosage or quantity, on the request of the cardholder during a delivery;

(e) consume medical cannabis while delivering medical cannabis; and

(f) transport medical cannabis, or a medical cannabis device, beyond what appears on a manifest.

(3) When delivering medical cannabis, and a medical cannabis device, a pharmacy agent or courier agent shall:

(a) wear an identification tag or similar form of identification to clearly identify them to a cardholder, including their position as a pharmacy agent or courier agent; and

(b) provide each cardholder, or facility caregiver, with printed material that includes a home delivery medical cannabis pharmacy's contact information, and hours for counseling over the phone with a PMP.

(4) In the case of medical cannabis, or a medical cannabis device, that goes missing during a home delivery route, the pharmacy agent, or courier agent, shall notify the home delivery medical cannabis pharmacy's supervising PMP within 24 hours of when the medical cannabis pharmacy agent first became aware of the missing product.

#### **R383-9-4. Medical Cannabis Courier Agent -- Application Procedures.**

(1) The application procedures established in this section shall govern applications for the initial issuance of a courier agent registration card under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each card applicant shall apply upon forms available in the EVS from the Department.

(3) The Department may issue a card only if the applicant meets the card requirements, established under Title 26, Chapter 61a, Utah Medical Cannabis Act, and by Department rule.

(4) The Department shall provide written notice of denial to an applicant who submits a complete application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete application and that the application is closed unless the applicant corrects the deficiency within the time period specified in the notice, and otherwise meets all card requirements.

(6) The Department shall send a written notice of denial and incomplete application to the applicant's last email address shown in the Department's EVS database unless the applicant has requested to be notified by regular mail.

(7) Each applicant shall maintain a current email and mailing address with the Department. Notice to the last email address on file with the Department constitutes legal notice unless the applicant has requested notification by regular mail.

#### **R383-9-5. Medical Cannabis Courier Agent - Renewal Application Procedures.**

(1) Renewal application procedures established in this section shall govern applications to renew a courier agent registration card under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Each card applicant shall apply upon renewal of application forms available from the Department.

(3) The Department shall issue a card to an applicant who submits a complete renewal application if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide written notice of denial to an applicant who submits a complete renewal application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of an incomplete application and that the renewal application is closed unless the applicant corrects the deficiency within the time period specified in the notice, and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder at least 60 days before the expiration date shown on the cardholder's card. The notice shall include instructions to renew the card via the Department's website.

(7) The Department shall send a renewal notice to the cardholder's last email shown in the Department's EVS database unless the cardholder has requested to be notified by regular mail.

(8) Each cardholder shall maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice unless the cardholder requests notification by regular mail.

(9) It shall be the responsibility of each cardholder to maintain a current email address and mailing address with the Department.

(10) A renewal notice shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid.

(11) A courier agent shall renew their courier agent registration card with the Department within one year of the registration card's expiration date. Failure to renew an expired card within one year shall result in the applicant having to submit a new online registration form for a courier agent registration card if they chose to obtain a card again in the future.

#### **R383-9-6. Medical Cannabis Courier Agent - Continuing Education Requirement.**

The Department's certification standard for initial and renewal registration of a medical cannabis courier agent card is successful completion of a one-hour continuing education course offered or approved by the Department regarding state medical cannabis law, patient privacy and federal health information privacy laws, and other topics required in the Utah Medical Cannabis Act.

**KEY: medical cannabis, medical cannabis courier agent, medical cannabis home delivery, marijuana**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: 63G-3; 26B-1-213(1); 26-61a; 26-61a-606; 26-61a-604(14); 26-61a-607**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Rule or Section Number:	R383-10	Filing ID: 54959

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Center for Medical Cannabis	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

2. Rule or section catchline:
R383-10. State Central Patient Portal
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Rule R383-10 replaces repealed Rule R380-409 to reflect the restructuring of the Utah Department of Health and Human Services (Department). The Department is creating the administrative rule Title R383 to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health. (EDITOR'S NOTE: The proposed repeal of Rule R380-409 is under ID 54970 in this issue, November 1, 2022, of the Bulletin.)
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The agency responsible for the rule is changed from "Health Administration" to "Center for Medical Cannabis."
Hearing Information for 11/07/2022, 10:00 AM: <b>In-Person:</b> at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
 Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:  
<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>  
**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

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

Rule R383-10 replaces repealed Rule R380-409. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on the state budget because it only adds or clarifies language that has no fiscal impact.

**B) Local governments:**

Rule R383-10 replaces repealed Rule R380-409. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on local governments because it only adds or clarifies language that has no fiscal impact on local governments.

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

Rule R383-10 replaces repealed Rule R380-409. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on small businesses because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-10 replaces repealed Rule R380-409. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on non-small businesses because it only adds or clarifies language that has no fiscal impact.

**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**):

Rule R383-10 replaces repealed Rule R380-409. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-10 replaces repealed Rule R380-409. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in compliance costs for affected persons because it only adds or clarifies language that has no fiscal impact.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26, Chapter 61a	Subsection 26B-1-213(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:** 12/01/2022

**B) A public hearing (optional) will be held:**

On:	At:	At:
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:** 12/08/2022

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R383. Center for Medical Cannabis.**

**R383-10. State Central Patient Portal.**

**R383-10-1. Authority and Purpose.**

Pursuant to Subsection 26-61a-601(3), Utah Medical Cannabis Act, State central patient portal; this rule establishes standards related to the state central patient portal's facilitation of an electronic medical cannabis order, to a home delivery medical cannabis pharmacy.

**R383-10-2. Facilitation of Online Orders.**

To facilitate an online order, the state central patient portal website shall include links to individual websites established by home delivery medical cannabis pharmacies, where a cardholder may view available inventory and order medical cannabis products and a medical cannabis device, or educational material related to the use of medical cannabis.

**KEY: medical cannabis, medical cannabis patient portal, medical cannabis online orders, marijuana**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a; 26-61a-601**

**NOTICE OF PROPOSED RULE****TYPE OF RULE:** New**Rule or Section Number:** R383-11**Filing ID:** 54960**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Center for Medical Cannabis	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R383-11. Agreement With a Tribe
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
Rule R383-11 replaces repealed Rule R380-410 to reflect the restructuring of the Utah Department of Health and Human Services. The Department is creating the administrative rule Title R383 to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health. (EDITOR'S NOTE: The proposed repeal of Rule R380-410 is under ID 54971 in this issue, November 1, 2022, of the Bulletin.)
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The agency responsible for the rule is changed from "Health Administration" to "Center for Medical Cannabis."
Hearing Information for 11/07/2022, 10:00 AM: <b>In-Person:</b> at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
 Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:  
<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>  
**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

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

Rule R383-11 replaces repealed Rule R380-410. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on the state budget because it only adds or clarifies language that has no fiscal impact.

**B) Local governments:**

Rule R383-11 replaces repealed Rule R380-410. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on local governments because it only adds or clarifies language that has no fiscal impact on local governments.

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

Rule R383-11 replaces repealed Rule R380-410. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on small businesses because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-11 replaces repealed Rule R380-410. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on non-small businesses because it only adds or clarifies language that has no fiscal impact.

**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**):

Rule R383-11 replaces repealed Rule R380-410. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-11 replaces repealed Rule R380-410. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in compliance costs for affected persons because it only adds or clarifies language that has no fiscal impact.

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

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26, Chapter 61a	Subsection 26B-1-213(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:** 12/01/2022

**B) A public hearing (optional) will be held:**

On:	At:	At:
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:** 12/08/2022

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R383. Health and Human Services, Center for Medical Cannabis.****R383-11. Agreement with a Tribe.****R383-11-1. Introduction and Authority.**

This rule defines and clarifies the requirements to enter into an agreement pursuant to Section 26-61a-108 to operate a medical cannabis pharmacy on a tribal land located within Utah boundaries. This rule is authorized under Section 26-61a-108.

**R383-11-2. Definitions.**

(1) "Agreement with a Tribe" means a formal compact, or Memorandum of Understanding, between this state and a Tribe.

(2) "Tribal governing body and authority" means the person, or persons, acting in an official capacity as specifically authorized by the Tribe to enter into the Agreement.

(3) "Tribal land" mean Indian Country as defined in 18 U.S. Code 1151, United States Code, Indians, Indian country defined.

(4) "Tribe" means Indian Tribe as defined in 25 U.S.C. Sec. 1603(14). The Bureau of Indian Affairs (BIA) Federal Register identifies the following tribes as federally recognized in Utah:

- (a) Confederated Tribes of the Goshute Reservation;
- (b) Navajo Nation;
- (c) Northwestern Band of Shoshone Nation;
- (d) Paiute Indian Tribe of Utah;
- (e) San Juan Southern Paiute;
- (f) Skull Valley Band of Goshute;



- (g) Ute Indian Tribe; and  
 (h) Ute Mountain Ute Tribe.

**R383-11-3. Participating Tribes.**

Only a Tribe, as defined in federal law, can enter into an agreement with the Governor.

**R383-11-4. Agreement Requirements.**

An agreement shall address the following matters, as set out in federal law:

- (1) tribal sovereignty;  
 (2) tribal jurisdiction; and  
 (3) tribal ordinance or resolution.

**KEY: medical cannabis, marijuana, tribe agreement, tribes**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: 26-61a; 26-61-108; 26 U.S.C. 1603(14); 18 U.S.C. 1151**

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New

<b>Rule or Section Number:</b>	<b>R383-12</b>	<b>Filing ID:</b> <b>54975</b>
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**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Center for Medical Cannabis	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R383-12. Administrative Hearing Procedures
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>

Rule R383-12 replaces repealed Rule R380-411 to reflect the restructuring of the Utah Department of Health and Human Services (Department). The Department is creating the administrative rule Title R383 to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

(EDITOR'S NOTE: The proposed repeal of Rule R380-411 is under ID 54972 in this issue, November 1, 2022, of the Bulletin.)

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

The agency responsible for the rule is changed from "Health Administration" to "Center for Medical Cannabis."

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
 Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

**Fiscal Information**

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

**A) State budget:**

Rule R383-12 is replacing repealed Rule R380-411. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on the state budget because it only adds or clarifies language that has no fiscal impact.

**B) Local governments:**

Rule R383-12 is replacing repealed Rule R380-411. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on local governments because it only adds or clarifies language that has no fiscal impact on local governments.

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

Rule R383-12 is replacing repealed Rule R380-411. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on small businesses because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-12 is replacing repealed Rule R380-411. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on non-small businesses because it only adds or clarifies language that has no fiscal impact.

**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**):

Rule R383-12 is replacing repealed Rule R380-411. Any financial regulations already in place transfer to this proposed rule. This proposed new rule change will not result in a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-12 is replacing repealed Rule R380-411. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in compliance costs for affected persons because it only adds or clarifies language that has no fiscal impact.

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

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

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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26, Chapter 61a	Subsection 26B-1-213(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:** 12/01/2022

**B) A public hearing (optional) will be held:**

<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

**9. This rule change MAY become effective on:** 12/08/2022

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/04/2022
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**R383. Health and Human Services, Center for Medical Cannabis.****R383-12. Administrative Hearing Procedures.****R383-12-1. Introduction and Authority.**

(1) This rule establishes the administrative hearing procedures for the Center for Medical Cannabis.



(2) This rule is authorized by Section 26-1-24 and Section 63G-4-102.

### **R383-12-2. Definitions.**

The definitions in Section R380-400-2 and Section 63G-4-103 apply to this rule.

(1) The following definitions also apply:

(a) "Action" means a denial, termination, suspension, reduction of a license, or card, or issued, pursuant to Title 26, Chapter 61a, Utah Medical Cannabis Act; or the imposition of a penalty, or fine, authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act. An action does not include the issuance of a license to operate a medical cannabis pharmacy, pursuant to Title 63G, Chapter 6a, Utah Procurement Code.

(b) "Agency" means the Center for Medical Cannabis within the Utah Department of Health and Human Services.

(c) "Aggrieved person" means any person affected by the Agency's action.

(d) "Applicant" means any person who has applied for a medical cannabis card or registration, or license, other than a medical cannabis pharmacy license, pursuant to Title 26, Chapter 61a, Utah Medical Cannabis Act.

(e) "Ex Parte" communication means direct or indirect communication in connection with an issue of fact, or law, between the hearing officer and one party only.

(f) "Presiding Officer" means the Agency head, or designee, as approved by the Executive Director; to conduct an administrative hearing pursuant to this rule.

(g) "Medical record" means a record that contains medical data submitted by an applicant.

(h) "Order" means a ruling by a hearing officer that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons.

### **R383-12-3. Administrative Adjudicative Procedures.**

(1) Except as provided in this rule, or as otherwise designated by rule, statute, or converted, pursuant to Subsection 63G-4-202(3), all adjudicative proceedings conducted pursuant to this rule are informal proceedings.

(2) The Agency head shall serve as the presiding officer for an informal hearing, except that the Agency head may designate a presiding officer, as approved by the executive director.

(3) Closure of an application submitted to the Agency, due to the applicant's failure to complete the application, or to provide the required information, is not an action under this rule.

(4) Any provision of this rule does not apply to an action that is governed by another statute that conflicts with the procedures in this rule.

### **R383-12-4. Commencement of Proceedings, Response.**

(1) If a person is aggrieved by an action of the Agency, the person may file a request for Agency action and hearing within the shortest of 30 calendar days, of either receiving the initial Agency determination, or the Agency's mailing, or electronic notification via email, of the initial Agency determination. The person shall request an Agency action, and hearing, by submitting the request on a form created by the Center.

(2) If the informal adjudicative proceeding is commenced by a notice of Agency action, each party in the action, except the Center, shall file a response to the allegations contained in the notice of Agency action, and state whether a hearing is requested.

(3) Pursuant to this rule and Section 63G-4-201, if the informal adjudicative proceeding is commenced by a request for Agency action, the Agency must consider the request, grant or deny it, or set the request for further proceedings.

(4) If a medical issue is in dispute, each request shall include supporting medical documentation. The Agency shall schedule a hearing only when it receives sufficient medical records, and may dismiss a request for Agency action, or strike the party's response, to a notice of Agency action if it does not receive supporting medical documentation in a timely manner.

(5) Notice of Agency Action:

(a) An Agency shall provide written notice of action to each aggrieved person. Such action include:

(i) denial of an application for a medical cannabis card, or a QMP, PMP, pharmacy agent, or courier agent registration card;

(ii) suspension, or revocation, of a medical cannabis card or a QMP, PMP, pharmacy agent, or courier agent registration card;

(iii) suspension, or revocation, of a medical cannabis pharmacy license, or a home delivery medical cannabis pharmacy license; and

(iv) imposition of a penalty, or fine, authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(b) The notice must include:

(i) a statement of the action the Agency intends to take;

(ii) the date the intended action becomes effective;

(iii) the reason for the intended action;

(iv) the specific regulation that supports the action, or the change in federal law, state law, or Department rule which requires the action;

(v) the right to submit a response, and request an administrative hearing;

(vi) the right to represent oneself, the right to legal counsel, or the right to use another representative at the hearing; and

(vii) if applicable, an explanation of the circumstance under which the license, or card, will continue, or may be reinstated, pursuant to this rule.

(c) The Agency shall mail the notice, or electronically notify the person at the email address on file with the EVS; at least ten calendar days before the date of the intended action.

(6) The Agency may issue an order on an emergency basis pursuant to Section 63G-4-502. The aggrieved party may request an administrative hearing, pursuant to this rule.

### **R383-12-5. Hearing and a Request for a Hearing.**

(1) The Center shall conduct an informal hearing for all issues, except those specifically designated as a formal hearing pursuant to this rule. The presiding officer may convert the proceeding to a formal hearing if an aggrieved person requests a hearing that meets the criteria pursuant to Section 63G-4-202. If a hearing under this rule is converted to a formal hearing, pursuant to Section 63G-4-202, the formal hearing shall be conducted pursuant to Title R383; except as otherwise provided in Sections 63G-4-204 through 63G-4-208, or other applicable statutes.

(2) An aggrieved person shall request a hearing by submitting the request on a Center "Request for Hearing/Agency Action" form and mailing it to the Center. The request must explain why the aggrieved person is seeking Agency relief.

(3) A Request for Hearing/Agency Action, or a Response, and Request for Hearing that response, which an aggrieved person sends via mail is deemed filed on the date of the postmark. If the postmark date is illegible, erroneous, or omitted, the request is

deemed filed on the date that the Agency receives it; unless the sender can demonstrate through competent evidence of the mailing date.

(4) Failure to submit a timely response, and request for a hearing, constitutes a waiver of an individual's due process rights.

(5) The Agency shall conduct a hearing in connection with an Agency action if the aggrieved person requests a hearing and there is a disputed issue of fact. If there is no disputed issue of fact, the presiding officer may deny a request for a hearing, and issue a recommended decision without a hearing, based on the record. There is no disputed issue of fact if the aggrieved person submits facts that do not conflict with the facts that the Agency relies upon in taking action or seeking relief. In the recommended decision, the presiding officer shall specifically set out all material, and relevant facts, that are not in dispute.

(6) The Agency may dismiss a request for a hearing if the aggrieved person:

(a) withdraws the request in writing;

(b) verbally withdraws the hearing request at a Settlement conference or prehearing conference;

(c) fails to appear, or participate, in a scheduled proceeding without good cause;

(d) prolongs the hearing process without good cause;

(e) cannot be located, or Agency mail is returned without a forwarding address; or

(f) does not respond to any correspondence from the presiding officer, or fails to provide medical records that the Agency requests.

(7) If the aggrieved person objects to the hearing denial, the person may raise that objection as grounds for relief, in a request for reconsideration.

#### **R383-12-6. Notice of Hearing.**

The Agency shall notify the aggrieved person, or representative, in writing of the date, time, and place of the hearing, at least ten calendar days before the date of the hearing; unless each party agrees to an alternative time frame. Any aggrieved person must inform the Agency of a current address, email address, and telephone number.

#### **R383-12-7. Prehearing Procedures.**

(1) The Agency shall conduct a Settlement conference between the Agency, and the aggrieved party, within 30 calendar days from the date it receives a request for a hearing or Agency action. If a settlement cannot be reached, including a withdrawal, dismissal, or granting of the request for action, the Agency shall notify the presiding officer to set a date for the administrative hearing.

(2) The presiding officer may elect to conduct a preliminary conference to:

(a) formulate or simplify the issues;

(b) obtain admissions of fact, and documents that will avoid unnecessary proof;

(c) arrange for the exchange of proposed exhibits or prepared expert testimony;

(d) outline procedures for the hearing; or

(e) to agree to other matters that may expedite the orderly conduct of the hearing or settlement.

(3) The presiding officer may require each party to submit a prehearing position statement setting forth the position of the party.

(4) The party may enter into a written stipulation resolving all, or part, of the adjudicative action during the preliminary conference, or at any time during the process.

(5) Ex parte communication with the presiding officer is prohibited. If a party attempts ex parte communication, the presiding officer shall inform the offender that any communication that the hearing officer receives off the record, will become part of the record, and furnished to each party. Ex parte communication does not apply to communication on the status of the hearing and uncontested procedural matters.

(6) The Agency shall allow the aggrieved person, or a representative, to examine each document and record relevant to the adjudicative proceeding; at least three days before the hearing.

(7) The presiding officer may require each party to file a signed prehearing disclosure form, at least ten calendar days before the scheduled hearing that identifies:

(a) any fact witness;

(b) any expert witness;

(c) any exhibit and report that each party intends to offer into evidence at the hearing.

(8) Each party shall supplement the disclosure form with information that shall become available after filing the original form.

#### **R383-12-8. Conduct of Hearing.**

(1) The Agency shall conduct a hearing pursuant to Section 63G-4-203 for an informal adjudicative proceeding.

(2) The Agency head shall appoint an impartial presiding officer to conduct a hearing. Previous involvement in the initial determination of the action precludes an officer from appointment.

(3) A telephonic hearing will be held at the discretion of the presiding officer.

(4) The presiding officer shall take testimony under oath or affirmation.

(5) Each party has the right to:

(a) present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence;

(b) introduce exhibits;

(c) impeach any witness, regardless of which party first called the witness to testify; and

(d) rebut the evidence against the party.

(6) Each party may admit any relevant evidence and use hearsay evidence to supplement, or explain other evidence, as may be required for full disclosure of each fact relevant to the disposition of the hearing. Hearsay, however, is not sufficient by itself to support a finding, unless admissible over objection in civil actions. The presiding officer shall give effect to the rules of privilege recognized by law, and may exclude irrelevant, immaterial, and unduly repetitious evidence.

(7) The presiding officer shall control the evidence, obtain full disclosure of the relevant facts, and safeguard the rights of each party. The presiding officer may determine the order in which they receive the evidence.

(8) The presiding officer shall maintain order and may recess the hearing to regain order if a person engages in disrespectful, disorderly, or disruptive conduct. The presiding officer may remove any person, including a participant, from the hearing to maintain order. If a person shows persistent disregard for order and procedure, the presiding officer may:

(a) restrict the person's participation in the hearing;

(b) strike pleadings or evidence; or

(c) issue an order of default.

(9) If a party desires to employ a court reporter to make a record of the hearing, it must file an original transcript of the hearing with the hearing officer, at no cost to the Agency.

(10) The party who initiates the hearing process through a request for Agency action, has the burden of proof as the moving party.

(11) When a party possesses but fails to introduce certain evidence, the presiding officer may infer that the evidence does not support the party's position.

(12) The presiding officer may issue an order of default against any party that fails to obey an order entered by the hearing officer.

#### **R383-12-9. Record.**

(1) The presiding officer shall make a complete record of each hearing. A hearing record is the sole property of the Department.

(2) Any proceedings other than a hearing may be recorded at the discretion of the hearing officer.

(3) If a party requests a copy of the recording of a hearing, that party may transcribe the recording at the party's sole cost.

#### **R383-12-10. Proposed Decision and Final Agency Review.**

(1) At the conclusion of the hearing, the presiding officer shall take the matter under advisement, and submit a recommended decision to the Agency head. The recommended decision is based on the testimony and evidence entered at the hearing, Agency policy and procedure, and legal precedent.

(2) The recommended decision must contain findings of fact and conclusions of law.

(3) The Agency or the director's designee may:

(a) adopt the recommended decision or any portion of the decision;

(b) reject the recommended decision, or any portion of the decision, and make an independent determination based upon the record; or

(c) remand the matter to the presiding officer to take additional evidence; and the presiding officer thereafter shall submit to the Agency director or the director's designee, a new recommended decision.

(4) The Agency head or their designee's decision constitutes final administrative action and is subject to judicial review.

(5) The Agency shall send a copy of the final administrative action to each party, or representative, and notify them of their right to judicial review.

(6) Each party shall comply with a final decision from the director reversing the Agency's decision, within ten calendar days.

#### **R383-12-11. Amending Administrative Orders.**

(1) The Agency may amend an order if the presiding officer determines that the order contains a clerical error.

(2) The Agency shall notify each party its intent to amend the order by serving a notice of Agency action signed by the hearing officer.

(3) The Agency Director shall review the amended order and the Agency Director or the Agency Director's designee shall issue a final Agency amended order.

(4) The Agency shall provide a copy of the final amended order to each party.

#### **R383-12-12. Reconsideration.**

A party to the proceeding may move for reconsideration of the final administrative order pursuant to Section 63G-4-301.

#### **R383-12-13. Judicial Review.**

A party to the proceeding may obtain judicial review pursuant to Section 63G-4-102, and Sections 63G-4-400 through 63G-4-400.

#### **R383-12-14. Declaratory Orders.**

(1) The Agency may issue a declaratory order pursuant to Rule R380-1.

(2) If the Agency does not issue a declaratory order within 60 days after receipt of the request, the petition is denied.

(3) The Agency may not issue a declaratory order if an adjudicative proceeding that involves each party and the same issue is pending before the Agency, or a federal, or state court.

**KEY: medical cannabis, medical cannabis hearing, marijuana**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: 63G-3; 63G-4-102; 26-1-24; 26-61a**

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

**TYPE OF RULE:** New

<b>Rule or Section Number:</b>	<b>R383-13</b>	<b>Filing ID:</b> <b>54961</b>
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#### **Agency Information**

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Center for Medical Cannabis
<b>Room number:</b>	427A
<b>Building:</b>	Martha Hughes Cannon Building
<b>Street address:</b>	288 N 1460 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 141000
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000

#### **Contact persons:**

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

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

#### **General Information**

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

R383-13. Compassionate Use Board

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

Rule R383-13 replaces repealed Rule R380-412 to reflect the restructuring of the Utah Department of Health and Human Services (Department). The Department is creating administrative rule Title R383 to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

(EDITOR'S NOTE: The proposed repeal of Rule R380-412 is under ID 54973 in this issue, November 1, 2022, of the Bulletin.)

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

The agency responsible for the rule changes from "Health Administration" to "Center for Medical Cannabis."

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

#### Fiscal Information

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

##### A) State budget:

Rule R383-13 replaces repealed Rule R380-412. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on the state budget because it only adds or clarifies language that has no fiscal impact.

##### B) Local governments:

Rule R383-13 replaces repealed Rule R380-412. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on local governments because it only adds or clarifies language that has no fiscal impact on local governments.

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

Rule R383-13 replaces repealed Rule R380-412. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on small businesses because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-13 replaces repealed Rule R380-412. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on non-small businesses because it only adds or clarifies language that has no fiscal impact.

**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**):

Rule R383-13 replaces repealed Rule R380-412. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-13 replaces repealed Rule R380-412. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in compliance costs for affected persons because it only adds or clarifies language that has no fiscal impact.

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

#### Regulatory Impact Table

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

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26, Chapter 61a	Subsection 26B-1-213(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:		12/01/2022
B) A public hearing (optional) will be held:		
On:	At:	At:
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R383. Health and Human Services, Center for Medical Cannabis.****R383-13. Compassionate Use Board.****R383-13-1. Authority and Purpose.**

Pursuant to Subsections 26-1-5(1) and 26-61a-105(6), this rule establishes a process and criteria for a petition to the Board to

qualify for expedited final review and approval or denial by the Department.

**R383-13-2. Expedited Review Criteria.**

To qualify for expedited review by the Department, an individual submitting the petition shall meet the following criteria:

(1) diagnosis with a terminal illness and a life expectancy of six months or less;

(2) present symptoms not adequately managed with standard therapies that may reasonably be expected to be alleviated by medical cannabis; and

(3) have a QMP recommending medical cannabis who is directly and regularly involved in the individual's medical care.

**R383-13-3. Expedited Review Process.**

(1) Each individual submitting a petition for expedited review by the Department shall complete a form available from the Department.

(2) Within five business days of receiving a complete petition for expedited review, the Department shall review the petition and either approve the petition and issue a medical cannabis card to the applicant or prepare the petition for Board review.

**KEY:** medical cannabis, compassionate use board, medical marijuana

**Date of Last Change:** 2022

**Authorizing, and Implemented or Interpreted Law:** 63G-3; 26-61a; 26-1-5(1); 26-61a-105(6); 26-61a

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New

<b>Rule or Section Number:</b>	<b>R383-14</b>	<b>Filing ID:</b> <b>54962</b>
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**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Center for Medical Cannabis	
<b>Room number:</b>	427A	
<b>Building:</b>	Martha Hughes Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141000	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1000	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeremiah Sniffin	385-443-3344	jsniffin@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information****2. Rule or section catchline:**

R383-14. Administrative Penalties

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

Rule R383-14 replaces repealed Rule R380-413 to reflect the restructuring of the Utah Department of Health and Human Services (Department). The Department is creating administrative rule Title R383 to reflect this change as the Center for Medical Cannabis is no longer under the administrative sector of the Department of Health.

(EDITOR'S NOTE: The proposed repeal of Rule R380-413 is under ID 54974 in this issue, November 1, 2022, of the Bulletin.)

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

The agency responsible for the rule changes from "Health Administration" to "Center for Medical Cannabis."

Hearing Information for 11/07/2022, 10:00 AM:

**In-Person:** at the Multi-Agency State Office Building, Room 1045, 195 N 1950 W, Salt Lake City, UT.

Google Meet joining information:

**Video call link:** <https://meet.google.com/eog-qbsy-uaa>  
Or dial: (US) +1 209-734-0016 PIN: 225 961 514 # More phone numbers:

<https://tel.meet/eog-qbsy-uaa?pin=4354591598568>

**Join by phone:** (US) +1 209-734-0016; PIN: 225961514

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

Rule R383-14 replaces repealed Rule R380-413. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on the state budget because it only adds or clarifies language that has no fiscal impact.

**B) Local governments:**

Rule R383-14 replaces repealed Rule R380-413. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on local governments because it only adds or clarifies language that has no fiscal impact on local governments.

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

Rule R383-14 replaces repealed Rule R380-413. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on small businesses because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-14 replaces repealed Rule R380-413. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on non-small businesses because it only adds or clarifies language that has no fiscal impact.

**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**):

Rule R383-14 replaces repealed Rule R380-413. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because it only adds or clarifies language that has no fiscal impact.

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

Rule R383-14 replaces repealed Rule R380-413. Any financial regulations already in place transfer to this proposed rule. This proposed new rule will not result in compliance costs for affected persons because it only adds or clarifies language that has no fiscal impact.

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

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



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

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, 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 26, Chapter 61a	Subsection 26B-1-213(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.)

<b>A) Comments will be accepted until:</b>		12/01/2022
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/07/2022	10:00 AM	Hearing information is listed above in Box 4

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/01/2022
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**R383. Health and Human Services, Center for Medical Cannabis.**

**R383-14. Administrative Penalties.**

**R383-14-1. Authority and Purpose.**

Pursuant to Section 26-1-5 and Subsection 26-61a-702(3), this rule establishes a fine schedule for administrative penalties for violations of Title 26, Chapter 61a, Utah Medical Cannabis Act and applicable administrative rules.

**R383-14-2. Definitions.**

The definitions in Section 26-61a-102 and Subsection R380-400(2) apply in this rule.

**R383-14-3. Entities and Individuals Subject to Fine Schedule.**

This rule governs the fine schedule for which an administrative penalty is authorized pursuant to Section 26-61a-702.

**R383-14-4. Fine Schedule.**

(1) Pursuant to Section 26-61a-702 the following fine schedule shall apply:

(a) for an initial violation of Title 26, Chapter 61a, Utah Medical Cannabis Act or R380---400 et. seq., a fine of \$500-\$2,000 per violation; and

(b) for a subsequent violation of Title 26, Chapter 61a, Utah Medical Cannabis Act or R380---400 et. seq., a fine of up to \$5,000 per violation.

(2) For each violation, the Department shall determine the fine amount within the ranges specified in Subsection (1).

(3) The fine amount determined by the Department may be modified by the presiding officer following an adjudicative proceeding.

**R383-14-5. Date of Payment.**

When the Department imposes a fine, it shall establish a date on which the payment is due. Failure of an entity or individual to pay on or before that date may result in additional penalties taken by the Department against a license or registration until payment is made.

**R383-14-6. Aggravating and Mitigating Circumstances.**

(1) In determining the fine amount imposed, the Department may adjust fine amounts within the fine ranges based upon aggravating or mitigating circumstances.

(a) mitigating circumstances include:

(i) no earlier violation history;

(ii) good faith effort to prevent a violation; and

(iii) extraordinary cooperation in the violation investigation that shows the entity or individual accepts responsibility.

(b) aggravating circumstances include:

(i) earlier warnings about compliance problems;

(ii) earlier violation history;

(iii) multiple violations during an investigation;

(iv) efforts to hide a violation;

(v) intentional nature of the violation;

(vi) the violation involved a minor; and

(vii) whether the violation resulted in injury to a patient.

**R383-14-7. Additional Penalties.**

Nothing in this rule prevents the Department from suspending, revoking or refusing to renew a license or registration in



## NOTICES OF PROPOSED RULES

addition to imposing a fine for violations of Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable administrative rules.

### **R383-14-8. Cease and Desist Letter.**

In addition to, or in lieu of imposing a fine, the Department may issue a cease and desist letter to the entity or individual ordering them to cease and desist from the act that constitutes the violation. Failure to comply with the cease and desist letter may constitute grounds for additional penalties.

**KEY: administrative penalties, medical cannabis, marijuana**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: 63G-3; 26-61a; 26-1-5(1); 26-61a-702(3)**

### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal and Reenact

<b>Rule or Section Number:</b>	<b>R590-130</b>	<b>Filing ID: 54988</b>
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### **Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room number:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

### **General Information**

<b>2. Rule or section catchline:</b>
R590-130. Rules Governing Advertisements of Insurance
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
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 significant number of issues that needed to be amended.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the</b>

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 the Utah Rulewriting Manual. Other changes make the language of this rule more clear, remove Section R590-130-15 (the old Enforcement Date section) because this rule is already in force, and update Section R590-130-15 (the new Severability section) 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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The 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-23a-402	
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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:** 12/01/2022

**9. This rule change MAY become effective on:** 12/08/2022

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

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	10/14/2022
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#### R590. Insurance, Administration.

##### R590-130. Rules Governing Advertisements of Insurance.

###### ~~R590-130-1. Authority.~~

~~This rule is adopted pursuant to Subsection 31A-2-201(3), which authorizes rules to implement the Insurance Code, and Section 31A-23a-402, which authorizes the commissioner to define unfair or deceptive acts or practices in the business of insurance.~~

###### ~~R590-130-2. Purpose.~~

~~This rule is designed to help assure the clear and truthful disclosure of the benefits, limitations and exclusions of policies sold as insurance. This is intended to be accomplished by the establishment of guidelines and standards of conduct in the advertising of insurance in a manner which prevents unfair, deceptive and misleading advertising and which is conducive to accurate presentation and description to the insurance buying public through the advertising media and material used by insurance producers and companies.~~

###### ~~R590-130-3. Applicability.~~

~~A. This rule shall apply to any insurance "advertisement" as that term is defined herein unless otherwise specified in these rules, which the licensee knows or reasonably should know is intended for presentation, distribution or dissemination in this state when such presentation, distribution or dissemination is made either directly or indirectly by or on behalf of an insurer or producer, as those terms are defined in the Insurance Code of this state.~~

~~B. Advertising materials reproduced in quantity shall be identified by form numbers or other identifying means. Such identification shall be sufficient to distinguish an advertisement from any other advertising materials, policies, applications or other materials used by the insurer or advertiser.~~

###### ~~R590-130-4. Definitions.~~

~~A(1) An "Advertisement" for the purpose of this rule shall include:~~

~~(a) printed and published material, audio or visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts, websites, emails, billboards and similar displays; and~~

~~(b) prepared sales talks, presentations and material for use by producers and solicitors whether prepared by the insurer or the producer or solicitor, when used for members of the insurance buying public, whether mailed or delivered in person.~~

~~(2) The definition of advertisement includes promotional material included with a policy when the policy is delivered as well as material used in the solicitation of renewals and reinstatements.~~

~~B. "Institutional Advertisement" for the purpose of this rule shall mean an advertisement having as its sole purpose the promotion of the reader's, viewer's or listener's interest in the concept of insurance, or the promotion of the insurer as a seller of insurance.~~

~~C. "Invitation to Contract" for the purpose of this rule shall mean an advertisement regarding a specific insurance product and which describes one or more of the provisions of the contract for that product.~~

~~D. "Invitation to Inquire" for the purpose of this rule shall mean an advertisement having as its objective the creation of a desire to inquire further about insurance and which is limited to a brief description of coverage, and which shall contain a provision in the following or substantially similar form:~~

~~"This policy has (exclusions) (limitations) (reduction of benefits) (terms under which the policy may be continued in force or discontinued). For costs and complete detail of the coverage, call (or write) your insurance agent or the company (whichever is applicable)."~~

~~E. "Preneed funeral contract" shall mean an agreement by or for an individual before the individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services, which is funded, at least in part, by insurance.~~

**~~RS90-130-5. Method of Disclosure of Required Information.~~**

~~All information required to be disclosed by this rule shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence that it may not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading.~~

**~~RS90-130-6. Form and Content of Advertisements.~~**

~~A. The format and content of an insurance advertisement shall be sufficiently complete and clear to avoid deceiving or misleading the reader, viewer, or listener. Whether an advertisement is misleading or deceiving shall be determined from the overall impression that the advertisement may reasonably be expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.~~

~~B. Advertisements shall be truthful and not misleading in fact or in implication. Words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology, may not be used without a clear explanation of such words or phrases.~~

~~C. An insurer must clearly identify its insurance policy as an insurance policy. A policy trade name must be followed by the words "Insurance Policy" or similar words clearly identifying the fact that an insurance policy or, in the case of health maintenance organizations, prepaid health plans and other direct service organizations, a health benefits product is being offered.~~

~~D. No insurer, producer, solicitor or other person may solicit residents of this state for the purchase of insurance through the use of a name that is deceptive or misleading with regard to the status, character, or proprietary or representative capacity of such person, or the true purpose of the advertisement.~~

**~~RS90-130-7. Advertisements of Benefits Payable, Losses Covered or Premiums Payable.~~**

~~A. Deceptive Words, Phrases or Illustrations Prohibited:~~

~~(1) No advertisement may omit information, or use words, phrases, statements, references or illustrations if the omission of such information, or use of such words, phrases, statements, references or illustrations has the effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, or premium payable. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale or an offer is made to refund the premium if the purchaser is not satisfied, does not negate this requirement.~~

~~(2) No advertisement may contain or use words or phrases such as "all," "full," "complete," "comprehensive," "unlimited," "up to," "as high as," "this policy will help fill some of the gaps that Medicare and your present insurance leave out," "the policy will help to replace your income" (when used to express loss of time benefits), or similar words and phrases, in a manner which exaggerates the extent of any policy benefit when the policy is viewed as a whole.~~

~~(3) An advertisement which also is an invitation to join an association, trust or discretionary group must solicit insurance coverage on a separate and distinct application which requires separate signatures for each application. The separate and distinct applications required shall be on separate documents. The insurance program must be presented so as to disclose to the prospective members that they are purchasing insurance as well as applying for membership, if that is the case. Refundability of a membership fee must be fully disclosed, as well as the complete identity of the underwriter.~~

~~(4) An advertisement may not contain descriptions of policy limitations, exceptions or reductions, worded in a positive manner to imply that it is a benefit such as describing a waiting period as a "benefit builder" or stating "even preexisting conditions are covered after two years." Words and phrases used in an advertisement to describe such policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of such limitations, exceptions and reductions of the policy offered.~~

~~(5) No advertisement of a benefit for which payment is conditional upon confinement in a hospital or similar facility may use words or phrases such as "tax free," "extra cash," "extra income," "extra pay," or substantially similar words or phrases because such words and phrases have the capacity, tendency or effect of misleading the public into believing that the policy advertised will, in some way, enable them to make a profit from being hospitalized.~~

~~(6) No advertisement of confinement indemnity benefits shall advertise weekly or monthly benefits without also, with equal prominence, explaining that these benefits are based upon an accumulated daily pro rata benefit, if that is in fact the case.~~

~~(7) No advertisement of a policy covering only one disease or a list of specified diseases may imply coverage beyond the terms of the policy. Synonymous terms may not be used to refer to any disease so as to imply broader coverage than is the fact.~~

~~(8) An advertisement for a policy providing benefits for specified illnesses only, such as cancer, or for specified accidents only, such as automobile accidents, shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be worded in language identical to or substantially similar to the following: "THIS IS A LIMITED POLICY," "THIS IS A CANCER ONLY POLICY," or "THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY."~~

~~(9) An advertisement for the solicitation or sale of a preneed funeral contract, which is funded or to be funded by a life insurance policy or annuity contract, shall adequately disclose the~~

fact that a life insurance policy or annuity contract is involved or being used to fund such arrangement.

~~(10) An advertisement may not use as the name or title of a life insurance policy any phrase which does not include the words "life insurance" unless accompanied by other language clearly indicating it is life insurance.~~

~~B. Exceptions, Reductions and Limitations~~

~~(1) An advertisement which is an invitation to contract shall disclose those exceptions, reductions and limitations affecting the basic provisions of the policy.~~

~~(2) When a policy contains a waiting, elimination, probationary or similar time period between the effective date of the policy and the effective date of coverage under the policy or at a time period between the date of loss and the date benefits begin to accrue for such loss, an advertisement which is an invitation to contract shall disclose the existence of such periods.~~

~~(3) An advertisement may not use the words "only" "just," "merely," "minimum," "necessary" or similar words or phrases to describe the applicability of any exceptions, reductions, limitations or exclusions in any way so as to minimize the apparent effect of such exceptions, reductions, limitations, or exclusions.~~

~~C. Preexisting Conditions:~~

~~(1) An advertisement which is an invitation to contract shall, in negative terms, disclose the extent to which any loss is not covered if the cause of such loss is traceable to a condition existing prior to the effective date of the policy. The use of the term "preexisting condition" must be accompanied by a description or definition.~~

~~(2) When a accident and health insurance policy does not cover losses resulting from preexisting conditions, no advertisement of the policy may state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim. This rule prohibits the use of the phrase "no medical examination required" and phrases of similar import, but does not prohibit explaining "automatic issue." If an insurer requires a medical examination for a specified policy, the advertisement, if it is an invitation to contract, shall disclose that a medical examination is required.~~

~~(3) When an advertisement contains an application form to be completed by the applicant and returned by mail, such application form shall contain a question or statement which reflects the preexisting condition provisions of the policy immediately preceding the blank space for the applicant's signature or preceding the statement regarding the truthfulness of information provided in the application. For example, such an application form shall contain a question or statement substantially as follows: Do you understand that this policy will not pay benefits during the first (insert period of time) after the issue date for a disease or physical condition which you now have or have had in the past? YES:~~

~~Or substantially the following statement: I understand that the policy applied for will not pay benefits for any loss incurred during the first (insert period of time) after the issue date on account of disease or physical condition which I now have or have had in the past:~~

**R590-130-8. Necessity for Disclosing Policy Provisions Relating to Renewability, Cancelability and Termination.**

An advertisement which is an invitation to contract shall disclose the provisions relating to renewability, cancelability and termination, and any modification of benefits, losses covered, or premiums, in a manner which may not minimize or render obscure the qualifying conditions.

~~The terms "noncancelable" or "noncancelable and guaranteed renewable" may be used only to advertise a policy in which the insured has the right to continue in force by the timely payment of premiums set forth in the policy at least to age 65 or to eligibility for Medicare, during which period the insurer has no right to unilaterally make any change in any provision of the policy while the policy is in force; provided, however, any disability or accident only policy which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from accident or sickness may provide that the insured has the right to continue the policy at least to age 60 if, at age 60, the insured has the right to continue the policy in force at least to age 65 while actively and regularly employed.~~

~~The term "guaranteed renewable" may be used only to advertise a policy in which the insured has the right to continue in force by the timely payment of premiums at least to the age of 65 or to eligibility for Medicare, during which period the insurer has no right to unilaterally make any change in any provision of the policy while the policy is in force, except that the insurer may make changes in premium rates by classes; provided, however, any disability or accident only policy which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from accident or sickness may provide that the insured has the right to continue the policy at least to age 60 if, at age 60, the insured has the right to continue the policy in force at least to age 65 while actively and regularly employed.~~

**R590-130-9. Testimonials or Endorsements by Third Parties.**

~~A. A person shall be deemed a "spokesperson" if the person making the testimonial or endorsement:~~

~~(1) Has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise; or~~

~~(2) Has been formed by the insurer, is owned or controlled by the insurer, its employees, or the person or persons who own or control the insurer; or~~

~~(3) Has any person in a policy making position who is affiliated with the insurer in any of the above described capacities; or~~

~~(4) Is in any way directly or indirectly compensated for making a testimonial or endorsement.~~

~~B. The fact of a financial interest or the proprietary or representative capacity of a spokesperson shall be disclosed in an advertisement and shall be accomplished in the introductory portion of the testimonial or endorsement in the same form and with equal prominence thereto. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, such fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." The requirement of this disclosure may be fulfilled by use of the phrase "Paid Endorsement" or words of similar import in a type style and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement, whichever is larger. In the case of non print advertising, the required disclosure must be accomplished in the introductory portion of the advertisement and must be given prominence.~~

~~C. An advertisement may not state or imply that an insurer or an insurance policy has been approved or endorsed by any individual, group of individuals, society, association or other organizations, unless such is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial has been formed by the insurer or is owned or controlled by the insurer or the person or persons who own or control the insurer, such fact shall be disclosed~~

in the advertisement. If the insurer or an officer of the insurer formed or controls the association, or holds any policy making position in the association, that fact must be disclosed.

~~D. When a testimonial refers to benefits received under an insurance policy, the specific claim data, including claim number, date of loss and other pertinent information shall be retained by the insurer for inspection for a period of three years after the last use of said testimonial in any advertisement. The use of testimonials which do not correctly reflect the present practices of the insurer or which are not applicable to the policy or benefit being advertised is prohibited.~~

~~E. An advertisement may not imply that approval, endorsement or accreditation of policy forms or advertising has been granted by any division or agency of any state or federal government. "Approval" or filing of either policy forms or advertising may not be used by an insurer to state or imply that a governmental agency has endorsed or recommended the insurer, its policies, advertising or its financial condition.~~

#### **R590-130-10. Use of Statistics and Exaggerations.**

~~A. An advertisement may not represent or imply that claim settlements by the insurer are "liberal" or "generous," or use words of similar import, or that claim settlements are or will be beyond the actual terms of the contract. An unusual amount paid for a unique claim under the policy advertised is misleading and may not be used.~~

~~B. The source of any statistics used in an advertisement shall be identified in such advertisement.~~

#### **R590-130-11. Identification of Plan or Number of Policies.**

~~A. When a choice of the amount of benefits is referred to, an advertisement which is an invitation to contract shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits selected.~~

~~B. When an advertisement which is an invitation to contract refers to various benefits which may be obtained only through two or more policies, other than group master policies, the advertisement shall disclose that such benefits are provided only through a combination of such policies.~~

#### **R590-130-12. Identity of Insurer.**

~~A. The name of the actual insurer shall be stated in all advertisements. The form number or numbers of the policy advertised shall be stated in an advertisement which is an invitation to contract. An advertisement may not use a trade name, any insurance group designation, name of a parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device without disclosing the name of the actual insurer if the advertisement would be misleading or deceiving as to the true identity of the insurer.~~

~~B. No advertisement may use any combination of words, symbols, or physical materials which by their content, phraseology, shape, color or other characteristics are so similar to combination of words, symbols or physical materials used by agencies of the federal government or of any state, or otherwise appear to be of such a nature that it would confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of any municipal, state or federal government.~~

~~C. Advertisements, envelopes or stationery which employ words, letters, initials, symbols or other devices that are so similar to those used in governmental agencies or by other insurers are not permitted if they may lead the public to believe:~~

~~(1) that the advertised coverages are somehow provided by or are endorsed by a governmental agency or such other insurers.~~

~~(2) that the advertiser is the same as, is connected with, or is endorsed by a governmental agency or such other insurers.~~

~~D. No advertisement may use the name of a state or political subdivision thereof in a policy name or description, unless the company name contains the same state or political subdivision name.~~

~~E. No advertisement in the form of envelopes or stationery of any kind may use any name, service mark, slogan, symbol or any device in such a manner that implies that the insurer or the policy advertised, or any producer who may call upon the consumer in response to the advertisement is connected with a governmental agency, such as the Social Security Administration.~~

~~F. No advertisement may incorporate the word "Medicare" in the title of the plan or policy being advertised unless, where ever it appears, said word is qualified by language differentiating it from Medicare. Such an advertisement, however, may not use the phrase "( ) Medicare Department of the ( ) Insurance Company," or language of similar import.~~

~~G. No advertisement may imply that the reader may lose a right or privilege or benefit under federal, state or local law if he fails to respond to the advertisement.~~

~~H. The use of letters, initials, or symbols of the corporate name or trademark that would have the tendency or capacity to mislead or deceive the public as to the true identity of the insurer is prohibited unless the true, correct and complete name of the insurer is in close conjunction and in the same size type as the letters initials or symbols of the corporate name or trademark.~~

~~I. The use of the name of an agency or "( ) Underwriters" or "( ) Plan" in type, size and location so as to mislead or deceive as to the true identity of the insurer or advertiser is prohibited.~~

~~J. The use of an address that is misleading or deceiving as to the true identity of the insurer or advertiser, its location or licensing status is prohibited.~~

~~K. No insurer or advertiser may use, in the trade name of its insurance policy, any terminology or words so similar to the name of a governmental agency or governmental program that will confuse, deceive or mislead the prospective purchaser regarding governmental sponsorship, endorsement, or connection with the insurance policy or the insurer.~~

#### **R590-130-13. Group or Quasi-Group Implications.**

~~A. An advertisement of a particular policy may not state or imply that prospective insureds become group or quasi-group members covered under a group policy and as such enjoy special rates or underwriting privileges, unless such is the fact and renewal rates are also given special or preferred status.~~

~~B. This rule prohibits the solicitations of a particular class such as governmental employees, by use of advertisements which state or imply that their occupational status entitles them to reduced rates on a group or other basis when, in fact, the policy being advertised is sold only on an individual basis at regular rates.~~

#### **R590-130-14. Enforcement Procedures.**

~~Advertising File. Each insurer or advertiser shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in this or any other state, whether or not licensed in such other state, with a notation attached to each such advertisement which shall indicate the~~

~~manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to regular and periodic inspection by this Department. All such advertisements shall be maintained in said file for a period of three years from date of last use.~~

**R590-130-15. Enforcement Date.**

~~The commissioner shall begin enforcing the revised provisions of this rule on the effective date.~~

**R590-130-16. Severability Provision.**

~~If any provision or clause of this rule or the application of it 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 provision of this rule are declared to be severable.~~

**R590-130-17. Filing for Prior Review.**

~~The commissioner may, at his discretion, require the filing with the department, for review prior to use, of advertising material, for informational purposes only.]~~

**R590-130-1. Authority.**

~~This rule is promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-23a-402.~~

**R590-130-2. Purpose and Scope.**

~~(1) The purpose of this rule is to:~~

~~(a) ensure that disclosures regarding benefits, limitations, and exclusions are clear and truthful; and~~

~~(b) establish guidelines and standards of conduct to prevent unfair, deceptive, and misleading insurance advertising.~~

~~(2) This rule applies to:~~

~~(a) an insurance advertisement intended for presentation, distribution, or dissemination in this state; or~~

~~(b) an insurer or a person on the insurer's behalf who presents, distributes, or disseminates an advertisement in this state.~~

**R590-130-3. Definitions.**

~~Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:~~

~~(1) "Advertisement" means:~~

~~(a) printed and published material;~~

~~(b) audio or visual material;~~

~~(c) descriptive literature used in direct mail, a newspaper, a magazine, a radio script, a TV script, a website, an email, a billboard, or similar displays;~~

~~(d) a prepared sales talk, presentation, or material;~~

~~(e) promotional material included with a policy when the policy is delivered; and~~

~~(f) material used to solicit a renewal or reinstatement.~~

~~(2) "Invitation to contract" means an advertisement that describes one or more contract provisions for a specific insurance product.~~

~~(3) "Preneed funeral contract" means an agreement by or for an individual before that individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.~~

**R590-130-4. Method of Disclosure of Required Information.**

~~(1)(a) Any information required to be disclosed under this rule shall be:~~

~~(i) conspicuous and in close conjunction with the related statement; or~~

~~(ii) under appropriate captions.~~

~~(b)(i) The disclosure shall be prominent.~~

~~(ii) The disclosure may not be:~~

~~(A) minimized;~~

~~(B) rendered obscure;~~

~~(C) presented in an ambiguous fashion; or~~

~~(D) intermingled within the context of the advertisement.~~

~~(2) Advertising materials shall be identified by a unique form number.~~

~~(3) Advertising materials reproduced in quantity shall be identified by form numbers or other identifying means that are sufficient to distinguish an advertisement from any other advertising material, policy, application, or other material used by the insurer or advertiser.~~

**R590-130-5. Content of Advertisements.**

~~(1) An insurance advertisement shall be complete, clear, and truthful.~~

~~(2) An insurance advertisement may not deceive or mislead the reader, viewer, or listener in fact or in implication.~~

~~(3) A word or phrase that requires familiarity with insurance terminology, or is clear only by implication, may be used only when clearly explained.~~

~~(4) An insurer must clearly identify the insurance policy as an insurance policy.~~

~~(5) A policy trade name must be followed by the words "Insurance Policy" or similar words:~~

~~(a) indicating that an insurance policy is being offered; or~~

~~(b) for a health maintenance organization, prepaid health plan, or other direct service organization, indicating that a health benefit product is being offered.~~

~~(6) An insurer, producer, or other person may not solicit a resident of this state to purchase insurance by:~~

~~(a) using a deceptive name; or~~

~~(b) misleading a resident in this state regarding:~~

~~(i) an insurer, producer, or other person's status, character, proprietary capacity, or representative capacity; or~~

~~(ii) an advertisement's true purpose.~~

**R590-130-6. Advertisements of Benefits Payable, Losses Covered, or Premiums Payable.**

~~(1) Deceptive words, phrases, and illustrations are prohibited.~~

~~(a) An advertisement may not omit information or use words, phrases, statements, references, or illustrations that may mislead or deceive a purchaser or potential purchaser regarding:~~

~~(i) the nature or extent of a policy benefit payable;~~

~~(ii) the loss covered; or~~

~~(iii) the premium payable.~~

~~(b) The requirements in Subsection (a) must be satisfied even if:~~

~~(i) the prospective insured could review the policy before the sale; or~~

~~(ii) an unsatisfied purchaser is offered a refund of the premium.~~

~~(c) An advertisement may not contain or use words or phrases in a manner that exaggerates a policy benefit when viewing the policy as a whole, including:~~

~~(i) all;~~

~~(ii) full;~~

(iii) complete;

(iv) comprehensive;

(v) unlimited;

(vi) up to;

(vii) as high as;

(viii) this policy will help fill some of the gaps that Medicare and your present insurance leave out;

(ix) the policy will help to replace your income; or

(x) similar words and phrases.

(d) An advertisement that is also an invitation to join an association, trust, or discretionary group shall:

(i) solicit insurance coverage on a separate and distinct application that requires separate signatures for each application;

(ii) have separate and distinct applications on separate documents;

(iii) disclose:

(A) that the prospective members are purchasing insurance;

(B) applying for membership;

(C) membership refundability; and

(D) the underwriter.

(e)(i) An advertisement may not describe policy limitations, exceptions, or reductions in a positive manner to imply that policy limitations, exceptions, and reductions are benefits.

(ii) The following are examples of prohibited uses:

(A) describing a waiting period as a "benefit builder"; or

(B) stating "even preexisting conditions are covered after two years."

(iii) Words and phrases used in an advertisement to describe the advertised policy's limitations, exceptions, and reductions shall fairly and accurately describe the negative features of the limitations, exceptions, and reductions.

(f)(i) An advertisement for a benefit that conditions payment on confinement in a hospital or similar facility may not use words or phrases that could mislead an individual to believe that the advertised policy enables an individual to profit from being hospitalized.

(ii) The following are prohibited phrases:

(A) tax-free;

(B) extra cash;

(C) extra income;

(D) extra pay; or

(E) substantially similar words or phrases.

(g) An advertisement for a fixed indemnity benefit that advertises weekly or monthly benefits shall explain in the advertisement, with equal prominence, that the benefits are based on an accumulated daily pro rata benefit.

(h) An advertisement for a policy covering one disease or a list of specified diseases may not:

(i) imply coverage beyond the policy's terms; or

(ii) use synonymous terms to refer to a disease that may imply broader coverage than is in the policy.

(i) An advertisement for a policy providing benefits for a specified illness, such as cancer, shall:

(i) state the policy's limited nature; and

(ii) use language identical or substantially similar to the following:

(A) "THIS IS A LIMITED POLICY"; or

(B) "THIS IS A CANCER ONLY POLICY".

(j) An advertisement for a policy providing benefits for a specified accident, such as an automobile accident, shall:

(i) state the policy's limited nature; and

(ii) use language identical or substantially similar to "THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY".

(k) An advertisement for a preneed funeral contract that is funded by a life insurance policy or annuity contract shall adequately disclose that a life insurance policy or annuity contract is:

(i) involved in the arrangement; or

(ii) being used to fund the arrangement.

(l) An advertisement for a life insurance policy may not use a phrase in the policy's name or title that does not include the words "life insurance," unless other accompanying language clearly indicates that the policy is life insurance.

(2) Exceptions, Reductions, and Limitations.

(a) An advertisement that is an invitation to contract shall disclose the policy's exceptions, reductions, and limitations that affect the policy's basic provisions.

(b) An advertisement that is an invitation to contract shall disclose a policy's waiting, elimination, probationary, or similar time period regarding:

(i) the policy's effective date and the effective date of coverage under the policy; or

(ii) the date of loss and the date benefits begin to accrue for the loss.

(c) An advertisement may not use words or phrases in a way that may minimize the effects of a policy's exceptions, reductions, limitations, or exclusions, including:

(i) only;

(ii) just;

(iii) merely;

(iv) necessary; or

(v) similar words or phrases.

(3) Preexisting Conditions.

(a) An advertisement that is an invitation to contract shall disclose in a negative tone any loss that is not covered if the cause of the loss is traceable to a condition existing prior to the policy's effective date.

(b) A description or definition must accompany the use of the term "preexisting condition."

(c) An advertisement may not state or imply that an applicant's physical condition or medical history will not affect the issuance of a policy or a claim being paid when an accident and health insurance policy does not cover losses resulting from a preexisting condition.

(d) An advertisement is prohibited from using the phrase "no medical examination required" or similar phrases.

(e) An advertisement is not prohibited from using the phrase "guaranteed issue" or "automatic issue."

(f) An advertisement that is an invitation to contract regarding a specified disease policy shall disclose if a medical examination is required.

(g)(i) When an advertisement contains an application form to be completed and returned, the application form shall contain a question or statement regarding the policy's preexisting condition provision, which shall be located:

(A) immediately preceding the blank space for the applicant's signature; or

(B) preceding the statement regarding the truthfulness of information provided in the application.

(ii) The following are examples of the question or statement required under Subsection (g)(i):

(A) Do you understand that this policy will not pay benefits during the first (insert period of time) after the issue date for a disease



or physical condition that you now have or have had in the past? YES;  
or

(B) I understand that the policy applied for will not pay benefits for any loss incurred during the first (insert period of time) after the issue date on account of a disease or physical condition that I now have or have had in the past.

**R590-130-7. Necessity for Disclosing Policy Provisions Relating to Renewability, Cancelability, and Termination.**

(1) An advertisement that is an invitation to contract shall disclose, in a manner that does not minimize or obscure the qualifying conditions, provisions regarding the following:

(a) cancellation, renewability, and termination; and

(b) modification of benefits, losses covered, or premiums.

(2) An advertisement may only use the term "noncancelable" to advertise a policy that:

(a) the insured has the right to continue in force coverage by timely paying the policy's premiums; and

(b) the insurer has no right to change provisions in the policy while the policy is in force.

(3) An advertisement may only use the term "guaranteed renewable" to advertise a policy that:

(a) the insured has the right to continue in force by timely paying the policy's premiums; and

(b) the insurer has no right to change provisions in the policy while the policy is in force, except that the insurer may make premium rate changes.

**R590-130-8. Testimonials or Endorsements by Third Parties.**

(1) A person making a testimonial or endorsement is a spokesperson if the person:

(a) has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or otherwise;

(b) has been formed by the insurer;

(c) is owned or controlled by the insurer, the insurer's employees, or a person that owns or controls the insurer;

(d) has a person in a policy making position that is affiliated with the insurer in a capacity described in Subsections (1)(a) through (1)(c); or

(e) is directly or indirectly compensated for making a testimonial or endorsement.

(2)(a) A testimonial or endorsement in an advertisement shall disclose in the introductory portion, in the same form and with equal prominence in the advertisement, that a spokesperson has the following interest or capacity in the insurer making the advertisement:

(i) a financial interest;

(ii) a proprietary interest; or

(iii) a representative capacity.

(b) An advertisement shall disclose if the spokesperson was directly or indirectly paid for making a testimonial or endorsement.

(c) The disclosure in Subsection (2)(b) may be fulfilled by:

(i) using the phrase "Paid Endorsement" or words substantially similar; and

(ii) using a font and size at least equal to the font and size for whichever of the following is larger:

(A) the spokesperson's name; or

(B) the body of the testimonial or endorsement.

(d) A testimonial or endorsement disclosure for a non-print advertisement shall:

(i) make the disclosure in the advertisement's introductory portion; and

(ii) be given equal prominence in the advertisement.

(3)(a) An advertisement may not state or imply that an individual, group of individuals, society, association, or other organization has approved or endorsed an insurer or an insurance policy unless:

(i) the individual, group of individuals, society, association, or other organization has approved or endorsed the insurer or the insurance policy; and

(ii) the advertisement discloses any proprietary relationship between an organization and the insurer.

(b) An advertisement shall disclose, if applicable, the following regarding an entity making an endorsement or testimonial:

(i) the insurer formed the entity;

(ii) the insurer owns the entity;

(iii) the insurer controls the entity; or

(iv) a person that owns or controls the insurer formed, owns, or controls the entity.

(c) If the entity in Subsection (3)(a) is an association, the advertisement must disclose, if applicable, the following regarding an insurer:

(i) the insurer or the insurer's officer formed or controls the association; or

(ii) the insurer or the insurer's officer holds a policy making position in the association.

(4)(a) An insurer using a testimonial that refers to a benefit received under an insurance policy must retain for three years beginning when the insurer last used the testimonial in an advertisement:

(i) the specific claim data, including claim number;

(ii) the date of loss; and

(ii) any other pertinent information.

(b) A testimonial in an advertisement is prohibited if:

(i) the testimonial does not correctly reflect the insurer's present practice; or

(ii) the testimonial is not applicable to the advertised policy or benefit.

(5)(a) An advertisement may not imply that a state or federal agency or division has granted approval, accreditation, or endorsed an insurer's policy forms or advertisement.

(b) An insurer may not use the approval or filing of a policy form or advertisement to state or imply that a governmental agency has endorsed or recommended the following:

(i) the insurer;

(ii) the insurer's policy;

(iii) the insurer's advertisement; or

(iv) the insurer's financial condition.

**R590-130-9. Use of Statistics and Exaggerations.**

(1) An advertisement may not represent or imply that:

(a) an insurer's claim settlement practice is liberal, generous, or similar; or

(b) an insurer's claim settlement practice is or will be beyond the contract's actual terms.

(2) An insurer may not mislead a consumer by advertising an unusual amount paid for a unique claim under an advertised policy.

(3) An advertisement shall identify the source of any statistical information used in the advertisement.

**R590-130-10. Identification of Plan or Number of Policies.**

(1) An advertisement that is an invitation to contract and that advertises a choice in available benefits shall disclose that:

(a) the amount of benefits depends on the plan selected; and

(b) the premium amount varies depending on the amount of benefits selected.

(2) An advertisement that is an invitation to contract that refers to various benefits shall disclose that:

(a) two or more policies, other than a group master policy, may be issued; or

(b) the benefits are provided only through a combination of the policies.

**R590-130-11. Identity of Insurer.**

(1)(a) An advertisement shall state the actual insurer's name.

(b) An advertisement that is an invitation to contract shall state the form number or policy number.

(c) An advertisement shall disclose the actual insurer's name before using any of the following, if the advertisement would be misleading or deceptive regarding the insurer's true identity:

(i) a trade name;

(ii) an insurance group designation;

(iii) an insurer's parent company's name;

(iv) the name of an insurer's particular division;

(v) a service mark;

(vi) a slogan;

(vii) a symbol; or

(viii) any other device.

(2) An advertisement may not use a word combination, symbol, or physical material in a manner that the content, phraseology, shape, color, or other characteristic:

(a) is similar to the word combination, symbol, or physical material used by a federal, state, or municipal governmental agency; and

(b) would confuse or mislead prospective insureds to believe that the advertisement is in some manner connected to a federal, state, or municipal governmental agency.

(3)(a) An advertisement, envelope, or stationery that uses words, letters, initials, symbols, or other devices that are similar to the words, letters, initials, symbols, layout, or other devices used by governmental agencies or other insurers is not permitted.

(b) An advertisement may not use words, letters, initials, symbols, or other devices that may lead the public to believe that a governmental agency or other insurer provided or endorsed the advertised coverages.

(c) An advertisement may not use words, letters, initials, symbols, or other devices that may lead the public to believe the advertiser is affiliated with or is endorsed by a governmental agency or other insurer.

(4) An advertisement may not use the name of a state or political subdivision in a policy description or name unless the company name contains the same state or political subdivision name.

(5) An advertisement may not use an envelope or stationery in a way that implies the insurer, the policy advertised, or the producer who may call on the consumer regarding the advertisement, is affiliated with a governmental agency.

(6)(a) An advertisement may not incorporate the word "Medicare" in the advertised plan or policy title.

(b) An advertisement may incorporate the word "Medicare" if the advertisement uses language differentiating the policy from the term "Medicare" in the advertisement.

(c) An advertisement may not use a phrase that includes "Medicare Department of an Insurance Company" or similar language.

(7) An advertisement may not imply that an individual may lose a right, privilege, or benefit under federal, state, or local law if the individual fails to respond to the advertisement.

(8) An advertisement may not use a letter, initial, or symbol of an insurer's corporate name or trademark that misleads or deceives the public regarding the insurer's identity, unless the advertisement:

(a) uses the insurer's correct and complete name; and

(b) places the insurer's correct and complete name in close conjunction with, and in the same type as the letters, initials, or symbols for the insurer's corporate name or trademark.

(9) An advertisement may not use an agency name, or a name that includes "Underwriters" or "Plan," in type, size, and location in the advertisement that may mislead or deceive a consumer regarding the identity of the insurer or advertiser.

(10) An advertisement may not use an address that is misleading or deceptive regarding an insurer or advertiser's:

(a) identity;

(b) location; or

(c) license status.

(11) An advertisement may not use any terminology or word in a trade name of an insurer's insurance policy that is similar to a governmental agency or governmental program that may confuse, deceive, or mislead a prospective purchaser.

(12) An advertisement may not use any terminology or word in a trade name of an insurer's insurance policy that implies a sponsorship, endorsement, or connection with a governmental agency or governmental program.

**R590-130-12. Group or Quasi-Group Implications.**

(1) An advertisement may not state or imply a preferred status in an advertisement unless the insurance policy provides the advertised renewal rate for:

(a) prospective insureds becoming group or quasi-group members covered under a group policy; or

(b) prospective insureds receiving special rates or underwriting under the group policy.

(2) When sold on an individual basis at regular rates, an advertisement may not solicit a particular class, such as governmental employees, by stating or implying that an occupational status entitles the member to a reduced rate for:

(a) a group; or

(b) another basis.

**R590-130-13. Enforcement Procedures.**

(1) Each advertiser or insurer shall maintain a file containing advertisements for three years from the date last used including:

(a) every printed, published, or prepared advertisement of the advertiser or insurer's individual policies;

(b) every printed, published, or prepared advertisement of the advertiser or insurer's blanket, franchise, and group policies;

(c) any advertisement disseminated in this state and any other state whether or not the insurer is licensed in the other state; and

- (d) a notation attached to each advertisement that includes:
- (i) the manner and extent the advertiser or insurer distributed the advertisement; and
  - (ii) the advertised insurance policy's form number.
- (2) Each advertiser or insurer shall maintain the file required in Subsection (1) at the advertiser or insurer's home office or principal office.
- (3) The file required in Subsection (1) is subject to the department's regular and periodic inspection.

**R590-130-14. Filing for Prior Review.**

- (1) The commissioner may require an advertiser or insurer to file advertising material with the department for review before using the advertising material.
- (2) The filing under Subsection (1) is for informational purposes only.

**R590-130-15. Severability.**

If any provision of this rule, Rule R590-130, 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[September 11, 2012]

**Notice of Continuation:** September 1, 2020

**Authorizing, and Implemented or Interpreted Law:** 31A-2-201; 31A-23a-402

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Rule or Section Number:</b>	<b>R590-198</b>	<b>Filing ID:</b> <b>54989</b>
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**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room number:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information****2. Rule or section catchline:**

R590-198. Valuation of Life Insurance Policies Rule

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

The rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.

**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 the Utah Rulewriting Manual. Other changes make the language of this rule more clear, and update the Severability section (the new Section R590-198-7) to use the Department's current language. The changes do not add, remove, or change any regulations or requirements.

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

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the Department functions.

**B) Local governments:**

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.

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

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.

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

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

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

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

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

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

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

**Regulatory Impact Table**

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

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

The 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-17-402	Section 31A-17-512
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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:** 12/01/2022

**9. This rule change MAY become effective on:** 12/08/2022

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	10/14/2022
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**R590. Insurance, Administration.**

**R590-198. Valuation of Life Insurance Policies [Rule].**

**[R590-198-1. Purpose.**

A. The purpose of this rule is to provide:  
 (1) tables of select mortality factors and rules for their use;  
 (2) rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits; and  
 (3) rules concerning a minimum standard for the valuation of plans with secondary guarantees.

B. The method for calculating basic reserves defined in this rule will constitute the Commissioners' Reserve Valuation Method for policies to which this rule is applicable.

**R590-198-2. Authority.**

This rule is issued under the authority of Sections 31A-17-402 and 31A-17-512.

**R590-198-3. Applicability.**

**R590-198-1. Authority.**

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201, 31A-17-402, and 31A-17-512.

**R590-198-2. Purpose and Scope.**

(1) The purpose of this rule is to provide:  
 (a) tables of select mortality factors;  
 (b) rules for use of select mortality factors;  
 (c) minimum standards for the valuation of plans with nonlevel premiums or benefits; and  
 (d) minimum standards for the valuation of plans with secondary guarantees.

(2) The method for calculating basic reserves defined in this rule constitutes the Commissioners' Reserve Valuation Method for policies to which this rule applies.

~~[This rule shall apply to all life insurance policies,]~~ (3) This rule applies to a life insurance policy, with or without nonforfeiture values, issued on or after ~~[the original enactment date of this rule]~~ January 4, 2000, subject to the following exceptions and conditions.

~~[A. Exceptions~~

~~(1)(4) This rule shall does not apply to [any];~~

(a) an individual life insurance policy issued on or after January 4, 2000, if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before January 4, 2000, that guarantees the premium rates of the new policy ~~[This rule also shall not apply to subsequent policies];~~

(b) a subsequent policy issued as a result of the exercise of ~~[such]~~ a provision described in Subsection (4)(a), or a derivation of the provision, in the new policy ~~[;]~~

~~(2) This rule shall not apply to any]~~ (c) a universal life policy that meets ~~[all]~~ the following requirements:

~~(a) S](i) any secondary guarantee period [if any,] is five[-]~~ years or less;

~~(b) S](ii) a specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the 1980 CSO [(Commissioner's Standard Ordinary)] valuation tables as defined in [Section 4F of this rule] Subsection R590-198-3(1) and the applicable valuation interest rate; and~~

~~(c) T](iii) the initial surrender charge is not less than 100% of the first year annualized specified premium for the secondary guarantee period[-];~~

~~(3) This rule shall not apply to any]~~ (c) a variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts ~~[;]~~

~~(4) This rule shall not apply to any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts[-]; and~~

~~(5) This rule shall not apply to]~~ (d) a group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required ~~[in order]~~ to continue coverage in force for a period in excess of one ~~[year]~~.

~~[B.](5) Conditions.~~

~~(1)(a) Calculation of the minimum valuation standard for [policies] a policy with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits, other than universal life policies, or both, shall be in accordance with [the provisions of] Section [6] R590-198-5.~~

~~(2)(b) Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies[-] that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period shall be in accordance with [the provisions of] Section [7] R590-198-6.~~

**R590-198-[4]3. Definitions.**

~~[For purposes of this rule] Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:~~

~~[A.](1) "1980 CSO valuation tables" means the Commissioners' 1980 Standard Ordinary Mortality Table, 1980 CSO Table, without ten-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983.~~

~~(2) "Basic reserves" means reserves calculated in accordance with Section 31A-17-504.~~

~~[B.](3) "Contract segmentation method" means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment, from policy inception, for the first segment, to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation tables, as defined in Subsection [F of this section](1), or any other valuation mortality table adopted by the [National Association of Insurance Commissioners, NAIC,] NAIC after January 4, 2000 and promulgated by rule by the commissioner for this purpose, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in [Section 5B of this rule] Subsection R590-198-4(2).~~

The length of a particular contract segment shall be set equal to the minimum of the value  $t$  for which  $G_t$  is greater than  $R_t$ , if  $G_t$  never exceeds  $R_t$  the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy, where  $G_t$  and  $R_t$  are defined as follows:  $G_t = GP_{x+k+t} / GP_{x+k+t-1}$  where:  $x$  = original issue age;  $k$  = the number of years from the date of issue to the beginning of the segment;  $t = 1, 2, \dots$ ;  $t$  is reset to 1 at the beginning of each segment;  $GP_{x+k+t-1}$  = Guaranteed gross premium per thousand of face amount for year  $t$  of the segment, ignoring policy fees only if level for the premium paying period of the policy.

$R_t = q_{x+k+t} / q_{x+k+t-1}$ . However,  $R_t$  may be increased or decreased by 1% in any policy year, at the ~~[company's]~~ insurer's option, but  $R_t$  shall not be less than one; where:  $x$ ,  $k$  and  $t$  are as defined above, and  $q_{x+k+t-1}$  = valuation mortality rate for deficiency reserves in policy year  $k+t$  but using the mortality of Section 5B(2) if Section 5B(3) is elected for deficiency reserves.

However, if  $GP_{x+k+t}$  is greater than 0 and  $GP_{x+k+t-1}$  is equal to 0,  $G_t$  shall be deemed to be 1,000. If  $GP_{x+k+t}$  and  $GP_{x+k+t-1}$  are both equal to 0,  $G_t$  shall be ~~[deemed to be]~~ equal to 0.

~~[C. "Deficiency reserves" means the excess, if greater than zero, of:~~

~~(1) Minimum reserves calculated in accordance with Section 31A-17-507 over~~

~~(2) Basic reserves](4) "Deficiency reserves" means the excess, if greater than zero, of minimum reserves calculated in accordance with Section 31A-17-507 over basic reserves.~~

~~[D.](5) "Guaranteed gross premiums" means the premiums under a life insurance policy [of life insurance-] that are guaranteed and determined at issue.~~

~~[E.](6) "Maximum valuation interest rates" means the interest rates defined in Section 31A-17-506[-, Computation of Minimum Standard by Calendar Year of Issue,] that are to be used in determining the minimum standard for the valuation of life insurance policies.~~

~~[F. "1980 CSO valuation tables" means the Commissioners' 1980 Standard Ordinary Mortality Table, 1980 CSO Table, without ten year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983.]~~

~~[G. "Scheduled gross premium" means the smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in Section 7A(3), if any, or else the minimum premium described in Section 7A(4)](7)(a) "Scheduled gross premium" for a universal life insurance policy means the smallest specified premium described in Subsection R590-198-6(1)(c), if any, or else the minimum premium described in Subsection R590-198-6(1)(d).~~

~~(b) "Scheduled gross premium" for a policy other than a universal life insurance policy means the smallest illustrated gross premium at issue.~~

~~[H.(1)](8)(a) "Segmented reserves" means reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals:~~

~~[(+)](i) The present value of the death benefits within the segment, plus~~

~~[(+)](ii) The present value of any unusual guaranteed cash value, see [Section 6D]Subsection R590-198-5(4), occurring at the end of the segment, less~~

~~[(+)](iii) Any unusual guaranteed cash value occurring at the start of the segment, plus~~

~~[(+)](iv) For the first segment only, the excess of the [Item (+)]Subsection (A) over [Item (+)]Subsection (B), as follows:~~

~~[(+)](A) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one-year higher than the age at issue of the policy.~~

~~[(+)](B) A net one-year term premium for the benefits provided for in the first policy year.~~

~~[(2)](b) The length of each segment is determined by the ["]contract segmentation method,["] as defined in [this section]Subsection (3).~~

~~[(3)](c) The interest rates used in the present value calculations for [any] a policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy.~~

~~[(4)](d) For both basic reserves and deficiency reserves computed by the segmented method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments.~~

~~[I.](9) "Tabular cost of insurance" means the net single premium at the beginning of a policy year for one-year term insurance in the amount of the guaranteed death benefit in that policy year.~~

~~[J.](10) "Ten-year select factors" means the select factors adopted with the 1980 amendments to the NAIC Standard Valuation Law.~~

~~[K.(1)](11)(a) "Unitary reserves" means the present value of all future guaranteed benefits less the present value of all future modified net premiums, where:~~

~~[(a) Guaranteed](i) guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and~~

~~[(b) Modified](ii) modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of Item [(+)](A) over Item [(+)](B), as follows:~~

~~[(+)](A) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one-year higher than the age at issue of the policy.~~

~~[(+)](B) A net one-year term premium for the benefits provided for in the first policy year.~~

~~[(2)](b) The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.~~

~~[L.](12) "Universal life insurance policy" means [any] an individual life insurance policy under [the provisions of] which separately identified interest credits, other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts, and mortality or expense charges are made to the policy.~~

#### **R590-198-[5]4. General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves.**

~~[A.](1) At the election of the [company]insurer for any one or more specified [plans of]life insurance plans, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors, or any other valuation mortality table adopted by the NAIC after January 4, 2000, and promulgated by rule by the commissioner for this purpose. If select mortality factors are elected, they may be:~~

~~[(1) The](a) the ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law, see Rule R590-95;~~

~~[(2) The](b) the select mortality factors adopted by the NAIC at the 1999 Spring National Meeting[.]; or~~

~~[(3) Any](c) any other table of select mortality factors adopted by the NAIC after January 4, 2000, and promulgated by rule by the commissioner for the purpose of calculating basic reserves.~~

~~[B.](2) Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the [company]insurer for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors or any other valuation mortality table adopted by the NAIC after January 4, 2000, and promulgated by rule by the commissioner. If select mortality factors are elected, they may be:~~

~~[(1) The (a) the~~ ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;

~~[(2) The (b) the~~ select mortality factors adopted by the NAIC at the 1999 Spring National Meeting;

~~[(3) For (c) for~~ durations in the first segment, X percent of the select mortality factors adopted by the NAIC at the 1999 Spring National Meeting, subject to the following:

~~[(a)(i) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;~~

~~[(b)(ii) X is such that, when using the valuation interest rate used for basic reserves, Item [(4)(A) is greater than or equal to Item [(4)(B);~~

~~[(i) The (A) the~~ actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

~~[(ii) The (B) the~~ actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

~~[(c)(iii) X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first 5-years after the valuation date;~~

~~[(d) The (iv) the~~ appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of Subsection ~~[B(3)(2)(c);~~

~~[(e) The (v) the~~ appointed actuary may decrease X at any valuation date as long as it continues to meet all the requirements of Subsection ~~[B(3); and (2)(c);~~

~~[(f) The (vi) the~~ appointed actuary shall ~~[specifically take into account]~~ consider the adverse effect on expected mortality and the lapsing of any anticipated or actual increase in gross premiums[-]; and

~~[(g) If (vii) if~~ X is less than 100% at any duration for any policy, the following requirements shall be met:

~~[(i) The (A) the~~ appointed actuary shall disclose, in the Regulatory Asset Adequacy Issues Summary required by Section R590-162-~~[7]6,~~ the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods; and

~~[(ii) The (B) the~~ appointed actuary shall annually opine for all policies subject to this rule as to whether the mortality rates resulting from the application of X meet the requirements of Subsection ~~[B(3)(2)(c). This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, [taking into account] considering relevant emerging experience[-]; or~~

~~[(4) Any (d) any~~ other table of select mortality factors adopted by the NAIC after January 4, 2000, and promulgated by rule by the commissioner for the purpose of calculating deficiency reserves.

~~[(c)(3) This subsection applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than ten[-] years, the appropriate ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue.~~

~~[(D)(4)(a) In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used [where] if the calculation involves the guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums, even if not included in the actual calculation of basic reserves.~~

~~[(b) Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one[-] year after the date of the change shall be the greatest of the following:~~

~~[(1)(i) reserves calculated ignoring the guarantee;~~

~~[(2)(ii) reserves assuming the guarantee was made at issue; and~~

~~[(3)(iii) reserves assuming that the policy was issued on the date of the guarantee.~~

~~[(F)(5) The commissioner may require [that the company] the insurer to document the extent of the adequacy of reserves for specified blocks, including but not limited to policies issued [prior to] before January 4, 2000. This documentation may include a demonstration of the extent to which aggregation with other non-specified blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to [and consistent with the requirements of Rule] Section R590-162-5.~~

#### **R590-198-[6]5. Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Gross Premiums or Guaranteed Nonlevel Benefits Other than Universal Life Policies.**

~~[(A)(1) Basic Reserves.~~

Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for ~~[any] a~~ policy shall use the same valuation mortality table and selection factors. At the option of the insurer, in calculating segmented reserves and net premiums, either of the adjustments described in ~~[Paragraph (1) or (2) below] Subsection (1)(a) or (1)(b)~~ may be made[-].

~~[(1)(a) Treat the unitary reserve, if greater than zero, applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.~~

~~[(2)(b) Treat the guaranteed cash surrender value, if greater than zero, applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.~~

~~[(B)(2) Deficiency Reserves.~~

~~[(1)(a) The deficiency reserve at any duration shall be calculated:~~

~~[(a) On (i) on a unitary basis if the corresponding basic reserve determined by Subsection [A](1) is unitary;~~

~~[(b) On (ii) on a segmented basis if the corresponding basic reserve determined by Subsection [A](1) is segmented; or~~

~~[(c) On (iii) on the segmented basis if the corresponding basic reserve determined by Subsection [A](1) is equal to both the segmented reserve and the unitary reserve.~~

~~[(2) This subsection shall apply (b) Subsection (2) applies to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the~~



minimum valuation standards of mortality, specified in ~~[Section 5B]~~Subsection R590-198-4(2), and rate of interest.

~~[(3)]~~~~Deficiency reserves, if any,~~~~[(c)]~~ Any deficiency reserves shall be calculated for each policy as the excess if greater than zero, for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in ~~[Section 5B]~~Subsection R590-198-4(2).

~~[(4)]~~~~(d)~~ For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

~~[(E)]~~~~(3)~~ Minimum Value.

Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance shall use the same valuation mortality table and interest rates as ~~[that]~~ used for the calculation of the segmented reserves. ~~[However, if]~~ If select mortality factors are used, they shall be the ten-year select factors incorporated into the 1980 amendments of the NAIC Standard Valuation Law. In no case may total reserves, including basic reserves, deficiency reserves, and any reserves held for supplemental benefits that would expire upon contract termination, be less than the amount that the policyowner would receive, including the cash surrender value of the supplemental benefits, if any, referred to above, exclusive of any deduction for policy loans, upon termination of the policy.

~~[(D)]~~~~(4)~~ Unusual Pattern of Guaranteed Cash Surrender Values.

~~[(1)]~~~~(a)~~ For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held ~~[prior to]~~ before the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n-year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.

~~[(2)]~~~~(b)~~ The reserves actually held ~~[subsequent to]~~ after any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an n-year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where:

~~[(a)]~~~~(i)~~ n is the number of years from the date of the last unusual guaranteed cash surrender value ~~[prior to]~~ before the valuation date to the earlier of:

~~[(i)]~~~~The~~~~(A)~~ the date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or

~~[(ii)]~~~~The~~~~(B)~~ the mandatory expiration date of the policy;  
~~and]~~

~~[(b)]~~~~The~~~~(ii)~~ the net premium for a given year during the n-year period is equal to the product of the net to gross ratio and the respective gross premium; and

~~[(c)]~~~~The~~~~(iii)~~ the net to gross ratio is equal to Item ~~[(i)]~~~~(A)~~ divided by Item ~~[(ii)]~~~~(B)~~ as follows:

~~[(i)]~~~~(A)~~ The present value, at the beginning of the n-year period, of death benefits payable during the n-year period plus the present value, at the beginning of the n-year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of

the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the n-year period.

~~[(ii)]~~~~(B)~~ The present value, at the beginning of the n-year period, of the scheduled gross premiums payable during the n-year period.

~~[(3)]~~~~(c)~~ For purposes of ~~[this subsection]~~Subsection (4), a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of:

~~[(a)]~~~~(i)~~ 110% of the scheduled gross premium for that year;

~~[(b)]~~~~(ii)~~ 110% of one year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and

~~[(c)]~~~~(iii)~~ 5% of the first policy year surrender charge, if any.

~~[(E)]~~~~(5)~~ Optional Exemption for Yearly Renewable Term (YRT) Reinsurance.

~~\_\_\_\_\_~~-At the option of the ~~[company]~~insurer, the following approach for reserves on YRT reinsurance may be used:

~~[(1)]~~~~(a)~~ Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

~~[(2)]~~~~(b)~~ Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in Subsection ~~[(E)]~~~~(3)~~.

~~[(3)]~~~~(c)~~ Deficiency reserves.

~~[(a)]~~~~(i)~~ For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

~~[(b)]~~~~(ii)~~ Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with ~~[Subparagraph (a) above]~~Subsection ~~[(5)]~~~~(c)~~~~(i)~~.

~~[(4)]~~~~(d)~~ For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without ten-year select mortality factors, or any other table adopted after January 4, 2000, by the NAIC and promulgated by rule by the commissioner for this purpose.

~~[(5)]~~~~(e)~~ A reinsurance agreement shall be considered YRT reinsurance for purposes of this subsection if only the mortality risk is reinsured.

~~[(6)]~~~~(f)~~ If the assuming ~~[company]~~insurer chooses this optional exemption, the ceding ~~[company's]~~insurer's reinsurance reserve credit shall be limited to the amount of reserve held by the assuming ~~[company]~~insurer for the affected policies.

~~[(F)]~~~~(6)~~ Optional Exemption for Attained-Age-Based Yearly Renewable Term Life Insurance Policies.

~~\_\_\_\_\_~~-At the option of the ~~[company]~~insurer, the following approach for reserves for attained-age-based YRT life insurance policies may be used:

~~[(1)]~~~~(a)~~ Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

~~[(2)]~~~~(b)~~ Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in Subsection ~~[(6C)]~~~~(3)~~.

~~[(3)]~~~~(c)~~ Deficiency reserves.

~~[(a)]~~~~(i)~~ For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

~~[(b)]~~~~(ii)~~ Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses

determined in accordance with ~~[Subparagraph (a) above]~~ Subsection (6)(c)(i).

~~[(4)](d)~~ For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten-year select mortality factors, or any other table adopted after January 4, 2000, by the NAIC and promulgated by rule by the commissioner for this purpose.

~~[(5)](e)~~ A policy shall be considered an attained-age-based YRT life insurance policy for purposes of this subsection if:

~~[(a) The ](i)~~ the premium rates, on both the initial current premium scale and the guaranteed maximum premium scale, are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and

~~[(b) The ](ii)~~ the premium rates, on both the initial current premium scale and the guaranteed maximum premium scale, are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance, and attained age.

~~[(6)](f)~~ For policies that become attained-age-based YRT policies after an initial period of coverage, the approach of this subsection may be used after the initial period if:

~~[(a) The ](i)~~ the initial period is constant for all insureds of the same sex, risk class, and plan of insurance; or

~~[(b) The ](ii)~~ the initial period runs to a common attained age for all insureds of the same sex, risk class, and plan of insurance; and

~~[(c) After ](iii)~~ after the initial period of coverage, the policy meets the conditions of ~~[Paragraph (5) above]~~ Subsection (6)(c).

~~[(7)](g)~~ If this election is made, this approach shall be applied in determining reserves for all attained-age-based YRT life insurance policies issued on or after January 4, 2000.

~~[G-](7)~~ Exemption from Unitary Reserves for Certain n-Year Renewable Term Life Insurance ~~[Policies]~~ Policies.

\_\_\_\_\_-Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met:

~~[(1) The ](a)~~ the policy consists of a series of n-year periods, including the first period and all renewal periods, where n is the same for each period, except that for the final renewal period, n may be truncated or extended to reach the expiry age, provided that this final renewal period is less than ~~[40-]ten~~ years and less than twice the size of the earlier n-year periods, and for each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level;

~~[(2) The ](b)~~ the guaranteed gross premiums in all n-year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the ten-year select mortality factors; and

~~[(3) There ](c)~~ there are no cash surrender values in any policy year.

~~[H-](8)~~ Exemption from Unitary Reserves for Certain Juvenile Policies.

Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue:

~~[(1) At ](a)~~ at issue, the insured is age 24 or younger;

~~[(2) Until ](b)~~ until the insured reaches the end of the juvenile period, which shall occur at or before age 25, the gross premiums and death benefits are level, and there are no cash surrender values; and

~~[(3) After ](c)~~ after the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy.

**R590-198-[7]6. Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period.**

~~[A-](1)~~ General.

~~[(4)](a)~~ Policies with a secondary guarantee include:

~~[(a) A-](i)~~ a policy with a guarantee that the policy will remain in force at the original schedule of benefits, subject only to the payment of specified premiums;

~~[(b) A-](ii)~~ a policy in which the minimum premium at any duration is less than the corresponding one-year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten-year select mortality factors, or any other table adopted after January 4, 2000, by the NAIC and promulgated by rule by the commissioner for this purpose; or

~~[(c) A-](iii)~~ a policy with any combination of ~~[Subparagraph (a) and (b)]~~ Subsections (1)(i) and (1)(ii).

~~[(2)](b)~~ A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. ~~[When-]If~~ a policy contains more than one secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the insurer after issue shall be considered to have been made at issue. Reserves described in Subsections ~~[B and C below-](2) and (3)~~ shall be recalculated from issue to reflect these changes.

~~[(3)](c)~~ Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.

~~[(4)](d)~~ For purposes of ~~[this section]~~ Subsection (1), the minimum premium for any policy year is the premium that, when paid into a policy with a zero account value at the beginning of the policy year, produces a zero account value at the end of the policy year. The minimum premium calculation shall use the policy cost factors, including mortality charges, loads and expense charges, and the interest crediting rate, which are all guaranteed at issue.

~~[(5)](e)~~ The one-year valuation premium means the net one-year premium based upon the original schedule of benefits for a given policy year. The one-year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in ~~[Section 5B(2), (3), and (4)]~~ Subsections R590-198-4(2)(b), R590-198-4(2)(c), and R590-198-4(2)(d) may not be used to calculate the one-year valuation premiums.

~~[(6)](f)~~ The one-year valuation premium should reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund.

~~[B-](2)~~ Basic Reserves for the Secondary Guarantees.

Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or

## NOTICES OF PROPOSED RULES

otherwise to the minimum premiums, that keep the policy in force and the segments will be determined according to the contract segmentation method as defined in [Section 4B] Subsection R590-198-3(3).

[C-](3) Deficiency Reserves for the Secondary Guarantees.  
Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in [Section 6B-] Subsection R590-198-5(2) with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.

[D-](4) Minimum Reserves.

The minimum reserves during the secondary guarantee period are the greater of:

[(1) The-](a) the basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or

[(2) The-](b) the minimum reserves required by other rules or rules governing universal life plans.

### **R590-198-[8]7. Severability.**

[If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity will 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 R590-198, 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 companies**

**Date of Last Change: 2022[August 26, 2015]**

**Notice of Continuation: November 15, 2019**

**Authorizing, and Implemented or Interpreted Law: 31A-17-402; 31A-17-512**

### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Rule or Section Number:</b>	<b>R590-235</b>	<b>Filing ID:</b> <b>54990</b>
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### **Agency Information**

<b>1. Department:</b>	Insurance
<b>Agency:</b>	Administration
<b>Room number:</b>	Suite 2300
<b>Building:</b>	Taylorville State Office Building
<b>Street address:</b>	4315 S 2700 W
<b>City, state and zip:</b>	Taylorville, UT 84129
<b>Mailing address:</b>	PO Box 146901
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901

### **Contact persons:**

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov

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

### **General Information**

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

R590-235. Medicare Prescription Drug Plan

#### **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 the Utah Rulewriting Manual. Other changes make the language of this rule more clear, remove Section R590-235-6 (the Enforcement Date section) because this rule is already in force, and update Section R590-235-5 (the new Severability section) 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**

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

<b>Net Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

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

<b>A) Comments will be accepted until:</b>	12/01/2022
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**9. This rule change MAY become effective on:**

12/08/2022

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	10/14/2022
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**R590. Insurance, Administration.****R590-235. Medicare Prescription Drug Plan.****R590-235-1. Authority.**

This rule is promulgated ~~[pursuant to Subsection 31A-2-201 (3), wherein the Commissioner is empowered to administer and enforce Title 31A, and to make administrative rules to implement the provisions of Title 31A]~~ by the commissioner pursuant to Section 31A-2-201.

**R590-235-2. Purpose and Scope.**

~~[(1) The purpose of this rule is to establish licensing and regulatory requirements in the State of Utah for a stand-alone prescription drug plan (PDP).~~

~~[(a) Title I of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, commonly referred to as the Medicare Modernization Act (MMA), created requirements for a new type of organization called a Prescription Drug Plan (PDP) to provide Medicare Part D benefits.~~

~~[(b) Base requirements for contracts with PDP sponsors include state licensure as a risk bearing entity in the jurisdiction where the entity proposes to serve Medicare Part D beneficiaries.]~~

(1) The purpose of this rule is to establish licensing and regulatory requirements for a stand-alone Medicare PDP.

(2) This rule applies to ~~[all entities]~~ a person that offers a stand-alone Medicare PDP ~~[in the State of Utah]~~.

### **R590-235-3. Definitions.**

[In addition to the definitions of Section 31A-1-301, the following definitions shall apply for the purpose of this rule:

(1) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

(2) "Stand-Alone Medicare Prescription Drug Plan (PDP):"

(a) means a prescription drug plan, offered by insurers and other private companies to provide Medicare Part D benefits under the Medicare Modernization Act; and

(b) does not include a Medicare prescription drug plan included in the benefit package offered by a Medicare Advantage company.

(3) "Medicare Advantage Company" means a company selling a Medicare authorized product replacing Medicare Part A and Part B benefits. Terms used in this rule are defined in Sections 31A-1-301 and 31A-22-620, and Rule R590-146. Additional terms are defined as follows:

(1) "Medicare Advantage company" means a company selling a Medicare Advantage plan.

(2)(a) "Stand-alone Medicare PDP" means a Medicare prescription drug plan offered by an insurer or a private company to provide Medicare Part D benefits.

(b) "Stand-alone Medicare PDP" does not mean a Medicare prescription drug plan included in the benefit package offered by a Medicare Advantage company.

### **R590-235-4. Licensure and Regulatory Requirements.**

[A PDP may be licensed and regulated as either a Utah domiciled health maintenance organization (HMO), a limited health plan (LHP), or an indemnity insurer, either Utah domiciled or foreign.

(1) Regulatory requirements for a Utah domiciled PDP organized as:

(a) an HMO or LHP are established by Title 31A, Chapter 8;

(b) an indemnity insurer are established by Title 31A, Chapter 5.

(2) Regulatory requirements for a foreign indemnity insurer are established by Title 31A, Chapter 14.

(3) A PDP is required to file Quarterly and Annual Statement Blanks in accordance with the instructions provided by the National Association of Insurance Commissioners (NAIC) and in accordance with Statutory Accounting Principles (SAP).

(4) A PDP applicant must apply for licensure using the NAIC Uniform Certificate of Authority Application forms:

(a) Primary Application Form for a domestic insurer PDP;

or  
(b) Expansion Application Form for a foreign indemnity insurer PDP.]

(1) A stand-alone Medicare PDP sponsor shall be licensed as a risk-bearing entity in the jurisdiction where the sponsor proposes to serve Medicare Part D beneficiaries.

(2) A stand-alone Medicare PDP may be licensed and regulated as either a Utah domiciled health maintenance organization (HMO), a limited health plan, or a Utah domiciled or foreign indemnity insurer.

(a) Regulatory requirements for a Utah domiciled stand-alone Medicare PDP organized as an HMO or limited health plan are established by Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(b) Regulatory requirements for a Utah domiciled stand-alone Medicare PDP organized as an indemnity insurer are established by Title 31A, Chapter 5, Domestic Stock and Mutual Insurance Corporations.

(c) Regulatory requirements for a foreign indemnity insurer are established by Title 31A, Chapter 14, Foreign Insurers.

(3) A stand-alone Medicare PDP shall file Quarterly and Annual Statement Blanks pursuant to the instructions provided by the NAIC and in accordance with statutory accounting principles.

(4) A stand-alone Medicare PDP applicant shall apply for licensure using the appropriate NAIC Uniform Certificate of Authority Application form:

(a) Primary Application Form, for a Utah domiciled insurer stand-alone Medicare PDP; or

(b) Expansion Application Form, for a foreign indemnity insurer stand-alone Medicare PDP.

### **R590-235-5. ~~[Minimum Capital and Surplus Requirements.~~**

(1) The minimum capital or permanent surplus requirement is:

(a) \$400,000 for indemnity insurers, whether domestic or foreign;

(b) \$100,000 for an HMO; and

(c) for an LHP:

(i) may not be less than \$10,000 or exceed \$100,000.

(ii) the actual amount is to be set by the commissioner after a hearing and consideration of various factors.

(2) Risk-Based Capital (RBC) requirements, as outlined in Section 31A-17-602, are applicable regardless of the license type.

### **R590-235-6. Enforcement Date.**

The commissioner will begin enforcing the provisions of this rule 45 days after adoption.

### **R590-235-7. Severability.**

[If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances may not be affected by it.] If any provision of this rule, Rule R590-235, 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: prescription drug plans**

**Date of Last Change: 2022[June 7, 2006]**

**Notice of Continuation: April 16, 2021**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Rule or Section Number:	R590-270	Filing ID: 54991

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room number:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

2. Rule or section catchline:
R590-270. Risk Adjustment Data Submission Requirements
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being repealed because the enacting statute, Section 31A-30-302, was repealed by H.B. 336 (passed in the 2017 General Session) effective 07/01/2019, and the Department of Insurance (Department) has not used this rule since that time.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is being repealed in its entirety.

**Fiscal Information**

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The enacting statute was repealed effective 07/01/2019 and the Department has not used this rule since that time.

**B) Local governments:**

There is no anticipated cost or savings to local governments. The enacting statute was repealed effective 07/01/2019 and the Department has not used this rule since that time.

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

There is no anticipated cost or savings to small businesses. The enacting statute was repealed effective 07/01/2019 and the Department has not used this rule since that time.

**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 enacting statute was repealed effective 07/01/2019 and the Department has not used this rule since that time.

**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 enacting statute was repealed effective 07/01/2019 and the Department has not used this rule since that time.

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

There are no compliance costs for any affected persons. This rule has not been actively used since 07/01/2019 and this rule is now being repealed.

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

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



<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.			

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 31A-30-302(3)(a)	Subsection 31A-30-302(4)(a)	

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	12/01/2022

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	10/14/2022
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**R590. Insurance, Administration.****~~R590-270. Risk Adjustment Data Submission Requirements.~~****~~R590-270 1. Authority.~~**

~~This rule is promulgated pursuant to Subsections 31A-30-302(3)(a) and (4)(a) wherein the commissioner may adopt a rule to require a carrier to submit data to the All Payer Claims Database (APCD).~~

**~~R590-270 2. Purpose.~~**

~~The purpose of this rule is to outline the responsibilities of a carrier with regard to the required data submission to the APCD that is necessary for the evaluation of a state-based risk adjustment program in the individual and small employer health benefit plan markets.~~

**~~R590-270 3. Applicability and Scope.~~**

- ~~(1) This rule applies:~~
- ~~(a) to a carrier that issues a risk adjustment covered plan to a Utah:~~
    - ~~(i) resident; or~~
    - ~~(ii) domiciled small employer; and~~
  - ~~(b) regardless of any limitations or exemptions offered in R428 rules or Section 26-33a-102, based on the number of covered individual Utah residents.~~
- ~~(2) This rule does not apply to a transitional health benefit plan.~~

**~~R590-270 4. Definitions.~~**

~~In addition to the definitions in Sections 31A-1-301 and 26-33a-102, and R428 rules, the following definitions apply for the purpose of this rule.~~

- ~~(1) "Non-grandfathered health plan" means a health benefit plan issued to an individual or small employer:~~
  - ~~(a) after March 23, 2010; or~~
  - ~~(b) on or before March 23, 2010 that lost grandfather status at a renewal that occurred after March 23, 2010.~~
- ~~(2) "Risk adjustment covered plan" means a plan as defined by 45 CFR 155.20.~~
- ~~(3) "Subscriber premium" means the monthly premium for the subscriber and associated dependents that correspond to the carrier's rate data template filed with the Utah Insurance Department.~~
- ~~(4) "Transitional plan" means a non-grandfathered health plan issued to an individual or small employer prior to January 1, 2014, that is renewed after January 1, 2014 pursuant to guidance issued by the United States Department of Health and Human Services Office for Consumer Information and Insurance Oversight dated November 14, 2013 and March 5, 2014.~~
- ~~(5) "APCD Carrier" means a carrier that is required to submit data to the APCD based on parameters outlined in R428 rules.~~
- ~~(6) "RA Carrier" means a carrier that is not required to submit data to the APCD based on parameters outlined in R428 rules; but issues risk adjustment covered plans where that plan is subject to risk adjustment in Utah.~~

**~~R590-270 5. APCD Carrier Data Submission Requirements.~~**

- ~~(1) An APCD Carrier shall submit complete and accurate data to the APCD as prescribed by R428 rules.~~
- ~~(2) For any submissions to the APCD on or after January 1, 2015, an APCD Carrier shall include in the medical eligibility file the DSG2.0 Additional Data Elements, which is hereby incorporated by reference and available on the Department's website at insurance.utah.gov.~~



~~\_\_\_\_\_ (a) The DSG2.0 Additional Data Elements shall be inserted into the medical eligibility file after all existing fields, that is, after field ME899.~~

~~\_\_\_\_\_ (b) The DSG2.0 Additional Data Elements may be submitted with null values for records that are not subject to risk adjustment as outlined in 45 CFR Section 156.80.~~

~~\_\_\_\_\_ (3) For any submissions to the APCD on or after January 1, 2015, an APCD Carrier shall submit data to the APCD for non-Utah residents if the individual receives coverage through a risk adjustment covered plan issued to a Utah domiciled small employer group.~~

~~\_\_\_\_\_ (4)(a) An APCD Carrier shall submit the required data to the APCD by the end of the month following the applicable data month.~~

~~\_\_\_\_\_ (b) Notwithstanding any exemption or extension requested under R428 rules, an APCD Carrier must provide to the APCD, in production format by August 31, 2014, at least all claims adjudicated on or after January 1, 2014 and ending on or before June 30, 2014.~~

~~\_\_\_\_\_ (5)(a) An APCD Carrier shall submit a one-time supplemental eligibility file to the Office of Health Care Statistics. The supplemental eligibility file shall:~~

~~\_\_\_\_\_ (i) be a supplement to the monthly medical eligibility file;~~  
~~\_\_\_\_\_ (ii) be submitted through a secure method agreed upon by OHCS;~~

~~\_\_\_\_\_ (iii) be submitted by November 1, 2014; and~~

~~\_\_\_\_\_ (iv) have a one to one match to records in the most recent available monthly medical eligibility file submitted to the APCD; and~~

~~\_\_\_\_\_ (b) The one-time supplemental eligibility file shall follow:~~

~~\_\_\_\_\_ (i) the record layout in the medical eligibility file in the One-time APCD Supplemental Eligibility File, which is hereby incorporated by reference and available on the Department's website at [insurance.utah.gov](http://insurance.utah.gov); or~~

~~\_\_\_\_\_ (ii) an alternative format as approved by the commissioner.~~

#### **~~R590-270-6. RA Carrier Data Submission Requirements.~~**

~~\_\_\_\_\_ (1) Starting January 1, 2015, a RA Carrier shall submit complete and accurate data to the APCD as prescribed by R428 rules, regardless of any limitations or exemptions offered in R428 rules or Section 26-33a-102 based on the number of covered individual Utah residents.~~

~~\_\_\_\_\_ (2) For any submissions to the APCD on or after January 1, 2015, a RA Carrier shall include the DSG2.0 Additional Data Elements in the medical eligibility file.~~

~~\_\_\_\_\_ (a) The DSG2.0 Additional Data Elements shall be inserted into the medical eligibility file after all existing fields, that is, after field ME899.~~

~~\_\_\_\_\_ (b) The DSG2.0 Additional Data Elements may be submitted with null values for records that are not subject to risk adjustment as outlined in 45 CFR Section 156.80.~~

~~\_\_\_\_\_ (3) For any submissions to the APCD on or after January 1, 2015, a RA Carrier shall submit data to the APCD for non-Utah residents if the covered individual receives coverage through a risk adjustment covered plan issued to a Utah domiciled small employer group.~~

~~\_\_\_\_\_ (4) A RA Carrier shall submit the required data to the APCD by the end of the month following the applicable data month.~~

~~\_\_\_\_\_ (5) The commissioner may approve an alternate submission method if a RA Carrier demonstrates to the satisfaction of the commissioner that the requirements of this rule impose an unreasonable burden to the RA Carrier and would place the RA Carrier in a state of supervision, insolvency, or liquidation.~~

#### **~~R590-270-7. Data Use Limitations.~~**

~~\_\_\_\_\_ The additional fields required by this rule will be used exclusively for purposes identified in Subsection 26-33a-106.1(1).~~

#### **~~R590-270-8. Penalties.~~**

~~\_\_\_\_\_ A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

#### **~~R590-270-9. Enforcement Date.~~**

~~\_\_\_\_\_ The commissioner will begin enforcing the provisions of this rule 45 days from the rule's effective date.~~

#### **~~R590-270-10. Severability.~~**

~~\_\_\_\_\_ If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.~~

**~~KEY: insurance, risk adjustment program~~**

**~~Date of Last Change: September 22, 2014~~**

**~~Notice of Continuation: September 20, 2019~~**

**~~Authorizing, and Implemented or Interpreted Law: 31A-30-302(3)(a) and (4)(a)]~~**

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

**TYPE OF RULE:** New

**Rule or Section Number:**

**R623-7**

**Filing ID:**  
**54985**

#### **Agency Information**

<b>1. Department:</b>	Lieutenant Governor	
<b>Agency:</b>	Elections	
<b>Room number:</b>	220	
<b>Street address:</b>	350 N State Street	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Mailing address:</b>	PO Box 142325	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2325	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ryan Cowley	801-538-1041	elections@utah.gov
Shelly Jackson	801-538-1041	elections@utah.gov

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

#### **General Information**

**2. Rule or section catchline:**

R623-7. Vote Tabulation Software Validation Rule

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

Section 20A-5-905 requires the director of elections within the Office of the Lieutenant Governor to make rules establishing software validation procedures that an election officer is required to comply with to verify that voting system files have not been tampered with.

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

Rule R623-7 establishes requirements and policies overseeing the software validation and voting equipment verification procedures for election officers and their designees. This rule also establishes record retention requirements for software validation and voting equipment verification procedures.

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

This rule simply provides requirements and guidelines for software validation and voting equipment verification procedures and does not include any direct fiscal cost or savings to the state budget. There is no requirement to purchase software in this rule. This rule is written to be performed by existing staff in the course of their normal duties. There is an option to bring in or hire outside staff, but that is certainly not required.

**B) Local governments:**

This rule simply provides requirements and guidelines for software validation and voting equipment verification procedures and does not include any direct fiscal cost or savings to local governments. There is no requirement to purchase software in this rule. This rule is written to be performed by existing staff in the course of their normal duties. There is an option to bring in or hire outside staff, but that is certainly not required or even likely for election officers.

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

This rule does not apply to small businesses and as such has no fiscal cost or savings to small businesses.

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

This rule does not apply to non-small businesses and as such has no fiscal cost or savings to non-small businesses.

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

This rule does not apply to other persons and as such has no fiscal cost or savings 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?):

There is no anticipated cost or savings to affected persons as none apply to this rule.

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

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

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

The Lieutenant Governor of Office of the Lieutenant Governor, Deidre M. Henderson, 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:**

Subsection 20A-5-905(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.)

<b>A) Comments will be accepted until:</b>		12/01/2022
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
11/03/2022	9:00AM	https://utah-gov.zoom.us/j/82589355403

<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Ryan Cowley, Director	<b>Date:</b>	10/21/2022
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**R623. Lieutenant Governor, Elections.****R623-7. Vote Tabulation Software Validation Rule.****R623-7-1. Purpose.**

Section 20A-5-905 requires the director of elections within the Office of the Lieutenant Governor to make rules establishing software validation procedures that an election officer shall comply with to verify that voting system files have not been tampered.

**R623-7-2. Authority.**

This rule is authorized by Subsection 20A-5-905(1) and enacted under the authority of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**R623-7-3. Definitions.**

In addition to the terms defined in Section 20A-1-102, the following definitions apply to this rule:

(1) "Designee" means a full-time employee of the election officer or a full-time employee of the political subdivision of the election officer given authority by the election officer to perform software validations.

(2) "Election Officer" means the county clerk or municipal clerk responsible for maintaining the system where the software is in use, or will be, installed.

(3) "Installation" means installing vote tabulation software, updating vote tabulation software, or overwriting existing vote tabulation software.

(4) "Software" means a computer program that is used to tabulate votes, otherwise generally known as an election management system (EMS), with the exception of software used in reference to Section 20A-4-6, Municipal Alternate Voting Methods Pilot Project.

(5) "Validation" means obtaining the hash validation of installed software and comparing it against the trusted build hash validation from the US Election Assistance Commission (EAC) using instructions approved by the lieutenant governor.

(6) "Voting Equipment" means equipment that is maintained and used by the election officer to scan, tabulate, or mark ballots; otherwise generally known as ballot marking devices and direct-recording electronic (DRE) voting machines.

**R623-7-4. General.**

(1) Software must be validated, with no errors or warnings, in accordance with this rule and Section 20A-5-802 at the time of installation and at least once every two years thereafter.

(2) The election officer shall validate software against the trusted build hash validation from the EAC using instructions approved by the lieutenant governor.

(3) Validation must be performed by the election officer, their designee, or someone authorized to perform the validation by the lieutenant governor.

(4) Before using any voting equipment, and before each election, the election officer shall verify that the firmware version on any voting equipment matches the firmware version that is certified by the EAC.

(5) The election officer shall make and retain a signed record of each software validation and voting equipment verification that is performed for 24 months after the software or voting equipment is no longer in use.

(6)(a) The lieutenant governor shall select at least five jurisdictions each year and supervise the performance of software validations and voting equipment verifications for those jurisdictions.

(b) These validations may be in addition to any other validation performed by the election officer.

(7) Nothing in this rule prevents an election officer from performing more validations than are required by this rule, but each validation must follow the procedures outlined in this rule.

**R623-7-5. Software Certification.**

(1) Software shall be certified in accordance with Subsection 20A-5-802(2)(a)(iii).

(2) Hash validation files are obtained by the Office of the Lieutenant Governor or the county clerk from:

(a) the EAC;

(b) or certifying lab described in Subsections 20A-5-802(2)(a)(iii)(A) and (B).

**R623-7-6. Software Installation.**

(1) Election officers must obtain written permission from the lieutenant governor before the installation of any software.

(2) The election officer, or their designee, must be always present during software installation.

(3) Before deploying the installation, the election officer, or their designee, must verify that they have a full backup of each election conducted within the last 22 months.

**R623-7-7. Software Validation.**

(1)(a) The election officer shall be responsible for ensuring that each computer with software on it is validated at the time of installation.

(b) If the hash values do not match then the software may not be used and the election officer shall notify the lieutenant governor within one business day of the identification of the mismatch.

(2) Systems must pass validation with no errors or warnings at the time of installation, or during any validation review, or they may not be used in an election until the system has been successfully validated.

(3) The election officer, or their designee, must be always present during the validation.

(4) The election officer or their designee must perform the validation, unless written permission is obtained from the Office of the Lieutenant Governor before the validation is performed.

**R623-7-8. Records.**

(1) A record of any vote tabulation software installations shall be made on a form provided by the lieutenant governor and shall be signed by the election officer, their designee if used, and the representative of the vendor who performed the installation, if used.

(2) The signed record of any software installations shall be retained by the election officer for 24 months after the software is no longer in use.

(3) At each canvass, the election officer shall certify that the software and voting equipment has been properly maintained in accordance with this rule and that a record of any installation performed on each piece of equipment has been kept in accordance with Subsection 20A-5-902(2).

**KEY: elections, lieutenant governor, software, validation, voting, equipment, hash**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: 20A-5-905(1)**

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Rule or Section Number:</b>	<b>R657-13</b>	<b>Filing ID: 54979</b>
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**Agency Information**

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	Wildlife Resources
<b>Room number:</b>	Suite 2110
<b>Street address:</b>	1594 W North Temple
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 146301
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6301

**Contact persons:**

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov

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

**General Information****2. Rule or section catchline:**

R657-13. Taking Fish and Crayfish

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

This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) fish and crayfish management program.

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

This rule is being amended to: 1) change the spearfishing closure date on Fish Lake from September 16 to September 10 annually; 2) allows for the use of dead yellow perch as bait in the Bear River from Cutler Reservoir Dam downriver to the Great Salt Lake; and 3) removes Roundtail chub from the list of prohibited species.

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

This amendment only changes a closure date, as well as adds additional opportunity to use bait, as well as the take of Roundtail chub, therefore, the DWR has determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

**B) Local governments:**

Since this amendment only changes a closure date, as well as adds additional opportunity to use bait, as well as the take of Roundtail chub this should have little to no effect on local governments. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by this rule. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

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

This amendment only changes a closure date, as well as adds additional opportunity to use bait, as well as the take of Roundtail chub, therefore, this rule does not impose any additional financial requirements on small businesses, nor generate a cost or saving impact to small businesses because this rule does not create a situation requiring services from them.

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

This amendment only changes a closure date, as well as adds additional opportunity to use bait, as well as the take of Roundtail chub, therefore, this rule does not impose any additional financial requirements on non-small businesses, nor generate a cost or saving impact to non-small businesses because the rule does not create a situation requiring services from them.

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

This amendment only changes a closure date, as well as adds additional opportunity to use bait, as well as the take of Roundtail chub, therefore, this rule does not impose any additional financial requirements on other persons, nor generate a cost or saving impact to other persons because the rule does not create a situation requiring services from them.

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

DWR has determined that this amendment will not create additional costs for those individuals wishing to participate in fishing in Utah.

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

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

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

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

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. The Executive Director of the Department of Natural Resources, Joel Ferry, 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 23-14-18	Section 23-14-19	Section 23-19-1
Section 23-22-3		

**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:** 12/01/2022

**9. This rule change MAY become effective on:** 12/08/2022

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



**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Shirley, Division Director	<b>Date:</b>	10/07/2022
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**R657. Natural Resources, Wildlife Resources.****R657-13. Taking Fish and Crayfish.****R657-13-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19[~~of the Utah Code~~], the Wildlife Board has established this rule for taking fish and crayfish.

(2) Specific dates, areas, methods of take, requirements and other administrative details which may change annually and are pertinent are published in the proclamation of the Wildlife Board for taking fish and crayfish.

**R657-13-9. Underwater Spearfishing.**

(1) A person possessing a valid Utah fishing or combination license may engage in underwater spearfishing, only as provided in this section.

(2) The following waters are open to underwater spearfishing from January 1 through December 31 for all species of game fish, unless specified otherwise by individual water:

- (a) Big Sand Wash Reservoir (Duchesne County);
- (b) Brown's Draw Reservoir (Duchesne County);
- (c) Causey Reservoir (Weber County);

(d) Deer Creek Reservoir (Wasatch County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(e) East Canyon Reservoir (Morgan County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(f) Echo Reservoir (Summit County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(g) Electric Lake (Emery County);

(h) Fish Lake (Sevier County), except underwater spearfishing for any game fish is closed from September ~~[46]~~10 to the first Saturday in June the following year;

(i) Flaming Gorge Reservoir (Daggett County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(j) Grantsville Reservoir (Tooele County);

(k) Lake Powell (Garfield, Kane and San Juan Counties), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(l) Newcastle Reservoir (Iron County), except underwater spearfishing is closed for all species of game fish other than wipers and rainbow trout;

(m) Pineview Reservoir (Weber County), except underwater spearfishing is closed for:

(i) largemouth and small mouth bass from April 1 through the fourth Saturday in June; and

(ii) tiger musky year round.

(n) Porcupine Reservoir (Cache County);

(o) Recapture Reservoir (San Juan County);

(p) Red Fleet Reservoir (Uintah County);

(q) Rockport Reservoir (Summit County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(r) Sand Lake (Uintah County);

(s) Smith-Moorehouse Reservoir (Summit County);

(t) Starvation Reservoir (Duchesne County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(u) Steinaker Reservoir (Uintah County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;

(v) Willard Bay Reservoir (Box Elder County); and

(w) Yuba Reservoir (Juab and Sanpete Counties).

(3) Nongame fish, excluding prohibited species listed in Section R657-13-13, may be taken by underwater spearfishing:

(a) in the waters listed in Subsection (2) and at Blue Lake (Tooele County) for tilapia and pacu only; and

(b) during the open angling season set for a given body of water.

(4) The waters listed in Subsections (2) and (3)(a) are the only waters open to underwater spearfishing for game or nongame fish, except carp may be taken by underwater spearfishing from any water open to angling during the open angling season set for a given body of water.

(5)(a) Underwater spearfishing is permitted from official sunrise to official sunset only, except burbot may be taken by underwater spearfishing at Flaming Gorge Reservoir (Daggett County) between official sunset and official sunrise.

(b) No other species of fish may be taken with underwater spearfishing techniques at Flaming Gorge Reservoir or any other water in the state between official sunset and official sunrise.

(6)(a) Use of artificial light is unlawful while engaged in underwater spearfishing, except artificial light may be used when underwater spearfishing for burbot at Flaming Gorge Reservoir (Daggett County).

(b) Artificial light may not be used when underwater spearfishing for fish species other than burbot at Flaming Gorge Reservoir.

(7) Free shafting is prohibited while engaged in underwater spearfishing.

(8) The daily limit and possession limit for underwater spearfishing is the same as the daily limit and possession limit applied to anglers using other techniques in the waters listed in Subsections (2) and (3)(a), and as identified in the annual Utah Fishing Guidebook issued by the Utah Wildlife Board.

**R657-13-12. Bait.**

(1) Use or possession of corn while fishing is lawful, except as otherwise prohibited by the Wildlife Board in the Fishing Guidebook.

(2) Use or possession of live baitfish while fishing is unlawful, except as authorized by the Wildlife Board in the Fishing Guidebook.

(3) Use or possession of tiger salamanders, ~~[(live or dead)]~~ while fishing is unlawful.

(4) Use or possession of any bait while fishing on waters designated artificial fly and lure only is unlawful.

(5) Use or possession of artificial baits which are commercially ~~[i]~~embedded or covered with fish or fish parts while fishing is unlawful.

(6) Use or possession of bait in the form of fresh or frozen fish or fish parts while fishing is unlawful, except as provided below and in Subsections (7) and (8).

(a) Dead Bonneville cisco may be used as bait only in Bear Lake.

(b) Dead yellow perch may be used as bait only in: Bear River from Cutler Reservoir Dam downriver to the Great Salt Lake.

Big Sand Wash, Deer Creek, Echo, Fish Lake, Gunnison, Hyrum, Johnson, Jordanelle, Mantua, Mill Meadow, Newton, Pineview, Red Fleet, Rockport, Starvation, Utah Lake, Willard Bay and Yuba reservoirs.

(c) Dead white bass may be used as bait only in Utah Lake and the Jordan River.

(d) Dead shad, from Lake Powell, may be used as bait only in Lake Powell. Dead shad must not be removed from the Glen Canyon National Recreation Area.

(e) Dead striped bass, from Lake Powell, may be used as bait only in Lake Powell.

(f) Dead fresh or frozen salt water species including sardines and anchovies may be used as bait in any water where bait is permitted.

(g) Dead mountain sucker, white sucker, Utah sucker, reidside shiner, speckled dace, mottled sculpin, fat head minnow, [all color variants including rosy red minnows], Utah chub, and common carp may be used as bait in any water where bait is permitted.

(h) Dead burbot, from Flaming Gorge Reservoir, may be used as bait only in Flaming Gorge Reservoir.

(7) Commercially prepared and chemically treated baitfish or their parts may be used as bait in any water where bait is permitted.

(8) The eggs of any species of fish caught in Utah, except prohibited fish, may be used in any water where bait is permitted. However, eggs may not be taken or used from fish that are being released.

(9) Use of live crayfish for bait is legal only on the water where the crayfish is captured. It is unlawful to transport live crayfish away from the water where captured.

(10) Manufactured, human-made items that may not be digestible, that are chemically treated with food stuffs, chemical fish attractants, or feeding stimulants may not be used on waters where bait is prohibited.

(11) On any water declared infested by the Wildlife Board with an aquatic invasive species, or that is subject to a closure order or control plan under Rule R657-60, it shall be unlawful to transport any species of baitfish, [live or dead,] from the infested water for use as bait in any other water of the State. Baitfish are defined as those species listed in Subsections (5)(b), (5)(c), (5)(f) and (8).

#### **R657-13-13. Prohibited Fish.**

(1) The following species of fish are classified as prohibited and may not be taken or held in possession:

- (a) Bonytail (*Gila elegans*);
- (b) Bluehead sucker (*Catostomus discobolus*);
- (c) Colorado pikeminnow (*Ptychocheilus lucius*);
- (d) Flannelmouth sucker (*Catostomus latipinnis*);
- (e) Gizzard shad (*Dorosoma cepedianum*), except at Lake

Powell;

- (f) Grass carp (*Ctenopharyngodon idella*);
- (g) Humpback chub (*Gila cypha*);
- (h) June sucker (*Chasmistes liorus*);
- (i) Least chub (*Iotichthys phlegethontis*);
- (j) Northern Leatherside chub (*Lepidomeda copei*);
- (k) Razorback sucker (*Xyrauchen texanus*);
- (l) ~~Roundtail chub (*Gila robusta*)~~
- ~~(m)~~ Southern Leatherside chub (*Lepidomeda aliciae*);
- ~~(n)~~ Virgin River chub (*Gila seminuda*);
- ~~(o)~~ Virgin spinedace (*Lepidomeda mollispinis*); and
- ~~(p)~~ Woundfin (*Plagopterus argenteus*).

(2) Any of these species taken while attempting to take other legal species shall be immediately released.

**KEY: fish, fishing, wildlife, wildlife law**

**Date of Last Change:** ~~May 9,~~ 2022

**Notice of Continuation:** August 24, 2022

**Authorizing and Implemented or Interpreted Law:** 23-14-18; 23-14-19; 23-19-1; 23-22-3

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

**TYPE OF RULE:** Amendment

<b>Rule or Section Number:</b>	<b>R657-14</b>	<b>Filing ID:</b> <b>54980</b>
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#### **Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Wildlife Resources	
<b>Room number:</b>	Suite 2110	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146301	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6301	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov

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

#### **General Information**

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

R657-14. Commercial Harvesting of Protected Aquatic Wildlife

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

This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) commercial harvesting of protected aquatic wildlife management program.

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

This rule is being amended to remove Roundtail chub from the list of prohibited species.



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

This amendment only removes Roundtail chub from the list of prohibited species, therefore the DWR has determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

**B) Local governments:**

Since this amendment only removes Roundtail chub from the list of prohibited species, this should have little to no effect on the local governments. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by this rule. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

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

This amendment only removes Roundtail chub from the list of prohibited species, therefore, this rule does not impose any additional financial requirements on small businesses, nor generate a cost or saving impact to small businesses because this rule does not create a situation requiring services from them.

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

This amendment only removes Roundtail chub from the list of prohibited species, therefore, this rule does not impose any additional financial requirements on non-small businesses, nor generate a cost or saving impact to non-small businesses because this rule does not create a situation requiring services from them.

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

This amendment only removes Roundtail chub from the list of prohibited species, therefore, this rule does not impose any additional financial requirements on other persons, nor generate a cost or saving impact to other persons because this rule does not create a situation requiring services from them.

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

DWR has determined that this amendment will not create additional costs for those individuals wishing to participate in fishing in Utah.

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

**Regulatory Impact Table**

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

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

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. The Executive Director of the Department of Natural Resources, Joel Ferry, 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 23-14-18	Section 23-14-19	Section 23-13-13
Section 23-15-7	Section 23-15-8	Section 23-15-9
Section 23-14-3		

**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:** 12/01/2022

**9. This rule change MAY become effective on:** 12/8/2022

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Shirley, Division Director	<b>Date:</b>	10/07/2022
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**R657. Natural Resources, Wildlife Resources.****R657-14. Commercial Harvesting of Protected Aquatic Wildlife.****R657-14-1. Purpose and Authority.**

(1)(a) Under authority of Sections 23-14-3, 23-14-18, and 23-14-19, and Sections 23-15-7 through 23-15-9, this rule provides the procedures, standards, and requirements for:

(i) harvesting protected aquatic wildlife for use as fish bait; and

(ii) seining protected aquatic wildlife.

(b) The commercial harvesting of brine shrimp and brine shrimp eggs is regulated under Rule R657-52.

**R657-14-8. Prohibited Nongame Species.**

The following species of protected aquatic wildlife may not be harvested, and if caught must be immediately returned alive and unharmed to the water from which it was taken:

- (1) bonytail (*Gila elegans*);
- (2) bluehead sucker (*Catostomus discobolus*);
- (3) Colorado pikeminnow (*Ptychocheilus lucius*);
- (4) flannelmouth sucker (*Catostomus latipinnis*);
- (5) gizzard shad (*Dorosoma cepedianum*);
- (6) grass carp (*Ctenopharyngodon idella*);
- (7) humpback chub (*Gila cypha*);
- (8) June sucker (*Chasmistes liorus*);
- (9) least chub (*Notichthys phlegethontis*);
- (10) leatherside chub (*Gila cypha*);
- (11) razorback sucker (*Xyrauchen texanus*);
- (12) ~~roundtail~~ Virgin River chub (*Gila robusta seminuda*);
- (13) ~~Virgin River chub~~ (*Gila robusta seminuda*);
- (14) Virgin spinedace (*Lepidomeda mollispinis*); and
- (15) ~~14~~ woundfin (*Plagopterus argentissimus*).

**KEY:** game laws, bait dealers, commercialization of aquatic wildlife

**Date of Last Change:** ~~2022~~ September 4, 2002

**Notice of Continuation:** May 17, 2022

**Authorizing, and Implemented or Interpreted Law:** 23-14-18; 23-14-19; 23-13-13; 23-15-7; 23-15-8; 23-15-9; 23-14-3

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal and Reenact

<b>Rule or Section Number:</b>	<b>R657-43</b>	<b>Filing ID:</b> <b>54982</b>
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**Agency Information**

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	Wildlife Resources
<b>Room number:</b>	Suite 2110
<b>Street address:</b>	1594 W North Temple
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 146301
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6301
<b>Contact persons:</b>	
<b>Name:</b>	<b>Phone:</b> <b>Email:</b>
Staci Coons	801-450-3093 stacicoons@utah.gov

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

**General Information****2. Rule or section catchline:**

R657-43. Landowner Permits

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

Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate the management of big game species. This rule provides the standards and procedures for private landowners to obtain landowner permits for taking specific big game species from the landowner's property.

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

The Division of Wildlife Resources (DWR) formed a diverse committee that met nine times over the course of a year to revise the Landowner Permit rule (Rule R657-43). This rule provides the standards and procedures for the management of general season landowner buck deer permits and limited entry Landowner Association (LOA) vouchers for deer, elk, and pronghorn. The following is a summary of the proposed changes and other pertinent information in the rule. General season permits: 1) instead of each region receiving 600 permits, permits will be issued on a unit by unit basis; 2) for each unit to receive 3% additional permits from the approved permit numbers for the unit; 3) the permits will go into a special landowner draw where qualified applicants can potentially receive a

permit; 4) Landowner appreciation permits will be combined with the general season permits; 5) the draw will take place after the general season draw so landowners will know if they drew a permit; 6) the landowner applicant that draws will receive vouchers that can be given to a qualifying individual to redeem; 7) a landowner can qualify with 640 acres of deer habitat or 100 acres of cropland that are being used by deer; 8) a maximum of five permits can be obtained by a landowner; 9) Limited Entry LOA vouchers; more than 50% of qualifying private land must be enrolled in the LOA; 10) vouchers will be determined by a formula: the percentage of private habitat enrolled in the LOA is the percentage of the permits for the unit that will be issued to the LOA as vouchers; 11) public hunter access will be allocated based on drawing number; 12) all LOA land is open to hunters who have purchased a private voucher and to public hunters who gained access through the drawing; 13) the LOA is responsible for describing how access will be administered and for including all access rules in their application; 14) all LOA presidents will need to attend an annual training to help ensure compliance with the rule; 15) there were two options proposed under the LOA rule, Option 1 Vouchers issued to the LOA are valid for the entire unit and the number of vouchers the LOA receives is the number of public hunters that will be allowed access to LOA private lands; Option 2 Vouchers issued to the LOA are valid for only the private lands in the LOA and the LOA retains 80% of the issued vouchers and allows public access to the equivalent of 20%; 16) the rule will also establish an LOA advisory committee; 17) clarify that individual landowners in an LOA could be held accountable before action was taken against the entire LOA; 18) program performance metrics would have input from LOA's; and 19) modify the language to clarify LOA's and the DWR will work together cooperatively.

This rule was presented at 12 public meetings and gathered public comment for two 45-day periods in addition to the meetings attended by the committee.

## Fiscal Information

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

#### A) State budget:

The amendments to Rule R657-43 are program changes that are administrative in nature for the DWR. DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR does not believe that these amendments would create a cost or savings impact to the state budget or DWR's budget since the changes will not increase workload and can be carried out with existing budget.

#### B) Local governments:

Since the proposed amendments redefine an existing program clarifying requirements and restrictions this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly

impacted because this rule does not create a situation requiring services from local governments.

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

This amendment redefines an existing Landowner program, the LOA's are not regulated as a small business therefore, this rule does not impose any additional financial requirements on small businesses, nor generate a cost or saving impact to small businesses because this rule does not create a situation requiring services from them.

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

This amendment redefines an existing Landowner program, the LOA's are not regulated as a non-small business nor do they have an employer/employee relationship therefore, this rule does not impose any additional financial requirements on small non-businesses, nor generate a cost or saving impact to small non-businesses because this rule does not create a situation requiring services from them.

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

The rule amendments do have the potential to effect the number of vouchers being issued to each LOA. Because the vouchers are based on the market the LOA's that may decrease in permit numbers may actually see an increase in the tag price and may not have a financial loss. A majority of the LOA's were receiving vouchers recommended at the same rate and will see no change. There has always been potential for the vouchers to increase or decrease each year however, some of the vouchers consistently sell for more than \$40,000. DWR has determined that this could remain the same.

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

DWR has determined that there will be no change in cost for those wishing to participate as a Landowner Association in the program.

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

##### Regulatory Impact Table

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

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.			

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 23-14-18	Section 23-14-19	

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	12/01/2022
<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Shirley, Division Director	<b>Date:</b>	10/07/2022
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**R657. Natural Resources, Wildlife Resources.****R657-43. Landowner Permits.****[R657-43-1. Purpose and Authority.**

~~(1) Under authority of Sections 23-14-18 and 23-14-19, this rule provides the standards and procedures for private landowners to obtain landowner permits for:~~

~~(a) taking buck deer within the general unit hunt boundary area where the landowner's property is located during the general deer hunt only; and~~

~~(b) taking bull elk, buck deer or buck pronghorn within a limited entry unit.~~

~~(2) In addition to this rule, any person who receives a landowner permit must abide by Rule R657-5 and the guidebook of the Wildlife Board for taking big game.~~

~~(3) The intent of the general landowner buck deer permit is to provide an opportunity for landowners, lessees, or their immediate family, whose property provides habitat for deer, to purchase a general deer permit for the general unit hunt boundary area where the landowner's property is located.~~

~~(4) The intent of the landowner appreciation permit is to provide an opportunity for landowners and their immediate family, whose property provides habitat for migratory deer, to purchase a general deer permit for the general unit hunt boundary where the landowner's property is located.~~

~~(5) The intent of the limited entry landowner permit is to provide an opportunity for landowners, whose property provides habitat for deer, elk, or pronghorn, to be allocated a restricted number of permits for a limited entry bull elk, buck deer, or buck pronghorn unit, where the landowner's property is located. Allowing landowners a restricted number of permits:~~

~~(a) encourages landowners to manage their land for wildlife;~~

~~(b) compensates the landowner for providing private land as habitat for wildlife; and~~

~~(c) allows the division to increase big game numbers on specific units.~~

**R657-43-2. Definitions.**

~~(1) Terms used in this rule are defined in Section 23-13-2.~~

~~(2) In addition:~~

~~(a) "Eligible property" means:~~

~~(i) private land that provides habitat for deer, elk or pronghorn as determined by the division of Wildlife Resources;~~

~~(ii) private land that is not used in the operation of a Cooperative Wildlife Management Unit;~~

~~(iii) private land that is not used in the operation of an elk farm or elk hunting park;~~

~~(iv) land in agricultural use as provided in Section 59-2-502 and eligible for agricultural use valuation as provided in Sections 59-2-503 and 59-2-504; and~~

~~(v) private land having one or more of the following attributes:~~

~~(A) for the purpose of receiving general buck deer permits, a minimum of 640 acres of private land owned or leased by one landowner within the general unit hunt boundary;~~

~~(B) for the purposes of receiving a landowner appreciation permit, a minimum of 100 acres of cultivated and mechanically~~

harvested crop lands that, in the discretion of the division, is relied upon by migratory deer to meet herd management objectives;

~~(C) for the purposes of receiving a limited entry permit or voucher, private land, including crop lands, owned by members of a landowner association that is within a limited entry unit.~~

~~(b) "Immediate family" means the landowner's or lessee's spouse, children, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchildren, and grandchildren.~~

~~(c) "Landowner" means any person, partnership, or corporation who owns property in Utah and whose name appears on a deed as the owner of eligible property or whose name appears as the purchaser on a contract for sale of eligible property.~~

~~(d) "Landowner association" means an organization of private landowners who own property within a limited entry unit, organized for the purpose of working with the division.~~

~~(e) "Lessee" means any person, partnership, or corporation whose name appears as the Lessee on a written lease, for at least a one year period, for eligible property used for farming or ranching purposes, and who is in actual physical control of the eligible property.~~

~~(f) "Limited entry unit" means a specified geographical area that is closed to hunting deer, elk or pronghorn to any person who has not obtained a valid permit to hunt in that unit.~~

~~(g) "Voucher" means a document issued by the division to a landowner, landowner association, or Cooperative Wildlife Management Unit operator, allowing a landowner, landowner association, or Cooperative Wildlife Management Unit operator to designate who may purchase a landowner big game hunting permit from a division office.~~

#### **~~R657 43 3. Qualifications for General Landowner Buck Deer Permits.~~**

~~(1) The director, upon approval of the Wildlife Board, may establish a number of general landowner buck deer permits within each region to be offered to eligible landowners, lessees, and members of their immediate family for the general deer hunting season only.~~

~~(2) Only private lands will be considered in qualifying for general landowner buck deer permits. Public or state lands are not eligible.~~

~~(3) Crop lands will be considered in qualifying for general landowner buck deer permits if the crop lands provide habitat for deer and contribute to meeting unit management plan objectives.~~

~~(4) General landowner buck deer permits are limited to resident or nonresident landowners or lessees, and members of their immediate family.~~

~~(5)(a) An individual who receives a general landowner buck deer permit may not receive a landowner appreciation permit for the same year.~~

~~(b) If one or more general landowner buck deer permits are awarded based on an identified parcel of eligible property, landowner appreciation permits may not be awarded for that identified parcel of eligible property during that same year.~~

#### **~~R657 43 4. Qualifications for Landowner Appreciation Permits.~~**

~~(1) The director, upon approval of the Wildlife Board, may establish a number of landowner appreciation permits within each unit to be offered to eligible landowners and members of their immediate family for the general deer hunting season only.~~

~~(2) Only private lands will be considered in qualifying for landowner appreciation permits. Public or state lands are not eligible.~~

~~(3) Private lands must:~~

~~(a) be relied upon by migratory deer for habitat; and~~

~~(b) in the discretion of the division, substantially contribute to the deer herd using the private lands in meeting its management objective.~~

~~(4)(a) Landowner appreciation permits are limited to resident or nonresident landowners and members of their immediate family.~~

~~(b) Lessees do not qualify for landowner appreciation permits.~~

~~(5)(a) An individual receiving a landowner appreciation permit may not receive a general landowner buck deer permit in the same year.~~

~~(b) If a landowner appreciation permit is awarded based on an identified parcel of eligible property, general landowner buck deer permits may not be awarded for that identified parcel of eligible property during that same year.~~

#### **~~R657 43 5. Qualifications for Limited Entry Permits.~~**

~~(1) The Director, upon approval of the Wildlife Board, may establish a number of bull elk, buck deer and buck pronghorn limited entry permits to be offered to an eligible landowner association.~~

~~(2) Except as provided in R657 43 10(1)(b), limited entry landowner permits are available for taking buck deer, bull elk or buck pronghorn, and may only be used on designated limited entry units.~~

~~(3) Only private lands that do not qualify for Cooperative Wildlife Management Units will be considered for limited entry landowner permits. Public or state lands are not eligible.~~

~~(4) Only private lands that qualify as eligible property will be considered for limited entry landowner permits.~~

~~(5) Applications for limited entry landowner permits will be received from landowner associations only.~~

~~(6) Only one landowner association, per species, may be formed for each limited entry unit as follows:~~

~~(a) A landowner association may be formed only if a simple majority of landowners, representing 51 percent of the eligible private lands within the herd unit, enter into a written agreement to form the association.~~

~~(b) The association may not unreasonably restrict membership to other qualified landowners in the unit.~~

~~(c) Each landowner association must elect a chairperson to represent the landowner association.~~

~~(d) The landowner association chairperson shall act as liaison with the division and the Wildlife Board.~~

~~(e) A landowner or landowner association may not restrict legal established passage through private land to access public lands for the purpose of hunting.~~

#### **~~R657 43 6. Application for General Landowner Buck Deer Permits.~~**

~~(1) Applications for general landowner buck deer permits are available from division offices.~~

~~(2) Only one eligible landowner or lessee may submit an application for the same parcel of land within the respective general unit hunt boundary area.~~

~~(3) In cases where more than one application is received for the same parcel of land, all applications will be rejected.~~

~~(4) Applications must include:~~

~~(a) total acres of eligible property owned within the respective general unit hunt boundary area;~~

~~(b) the signature of all landowners or lessees having an interest in the eligible property; and~~

~~(c) a map of the eligible property indicating the county and general unit within which it is located.~~

~~(5) In cases where the landowner's or lessee's land is in more than one general unit hunt boundary area, the landowner or lessee may select one of those units from which to receive the permit.~~

~~(6) a non-refundable handling fee must accompany each application.~~

~~(7) An individual may not apply for or obtain a general landowner buck deer permit without possessing a valid Utah hunting or combination license.~~

~~(8) Applications will be available by May 1 and must be received by October 1 of each year.~~

~~(9) Applications must be submitted to the regional division office managing the general hunting unit that the applicant applies for.~~

~~(10) The landowner or lessee signature on the application serves as an affidavit of the landowner or lessee certifying ownership of the eligible property.~~

#### **R657 43 7. Application for Landowner Appreciation Permits.**

~~(1) Applications for landowner appreciation permits are available from division offices.~~

~~(2) Only one eligible landowner may submit an application for the same parcel of eligible property within the respective general unit boundary area.~~

~~(3) In cases where more than one application is received for the same parcel of eligible property, all duplicate applications will be rejected.~~

~~(4) Applications must include:~~

~~(a) total acres of eligible property owned within the respective general unit hunt boundary area;~~

~~(b) the signature of all landowners having an interest in the property; and~~

~~(c) a map of the eligible property indicating the county and unit within which it is located.~~

~~(5) In cases where a landowner's land is in more than one general unit hunt boundary, the landowner must select one of those units from which to receive a permit.~~

~~(6) A non-refundable handling fee must accompany each application.~~

~~(7) An individual may not apply for or obtain a landowner appreciation permit without possessing a valid Utah hunting or combination license.~~

~~(8) Applications will be available by May 1 and must be received by October 1 of each year.~~

~~(9) Applications must be submitted to the regional division office managing the general hunting unit that the applicant applies for.~~

~~(10) The landowner's signature on the application serves as an affidavit of the landowner certifying ownership of the eligible property.~~

#### **R657 43 8. Application for Limited Entry Permits.**

~~(1) Applications for limited entry landowner permits are available from division offices.~~

~~(2) Applications to receive limited entry landowner permits must be submitted by a landowner association for lands within the limited entry hunt unit where the private lands are located.~~

~~(3) Applications must include:~~

~~(a) total acres owned by the association within the limited entry hunting unit and a map indicating the eligible property acting as big game habitat;~~

~~(b) signature of each of the landowners within the association including acres owned, with said signature serving as an affidavit certifying ownership;~~

~~(c) a distribution plan for the allocation of limited entry permits by the association;~~

~~(d) a copy of the association by-laws; and~~

~~(e) a non-refundable handling fee.~~

~~(4) The division may provide a landowner association assistance in preparing the application.~~

~~(5) Applications must be completed and returned to the appropriate division office by September 1st of the year prior to when hunting is to occur.~~

~~(6) The division shall forward the application, its recommendation, and other related documentation to the Regional Wildlife Advisory Councils for public review and consideration.~~

~~(7) Recommendations by the Councils will then be forwarded to the Wildlife Board for review and action.~~

~~(8) Upon receiving the application, and recommendations from the Regional Advisory Councils and the division, the Wildlife Board may:~~

~~(a) authorize the issuance of a three year certificate of registration allowing the landowner association to operate; or~~

~~(b) deny or partially deny the application and provide the landowner association with reasons for the decision.~~

~~(9)(a) A landowner association certificate of registration, including any variance granted under R657 43 8(6), must be renewed every three years.~~

~~(b)(i) Notwithstanding Subsection (9)(a), the Wildlife Board may annually modify permit types, numbers, and associated seasons authorized in a certificate of registration when necessary to achieve unit management objectives or otherwise comply with applicable law.~~

~~(ii) The division shall annually review the permit types, numbers, and seasons authorized by a certificate of registration issued under this Section and recommend modifications when necessary to achieve unit management objectives or otherwise comply with applicable law.~~

~~(iii) The division's recommendation and accompanying justification will be forwarded to the affected landowner association and the Regional Advisory Councils for review and recommendation.~~

~~(iv) The Wildlife Board shall consider the recommendations made by the division, Regional Advisory Councils, and landowner association and make a final decision on the proposed modifications consistent with the requirements in Subsection (9)(b).~~

~~(10)(a) A landowner association may petition to amend a certificate of registration upon submitting a written request to the regional division office where the landowner association is located.~~

~~(b) Amendment of the certificate of registration is required for changes in:~~

~~(i) permit numbers;~~

~~(ii) a landowner association's:~~

~~(A) by-laws; or~~

~~(B) distribution plan for the allocation of limited entry permits among its members;~~

~~(iii) acreage;~~

~~(iv) land ownership; or~~

~~(v) any other matter related to the management and operation of the landowner association not originally included in the certificate of registration.~~

~~(c) Requests for amendments dealing with permit numbers or permit allocation among association members:~~



~~(i) may be initiated by the landowner association or the division;~~  
~~(ii) are due on September 1st of the year prior to when hunting is to occur; and~~  
~~(iii) shall be forwarded to the Regional Advisory Councils and Wildlife Board for consideration and approval.~~  
~~(A) Upon approval by the Wildlife Board, an amendment to the original certificate of registration shall be issued in writing.~~  
~~(d) All other requests for amendments shall be reviewed by the region and Wildlife Section and, upon approval by the division director, an amendment to the original certificate of registration shall be issued in writing.~~

**~~R657-43-9. Availability of General Landowner Permits and Landowner Appreciation Permits; Associated Season Dates.~~**

~~(1) The following number of general landowner buck deer permits may be available to a landowner or lessee:~~  
~~(a) one general landowner buck deer permit may be issued for eligible property of 640 acres; and~~  
~~(b) one additional general landowner buck deer permit may be issued for each additional 640 acres of eligible property.~~  
~~(c) If an individual has both owned and leased eligible property, the acreage may be combined in determining the number of permits to be issued.~~  
~~(2)(a) Only one landowner appreciation permit may be issued annually to a qualifying landowner or member of their immediate family, regardless of if that landowner owns more than 100 acres of eligible property.~~  
~~(b) Only one landowner appreciation permit may be issued per parcel of eligible property.~~  
~~(3) Successful applicants for the general landowner buck deer permit and the landowner appreciation permit may select only one season (archery, rifle or muzzleloader) for their permit, as provided in the guidebook of the Wildlife Board for taking big game.~~  
~~(4)(a) General landowner buck deer permits and landowner appreciation permits are for personal use only and may not be transferred to any other person.~~  
~~(b) If the landowner or lessee is a corporation, the person eligible for the permit must be a shareholder, or immediate family member of a shareholder, designated by the corporation.~~  
~~(5) Any person who is issued a general landowner buck deer permit or a landowner appreciation permit under this rule is subject to all season dates, weapon restrictions and any other regulations as provided in the guidebook of the Wildlife Board for taking big game.~~  
~~(6) The fee for a general landowner buck deer permit and landowner appreciation permit is the same as the fee for a general season, general archery or general muzzleloader buck deer permit.~~  
~~(7) Nothing in this rule shall be construed to allow any person to obtain more than one general buck deer permit from any source or take more than one buck deer during any one year.~~  
~~(8) Permits will be issued beginning in June, in the order that applications are received, and permits will continue to be issued until all permits for each region have been issued.~~  
~~(9) To receive a general landowner buck deer permit or landowner appreciation permit, the eligible person must possess or obtain a valid Utah hunting or combination license.~~

**~~R657-43-10. Limited Entry Permits and Season Dates.~~**

~~(1)(a) Only bull elk, buck deer or buck pronghorn limited entry permits may be applied for by the landowner association.~~

~~(b) A landowner association may not apply for or receive a:~~  
~~(i) multi-season hunting opportunity on any limited entry hunt under R657-5; or~~  
~~(ii) late season limited entry buck deer permits on a general season unit under R657-5-26(1)(b).~~  
~~(2)(a) The division and landowner chairperson should jointly recommend the number of permits to be issued to the landowner association.~~  
~~(b) If consensus between the landowner chairperson and the division on recommended permit numbers cannot be reached, a request for permits may be submitted by the landowner association along with a recommendation from the division for review by the Wildlife Regional Advisory Councils and the Wildlife Board.~~  
~~(3) Permit numbers shall fall within the herd unit management guidelines. Permit numbers will be based on:~~  
~~(a) the percent of eligible property within the unit that is enrolled in a landowner association and serves as big game habitat; or~~  
~~(b) the percentage of use by wildlife on eligible property enrolled in a landowner association.~~  
~~(4) Landowners receiving vouchers may personally use the vouchers or reassign the vouchers to any legal hunter.~~  
~~(5) All landowners who receive vouchers must:~~  
~~(a) allow hunters who redeemed a voucher from that landowner access to the landowner's private lands included within the landowner association for hunting; and~~  
~~(b) allow a number of public hunters with valid permits, equivalent to the number of vouchers the landowner received that year, to access the landowner's private land for hunting during the appropriate limited entry bull elk, buck deer or buck pronghorn hunting season, except as provided in Subsection (6).~~  
~~(6)(a) Landowners receiving vouchers may deny public hunters access to the landowner association's private land for hunting by receiving, through the landowner association, a variance to Subsection (5)(b) from the Wildlife Board.~~  
~~(b) The requested variance must be provided by the landowner association in writing to the division 30 days prior to the appropriate Regional Advisory Council meeting scheduled to review Rule R657-5 and the guidebook of the Wildlife Board for taking big game.~~  
~~(c) The variance request must be presented by the landowner association to the appropriate local Regional Wildlife Advisory Council. The local Regional Wildlife Advisory Council shall forward a recommendation to the Wildlife Board for consideration and action.~~  
~~(7)(a) Any person who is issued a limited entry landowner permit must follow the season dates, weapon restrictions and any other regulations governing the taking of big game as specified in Rule R657-5 and the guidebook of the Wildlife Board for taking big game.~~  
~~(b) to receive a limited entry landowner permit, the person designated on the voucher must possess or obtain a Utah hunting or combination license.~~  
~~(8) A limited entry landowner permit authorizes the permittee to hunt within the limited entry unit where the eligible property is located.~~  
~~(9) Nothing in this rule shall be construed to allow any person, including a landowner, to take more than one buck deer, one bull elk or one buck pronghorn during any one year.~~



**R657-43-11. Limited Entry Permit Allocation and Fees.**

(1) In order to qualify for limited entry landowner permits, a landowner association must document and upon request provide to the division:

(a) a list of landowners within the landowner association receiving vouchers for the previous year, if applicable;

(b) the number of public hunters who contacted the landowner association during the previous year requesting access to private lands within the landowner association, if applicable; and

(c) the landowners that actually provided access during the previous year to public hunters for the limited entry hunt, if applicable.

(2) If a landowner association distributes vouchers for members of the landowner association and the proceeds are distributed among members of the landowner association, the public access provisions described in R657-43-10(5) shall apply to all landowners receiving benefit from distribution of those proceeds.

(3) The division may deny a request for limited entry landowner permits if the landowner association fails to provide requested documentation from the previous year.

(4) Upon approval of the Wildlife Board, the division shall issue vouchers to landowner associations that may be used to purchase limited entry permits from division offices.

(5) The fee for any limited entry landowner permit is the same as the cost of similar limited entry buck deer, bull elk or buck pronghorn limited entry permits.

**R657-43-12. Limited Entry Permit Conflict Resolution.**

(1)(a) If landowners representing a simple majority of the private land within a landowner association are not able to resolve any dispute or conflict arising from the distribution of permits or other disagreement within its discretion and arising from the operation of the landowner association, the permits allocated to the landowner association shall be made available to the general public by the division.

(b) Landowner associations may be eligible to receive landowner permits in subsequent years if the landowner association resolves the conflict or dispute by a simple majority of the landowners.

(2) The division shall not issue landowner permits to a landowner association that has not complied with the provisions of this rule.]

**R657-43-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, this rule provides the standards and procedures for landowners to qualify for and obtain big game hunting opportunities in recognition of the benefits their private properties provide to wildlife resources in Utah.

(2)(a) The division shall offer a program providing opportunities for general season big game hunts, "General Season Landowner Permits", and a program providing limited entry big game hunts, "Limited Entry Landowner Permits".

(b) The division shall offer buck deer permits under both programs.

(c) The division shall offer buck pronghorn and bull elk permits under the Limited Entry Landowner Permit program only.

(3) The Landowner permit programs are intended to:

(a) provide an incentive for private landowners to manage their lands as quality habitat for public wildlife;

(b) assist and support the division in managing big game populations;

(c) increase private Landowner tolerance of big game on their Private Lands;

(d) increase big game hunting opportunities;

(e) increase and secure public hunting access on participating Landowners' Private Lands;

(f) reduce the division's obligations in responding to and compensating for depredation events occurring on participating Private Lands;

(g) use objective criteria to determine how hunting opportunities are allocated under the programs; and

(h) allocate hunting opportunities in a manner that fluctuates in proportion to variations in public draw permit numbers.

**R657-43-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Applicant" means a Landowner applying to participate in the General Season Landowner Permit program or the Limited Entry Landowner Permit program.

(b) "Cropland" means agricultural Private Land that is cultivated and mechanically harvested and upon which the division has determined that migratory deer rely to meet herd management objectives.

(c) "Draw Application" means that application for Permits submitted to the division after the Applicant has been approved to participate in the program.

(d) "Eligible Property" means:

(i) Private Land that provides habitat for deer, elk or pronghorn as determined by the division;

(ii) Private Land that is not used in the operation of a Cooperative Wildlife Management Unit;

(iii) Private Land that is not used in the operation of an elk farm or elk hunting park;

(iv) Private Land in agricultural use as provided in Section 59-2-502 and eligible for agricultural use valuation as provided in Sections 59-2-503 and 59-2-504; and

(v) Private Land having one or more of the following attributes:

(A) for the purpose of receiving general buck deer permits, a minimum of 100 acres of Private Land that is Cropland, or a minimum of 640 acres of other Private Land that is owned or leased by one Landowner or leased by one landowner within the general season unit hunt boundary or;

(B) for the purposes of receiving a Limited Entry Landowner Permit Voucher, Private Land owned or leased by members of a Landowner Association that is within a limited entry unit.

(e) "Governing Documents" mean the legal documents executed by a Legal Entity Owners that govern the formation, operation, management, rules, duties, responsibilities, decision making and dissolution of such Legal Entity.

(f) "Immediate Family" means a Landowner's, a Lessee's, or a Legal Entity Owner's spouse, children, sons-in-law, daughters-in-law, father, mother, father-in-law, mother-in-law, brothers, sisters, brothers-in-law, sisters-in-law, stepchildren, and grandchildren.

(g) "Landowner" means, for the purposes of this rule, any person or Legal Entity which:

(i) owns Private Land in Utah as evidenced by such deeds vesting title in such Landowner;

(ii) is the purchaser of Private Land pursuant to a recorded contract of sale; or

(iii) is a Lessee of Private Land, being any person or legal entity with a written lease whose terms permit the lessee to be in actual physical control of such Private Land.

(h) "Landowner Association" means a Legal Entity created by Landowners who own Eligible Property within a limited entry unit, which Legal Entity is organized for working with the division as outlined in this rule.

(i) "Legal Entity" means an entity such as a corporation, partnership, limited liability company, or trust that is organized under the laws of the State of Utah and otherwise qualified to do business within the State of Utah.

(j) "Legal Entity Owner" means a person or other Legal Entity which has ownership in a Legal Entity, such as a shareholder of a corporation, a member of a limited liability company, a partner in a partnership, or trustee or beneficiary of a trust.

(k) "Permit" means a hunting authorization purchased from the division by a person who is the holder of a Voucher, pursuant to the terms and authorizations contained in such Voucher.

(l) "Private Land" means, for the purposes of this rule, any real property owned or leased by a Landowner, excluding:

(i) land owned by the state or federal government;

(ii) land owned by a county or municipality;

(iii) land owned by an Indian tribe;

(iv) land enrolled in a Cooperative Wildlife Management Unit under Rule R657-37; and

(v) land where public access for big game hunting has been secured.

(m) "Qualifier Application" means the initial application submitted to the division to determine if a Landowner meets the necessary requirements to participate in the landowner permit program.

(n) "Voucher" means an authorization issued by the division to a Landowner that entitles such Landowner or its permitted transferees, if allowed pursuant to this rule, to purchase a Permit from the division.

#### **R657-43-3. General Season Landowner Permits -- Availability and Eligibility.**

(1)(a) The division will establish the number of General Season Landowner Permits for buck deer annually by identifying the number of public draw permits available in a unit and allocate an additional 3% of that number to the program. Vouchers for General Season Landowner Permits for buck deer will be issued through the General Season Landowner Permit draw. Vouchers may only be redeemed by the Landowner or Immediate Family members.

(2) An Applicant must meet the following eligibility criteria to apply for or obtain permits under the General Season Landowner Permit program:

(a) own the minimum quantity of Eligible Property in the proper general season unit boundaries as identified in this rule;

(b) be able to lawfully obtain and use a hunting license and big game permit;

(c) submit a complete application by the deadline;

(d) participate in the General Season Landowner Permit drawing; and

(e) pay necessary fees.

(3)(a) An Applicant may apply for General Season Landowner Permits according to the following limitations:

(i) one General Season Landowner Permit may be issued for 640 acres of Eligible Property owned or leased by the Applicant;

(ii) one additional General Season Landowner Permit may be issued for each additional 640 acres of Eligible Property owned or leased by the Applicant; and

(iii) one General Season Landowner Permit may be issued for 100 acres or more of Cropland owned or leased by the Applicant.

(b) Only one General Season Landowner Permit may be issued to a Landowner based on Cropland acreage, regardless of whether that Applicant owns or leases more than 100 acres of Cropland.

(c) Only one General Season Landowner Permit may be issued per parcel of Eligible Property.

(d) General Season Landowner Permits cannot be sold and may only be transferred to Immediate Family members.

(e) An Applicant may apply for and receive a maximum of five General Season Landowner Permits in a single hunt year.

(4) Vouchers for General Season Landowner Permits will be issued following the draw and are valid for Landowners and their Immediate Family members.

#### **R657-43-4. General Landowner Buck Deer Permits -- Applications, Drawing, and Permit Use.**

(1) Qualifier Applications for General Season Landowner Permits are available from division offices and on the division website before the draw.

(2)(a) Only one Applicant may submit a Qualifier Application for the same parcel of Private Land.

(b) The division may reject all Qualifier Applications if more than one application is received for the same parcel of Private Land.

(c) Where the Landowner's Private Land is in more than one general unit hunt boundary area, the Landowner may select only one of those units from which to receive the Permit.

(d) A Landowner may only submit one Qualifier Application, regardless of whether there are:

(i) multiple individual persons owning the Eligible Property;

(ii) multiple Legal Entity Owners in the Legal Entity owning the Eligible Property; or

(iii) similar instances of split ownership of the Eligible Property.

(3) Qualifier Applications for General Season Landowner Permits must include:

(a) total acres of Eligible Property within the respective general season unit hunt boundary area;

(b) the signature of all Landowners having an interest in the Eligible Property;

(c) a digital map of the Eligible Property indicating the parcel numbers, county, and general season hunt unit within which it is located;

(4) Qualifier Applications must be submitted to the regional division office with management responsibilities where the Eligible Property is located.

(5) The signatures of the Landowners on the Draw Application serve as an affidavit by such Landowner certifying ownership of the Eligible Property enrolled.

(6)(a) After Qualifier Applications are reviewed and approved, Draw Applications will be submitted pursuant to Section R657-62-27.

(b) When submitting the Draw Application, the Applicant will select the season and weapon type.

(7) Any person issued a General Season Landowner Permit under this rule is subject to all season dates, weapon restrictions, and any other regulations, specifically Rule R657-5, and fees as provided in the guidebook of the Wildlife Board for taking big game.

**R657-43-5. Limited Entry Landowner Permits -- Availability and Eligibility.**

(1) Landowners in a limited entry unit may join together to form a Landowner Association for participation in the Limited Entry Landowner Permit program. To qualify as a Landowner Association, participating Landowners must:

(a) own more than 50% of the Private Lands that are Eligible Property within the limited entry herd unit;

(b) form a Landowner Association;

(c) limit participation to Private Lands within a limited entry hunt unit serving as habitat for that species; and

(d) the president of the Landowner Association must participate in a division training annually.

(2) The division will establish the number of limited entry permits available under the program on an annual basis by:

(a) identifying the number of public draw permits in a unit for the previous hunt year;

(b) identifying the total acreage of Private Land in a unit enrolled in the Landowner Association;

(c) calculating the percentage of habitat in the unit represented by the Landowner Association by dividing the habitat acreage represented by the Landowner Association by the habitat acreage in the whole unit;

(d) applying that percentage to the total number of available public draw permits from the previous year to determine the number of permits to be allocated to the Landowner Association;

(e) applying standard rounding will be practiced when determining permit numbers - .49 rounds down and .5 rounds up; and

(f) an approved Landowner Association that qualifies for less than one permit every year will receive one permit the first year after approval.

(3) To form a Landowner Association, Landowners must:

(a) elect a president;

(b) enter into Governing Documents signed by all participating Landowners that:

(i) agree to the formation of a Landowner Association for the purposes of participating in the program;

(ii) establish membership qualifications;

(iii) identify any yearly dues, if any, necessary to participate and how those funds will be utilized;

(iv) establish a distribution plan for allocating Vouchers or revenue from Vouchers to members;

(v) describe the process for adding and removing members in a fair and impartial process;

(vi) describe how the Landowner Association will provide notice of upcoming meetings and how members can participate;

(vii) establish how voting and decisions on behalf of the Landowner Association will be made;

(viii) establish rules and guidelines outlining permit holder conduct on Landowner Association property;

(ix) describe how the Landowner Association will complete compliance requirements for the program;

(x) describe how the members will elect a president to represent the landowner association and the president's length of term;

(xi) include a written waiver from each participating Landowner of all depredation claims due to big game damage during the term of such Landowner's membership in the Landowner Association;

(xii) include a written agreement from each participating member to allow free public access onto all participating Landowner's Private Lands as required by Subsections R657-43-5(5) and R657-43-5(6); and

(xiii) other items deemed necessary and appropriate to administer the Landowner Association.

(4) Limitations on the eligibility of Private Lands in Landowner Associations:

(a) private lands enrolled in a Cooperative Wildlife Management Unit are not eligible to participate in a Landowner Association under this rule;

(b) public and state lands are not eligible to be included in a Landowner Association;

(c) only Private Lands that qualify as Eligible Property will be considered for Limited Entry Landowner Permits;

(d) only one Landowner Association, per species, may be formed for each limited entry unit; and

(e) a Landowner or Landowner Association may not restrict legally established passage through Private Land to access public lands for hunting.

(5) A Landowner Association may choose one of two Voucher options during the term of its certificate of registration:

(a) Option 1.

(i) The Landowner Association will be issued Vouchers valid for the entire limited entry hunting unit;

(ii) an equivalent number of public hunters to the number of Vouchers received by the Landowner Association shall be provided complete access to hunt all of the Landowner Association's Private Lands at no charge for the species during the season dates identified on the Limited Entry Landowner Permit; and

(iii) the division will notify the lowest draw numbers of public hunters in that unit who will be given access to the Landowner Association's Private Lands pursuant to this section.

(b) Option 2.

(i) The Landowner Association will be issued Vouchers valid only for Private Lands enrolled in the Landowner Association;

(ii) the number of Vouchers allocated to a Landowner Association will be initially calculated using the formula in Subsection (2), then reduced by 20%, rounded up to the nearest whole number;

(iii) an equivalent number of public hunters to the number of Vouchers reduced by 20%, rounded up to the nearest whole number shall be provided complete access to hunt all Landowner Association's Private Lands at no charge for the species and during the season dates identified on the limited entry permit; and

(iv) the division will notify the lowest draw numbers of public hunters in that unit who will be given access to Landowner Association's Private Lands pursuant to this section.

(c) Vouchers are not valid for:

(i) multi-season hunting opportunities; or

(ii) late season limited entry buck deer permits on a general season unit.

(6)(a)(i) Public draw permit holders specified in Subsection (5) will have access to all enrolled Landowner Association lands for the entirety of the hunt;

(ii) the Landowner Association will be responsible for ensuring those public draw permit holders identified in paragraph 5 above are given access to all private lands; and

(iii) Landowner Associations may determine how to disperse public hunters by seasons. If all public hunters are in one season it will be the any-weapon season.

(b) The Landowner Association must provide a written copy of its guidelines used to regulate a permit holder's conduct as a guest on the Landowner Association land. These guidelines will go through the RAC and Wildlife Board process to ensure they are fair and reasonable.

(7) Performance metrics will be established by the division, with recommendations from the Landowner Association Advisory Committee, to determine if the purposes of the program are being met.

**R657-43-6. Limited Entry Permits -- Application.**

(1) Applications for a limited entry Landowner Association certificate of registration are available at division offices and on the division website.

(2) Applications must include:

(a) total acres providing habitat for the species in question that are participating in the Landowner Association;

(b) signature of each of the Landowners within the Landowner Association including acres owned, with said signature serving as an affidavit certifying ownership;

(c) a copy of the Landowner Association's Governing Documents;

(d) a digital map of the Private Lands participating in the Landowner Association and indicating the Private Lands which serve as habitat for the species in question; and

(e) a non-refundable handling fee.

(3) The division may aid the Landowner Association in preparing the application, but the division is not responsible for errors in the application or a failure to properly or completely submit an application.

(4) Applications must be completed and submitted to the regional division office managing the limited entry hunting unit where the Landowner Association is located by September 1 of the year before the hunting is to occur.

(5) The division shall review the application and determine its completeness and formulate a recommendation;

(a) the division may reject any application that is incomplete or completed incorrectly; and

(b) applicants must notify the division in writing regarding any changes to the substance of their application while it is under consideration, or it may be considered incomplete or incorrect.

(6) After evaluating the application, the Wildlife Board shall consider:

(a) the contents of the application;

(b) the division's recommendation; and

(c) any violations of Title 23, Wildlife Resources Code by the Landowner Association, its operator, its president, or any of its members that would reasonably influence whether the applicant should be approved to participate in the program.

(7) Upon receiving the application and recommendation from the division, the Wildlife Board may:

(a) authorize the issuance of a three-year certificate of registration allowing the Landowner Association to operate; or

(b) deny or partially deny the application and provide the Landowner Association with reasons for the decision.

(8)(a) The certificate of registration for a Landowner Association must be renewed every three years through the process outlined in this rule.

(b) In evaluating a certificate of registration renewal application, the Wildlife Board shall consider:

(i) the Landowner Association's fulfillment of public access requirements during the term of the prior certificate of registration;

(ii) the Landowner Association's fulfillment of antlerless harvest access and success, if a condition of its prior certificate of registration;

(iii) the contents of its renewal application; and

(iv) a recommendation provided by the division.

(9) The Wildlife Board may deny a certificate of registration application or renewal application if:

(a) the Landowner Association has failed to supply the necessary documentation specified in Subsection R657-43-6;

(b) a member of the Landowner Association has been convicted of a wildlife violation;

(c) the president of the Landowner Association has engaged in conduct that results in the conviction of, a plea of no contest to, or a plea held in abeyance to a crime of moral turpitude, or any other crime that when considered with the functions and responsibilities of a Landowner Association president bears a reasonable relationship to their ability to responsibly operate a Landowner Association;

(d) the Landowner Association has failed to abide by the terms of their Governing Documents in a manner that undermines the purposes of the program; or

(e) the Landowner Association's president or its designee fails to complete mandatory annual training.

(10)(a) An applicant may appeal a denial of an application, renewal application, or request for certificate of registration amendment by submitting an appeal to the division Director.

(b) An appeal must be submitted to the division within 30 days of receiving the notice of denial.

(11) If a Landowner Association is cited for violating this rule, Title 23, or any other proclamation or guidebook by the Wildlife Board, the Division may suspend or revoke the Landowner Association certificate of registration pursuant to Rule R657-26; and

(a) if an individual landowner who is part of a Landowner Association violates this rule, Title 23, or any other proclamation or guidebook by the Wildlife Board, the Division may remove the individual landowner from the Landowner Association's certificate of registration pursuant to Rule R657-26.

(12)(a) The division shall annually review the permit types, numbers, and seasons authorized by a certificate of registration issued under this section and implement modifications for the following hunt season.

(b) Landowner Associations and the Division will work cooperatively to achieve desired management directives, including antlerless management objectives.

(13)(a) A Landowner Association may petition to amend a certificate of registration upon submitting a written request to the regional division office where the Landowner Association's Private Land is located; and

(b) A Landowner Association shall submit an application to amend their certificate of registration for changes in:

(i) the Landowner Association's Governing Documents; or

(ii) acreage;

(A) if during a term of its certificate of registration, a Landowner Association's Eligible Property decreases but remains at least equal to 50% of the Eligible Property in the limited entry unit, such Landowner Association shall submit an amendment outlining the new acreage to update their current certificate of registration; or

(B) if during a term of its certificate of registration, a Landowner Association's Eligible Property decreases and equals less than 50% of the Eligible Property in the limited entry unit, such Landowner Association's certificate of registration shall be deemed non-compliant and shall terminate at the end of the certificate of registration's term; provided, however, such Landowner Association may reapply for a certificate of registration as a new application.

(iii) Private Land ownership; or

(iv) any other matter related to the management and operation of the Landowner Association not originally included in the certificate of registration.

(c) If approved, an amendment to the certificate of registration shall be issued in writing.

(14)(a) Upon approval of the certificate of registration, Vouchers may be issued and redeemed to purchase Limited Entry Landowner Permits from division offices.

(b) The fee for any Limited Entry Landowner Permit is the same as the cost of similar limited entry buck deer, bull elk, or buck pronghorn limited entry permits.

(c) A Landowner receiving a Voucher for a Limited Entry Landowner Permit may sell or otherwise transfer such Voucher to any legal hunter so long as that person possesses or obtains a Utah hunting or combination license.

(d) Any recipient of a Limited Entry Landowner Permit must follow the season dates, weapon restrictions, and any other regulation governing the taking of big game as specified in Rule R657-5 and the guidebook of the Wildlife Board for taking big game.

(e) Nothing in this rule permits the take of more than one buck deer, one bull elk, or one buck pronghorn during any one year.

#### **R657-43-7. Landowner Association Advisory Committee.**

(1) A Landowner Association Advisory Committee shall be created consisting of seven members nominated by the director and approved by the Wildlife Board.

(2) The committee shall include:

(a) two sportsmen representatives;

(b) two landowner representatives;

(c) one agriculture representative;

(d) one at large public representative; and

(e) one Regional Advisory Council chairperson or member.

(3) The committee shall be chaired by the Wildlife Section Chief, or their designee, and shall be a non-voting member.

(4) The committee shall:

(a) hear complaints dealing with fair and equitable treatment of hunters on Landowner Association lands;

(b) review the operation of the Landowner Association program; and

(c) make advisory recommendations to the director and Wildlife Board on the matters in Subsections (a), (b), (c), (d), and (e).

(5)(a) The committee may, after hearing evidence of complaints or violations, place a Landowner Association on probation.

(b) A Landowner Association placed on probation status must provide the Landowner Association Advisory Committee a plan of corrective action to address concerns regarding operation of the Landowner Association, and report annually to the Landowner

Association Committee during the probationary period regarding their progress in addressing such concerns.

(c) The Landowner Association Advisory Committee shall report to the Wildlife Board any Landowner Association that remains on probation during a certificate of registration renewal process.

(6) The Wildlife Section Chief shall determine the agenda, time, and location of the meetings.

(7) The director shall set staggered terms of appointment of members such that there is rotating representation and that all committee members' terms shall expire after four years.

**KEY: wildlife, landowner permits, big game seasons**

**Date of Last Change: 2022[February 9, 2015]**

**Notice of Continuation: February 1, 2022**

**Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19**

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

**TYPE OF RULE:** Amendment

<b>Rule or Section Number:</b>	<b>R657-62</b>	<b>Filing ID:</b> <b>54981</b>
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#### **Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Wildlife Resources	
<b>Room number:</b>	Suite 2110	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146301	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6301	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov

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

#### **General Information**

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

R657-62. Drawing Application Procedures

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

Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate the management of big game species. This rule provides the standards and procedures for the issuance of permits.

##### **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):

Due to amendments to Rule R657-43, Landowner Permit Rule, changes were required to Rule R657-62 in order to define "voucher" and to outline the landowner buck deer permit draw process.

(EDITOR'S NOTE: The proposed repeal and reenactment of Rule R657-43 is under ID 54892 in this issue, November 1, 2022, of the Bulletin.)

## Fiscal Information

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

#### A) State budget:

The amendments to Rule R657-62 are administrative in nature, the Division of Wildlife Resources (DWR) has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, DWR does not believe that these amendments would create a cost or savings impact to the state budget or DWR's budget since the changes will not increase workload and can be carried out with existing budget.

#### B) Local governments:

Since the proposed amendments redefine an existing program clarifying requirements and restrictions this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

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

This amendment redefines an existing Landowner Association (LOA). The LOAs are not regulated as a small business therefore, this rule does not impose any additional financial requirements on small businesses, nor generate a cost or saving impact to small businesses because this rule does not create a situation requiring services from them.

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

This amendment redefines an existing LOA. The LOAs are not regulated as a non-small business nor do they have an employer/employee relationship therefore, this rule does not impose any additional financial requirements on non-small businesses, nor generate a cost or saving impact to non-small businesses because this rule does not create a situation requiring services from them.

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

The rule amendments create a draw process for landowner buck deer permits, in the past the permits have been obtained "over-the-counter" on a first-come first-serve basis. This process will create a fairness in the opportunity for landowners to obtain the permits. DWR has determined that this would not create a cost or savings to Landowners participating in the program.

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

DWR has determined that there will be no change in cost for those wishing to participate as a LOA in the program.

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

##### Regulatory Impact Table

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

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

The Executive Director of the Department of Natural Resources, Joel Ferry, 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 23-14-18	Section 23-14-19	
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**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	12/01/2022
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<b>9. This rule change MAY become effective on:</b>	12/08/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Shirley, Division Director	<b>Date:</b>	10/07/2022
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**R657. Natural Resources, Wildlife Resources.****R657-62. Drawing Application Procedures.****R657-62-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for drawing applications and procedures.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the respective guidebooks of the Wildlife Board.

**R657-62-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Application" means a form required by the Division which must be completed by a person and submitted to the Division ~~in order~~ to apply for a hunting permit.

(b) "Landowner" means any individual, family or corporation who owns property in Utah and whose name appears on the deed as the owner of eligible property or whose name appears as the purchaser on an executed contract for sale of eligible property.

(c) "Limited entry hunt" means any hunt listed in the hunt tables published by the Wildlife Board and is identified as a premium limited entry hunt or limited entry hunt. "Limited entry hunt" does not include cougar pursuit or bear pursuit.

(d) "Limited entry permit" means any permit obtained for a limited entry hunt, ~~including~~ conservation permits, expo permits, and sportsman permits.

(e)(i) "Valid application" means an application:

(A) for a permit to take a species for which the applicant is eligible to possess;

(B) for a permit to take a species regardless of estimated permit numbers;

(C) for a certificate of registration; and

(D) containing sufficient information, as determined by the division, to process the application, including personal information, hunt information, and sufficient payment.

(ii) Applications missing any of the items in Subsection (i) may be considered valid if the application is timely corrected through the application correction process.

(f) "Waiting period" means a specified period ~~of time~~ that a person who has obtained a permit must wait before applying for the same permit type.

(g) "Once-in-a-lifetime hunt" means any hunt listed in the hunt tables published by the Wildlife Board and is identified as once-in-a-lifetime, and does not include general or limited entry hunts.

(h) "Once-in-a-lifetime permit" means any permit obtained for a once-in-a-lifetime hunt by any means, including conservation permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

(i) Voucher" means an authorization issued by the division that entitles the designated holder to purchase the hunting permit specified in the authorization.

**R657-62-3. Scope of Rule.**

(1) This rule sets forth the procedures and requirements for completing and filing applications to receive the following hunting permits and ~~for~~ certificates of registrations:

(a) Dedicated Hunter certificate of registrations;

(b) limited-entry deer;

(c) limited-entry elk;

(d) limited-entry pronghorn;

(e) once-in-a-lifetime;

(f) public cooperative wildlife management unit;

(g) general season deer and youth elk;

(h) limited-entry bear;

(i) bear pursuit;

(j) antlerless big game;

(k) sandhill crane;

(l) sharp-tail and greater sage grouse;

(m) swan

(n) cougar;

(o) sportsman; ~~and~~

(p) turkey; and.

(q) landowner buck deer.

**R657-62-9. Preference Points.**

(1) Preference points are used in the applicable drawings to ensure that applicants who are unsuccessful in the drawing will have first preference in the next year's drawing.

(2)(a) A preference point is awarded for:

(i) each valid, unsuccessful application applying for a general buck deer, antlerless deer, antlerless elk, doe pronghorn, Sandhill Crane, Sharp-tailed grouse, Greater sage grouse or Swan permit; or

(ii) each valid application when applying only for a preference point in the applicable drawings.

(b) Preference points are awarded by species for:

(i) general buck deer;

(ii) antlerless deer;

(iii) antlerless elk;

(iv) doe pronghorn;

(v) Sandhill Crane;



## NOTICES OF PROPOSED RULES

- (vi) Sharp-tailed Grouse;
- (vii) Greater sage grouse; and
- (viii) Swan.

(3)(a) A person may not apply in the drawing for both a preference point and a permit for the species listed in Subsection (2)(b).

(b) A person may not apply for a preference point if that person is ineligible to apply for a permit.

(4) Preference points for the applicable species are forfeited if a person obtains a general buck deer, antlerless deer, antlerless elk, doe pronghorn, Sandhill Crane, Sharp-tailed grouse, Greater sage grouse or Swan permit, whether obtained through a division drawing or over the counter, except points are not forfeited if a person obtains one or more of the following:

- (a) youth archery buck deer permit;
- (b) mitigation permits issued to a landowner Rule R657-44, not including mitigation permit vouchers;

(c) antlerless elk control permits; and

(d) a general landowner buck deer permit or landowner appreciation permit issued pursuant to Rule R657-43.

(5) Preference points are not transferable.

(6) Preference points are averaged and rounded down when two or more applicants apply together on a group application.

(7)(a) Preference points are tracked using social security numbers or division-issued customer identification numbers.

(b) The division shall retain copies of electronic applications from 2000 to the current applicable drawings for ~~the purpose of~~ researching preference point records.

(c) Any requests for researching an applicant's preference point records must be submitted within the time frames provided in Subsection (b).

(d) Any preference points on the division's records shall not be researched beyond the time frames provided in Subsection (b).

(e) The division may eliminate any preference point obtained by fraud, deceit, misrepresentation, or in violation of law.

### **R657-62-27. Landowner Buck Deer Permits.**

(1)(a) The division will evaluate draw applications and calculate the number of general season hunting opportunities the landowner qualifies for per Rule R657-43.

(b) The applicant will be charged a handling fee for every draw application, up to 5, that is entered into the drawing.

(c) The division will issue vouchers to the landowner based on the drawing results.

(d) The division is not responsible for identifying recipients of the vouchers after vouchers are awarded to a landowner by the drawing process.

(2) For an individual to redeem the drawn voucher, they must:

(a)(i) be the landowner, an immediate family member, or lessee. If the Applicant is a business entity, the person eligible for the permit must be a shareholder, or immediate family member of a shareholder, as designated by the business entity; and

(ii) non-shareholder employees of the business entity are not eligible to receive a general season landowner permit;

(b) possess or obtain a valid hunting or combination license;

(c) meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Rule R657-5; and

(d) not already obtained a buck deer permit per Section R657-62-18.

(3) Any permits remaining after the drawing are available at division offices on a first come, first serve basis.

**KEY: wildlife, permits**

**Date of Last Change: [March 14,] 2022**

**Notice of Continuation: April 9, 2019**

**Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19**

### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

<b>Rule or Section Number:</b>	<b>R982-800</b>	<b>Filing ID:</b> <b>54978</b>
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### **Agency Information**

<b>1. Department:</b>	Workforce Services	
<b>Agency:</b>	Administration	
<b>Building:</b>	Olene Walker Building	
<b>Street address:</b>	140 E 300 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 45244	
<b>City, state and zip:</b>	Salt Lake City, Utah 84145-0244	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amanda B. McPeck	801-526-9653	ampeck@utah.gov

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

### **General Information**

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

R982-800. Utah Data Research Center

#### **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 S.B. 226 passed during the 2022 General Session which moved and renumbered provisions related to the Utah Data Resource Center from the Department of Workforce Services to the Utah System of Higher Education. The Utah System of Higher Education filed a Notice of Proposed Rule on October 1, 2022, filing ID 54858, to replace this rule.

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

This rule is repealed in its entirety. The repeal will not be enacted until the proposed rule on the Utah System of Higher Education is enacted.

#### 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 S.B. 226 (2022).

###### B) Local governments:

The repeal is not expected to have any fiscal impact on local governments' revenues or expenditures because this rule does not apply to local governments.

###### 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 S.B. 226 (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 S.B. 226 (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 S.B. 226 (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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Workforce Services, Casey Cameron, has reviewed and approved this regulatory impact analysis.

#### Citation Information

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

Section 35A-14302		
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#### Public Notice Information

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

<b>A) Comments will be accepted until:</b>	12/01/2022
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<b>9. This rule change MAY become effective on:</b>	12/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Casey Cameron, Executive Director	<b>Date:</b>	10/06/2022
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**R982. Workforce Services, Administration.****[R982-800. Utah Data Research Center.****R982-800-101. Background; Definitions.**

(1) The rules in this chapter govern data research requests made to the Utah Data Research Center established pursuant to Utah Code Ann. Section 35A-14-101 et seq.

(2) Terms used in these rules that are defined in Section 35A-14-101 et seq. have the same definitions as stated in those statutes.

(3) In addition, the following definitions apply:

(a) "Primary requester" means one of the following, as set forth in Utah Code Ann. Subsection 35A-14-302(3)(a):

(i) A legislative committee or a legislative staff office;

(ii) The governor or an executive branch agency;

(iii) The State Board of Education;

(iv) The State Board of Regents; or

(v) The Utah College of Applied Technology.

(b) "Ancillary requester" means one of the following, as set forth in Utah Code Ann. Section 35A-14-302:

(i) A state government entity that is not a primary requester;

(ii) A political subdivision of the state;

(iii) A private entity; or

(iv) A member of the public.

(c) "Requester" means a person making a data research request.

**R982-800-102. Data Research Request Procedures.**

(1) Data research requests shall be submitted via an electronic form available on the center's website.

(2) Each data research request must include the information set forth in Section R982-800-104. If the requester fails to include that information:

(a) In the case of a primary requester, the center shall seek the necessary additional information and clarification from the requester, and may decline to act on the request until the necessary additional information and clarification is received;

(b) In the case of an ancillary requester, the center may:

(i) Seek the necessary additional information and clarification from the requester, and may decline to act on the request until the necessary additional information and clarification is received; or

(ii) Deny the request and provide to the requester the reason(s) for the denial of the request.

(3)(a) If the center accepts a data research request from an ancillary requester, the center shall submit to the ancillary requester a payment agreement setting forth at least the following:

(i) The reasonable estimated cost of completing the data research request; and

(ii) The obligation of the ancillary requester to pay the full cost of completing the data research request, even if the full cost differs from the reasonable estimated cost.

(b) The ancillary requester shall execute the payment agreement and return it to the center. If the ancillary requester fails or refuses to execute and return the payment agreement, the center may decline the data research request.

**R982-800-103. Criteria for Priority of Data Research Requests.**

(1) The director, with consultation by the advisory board, shall use the following criteria to determine the priority of the data research requests the center receives:

(a) The type of requester;

(b) The potential of the requester's research to lead to meaningful policy changes or other meaningful impacts for members of the general public; and

(c) The availability of the data being requested.

(2) The director, with consultation by the advisory board, shall evaluate the criteria described in Subsection (1) and assign a numerical score for each data research request. The data research request with the highest score shall be given the highest priority. Remaining data research requests are sorted in order thereafter.

(3) The director, with consultation by the advisory board, may, in his or her discretion, deviate from the criteria described in Subsection (1) if the requester makes a showing of compelling public interest sufficient to justify deviating from the criteria.

**R982-800-104. Information Required for Data Research Requests.**

(1) The following information shall be included in every data research request:

(a) The name of the requester;

(b) The agency or organization with which the requester is affiliated, if any;

(c) The requester's thesis, together with the research question(s) the requester is seeking to answer, described in sufficient detail to allow the center to properly evaluate the request;

(d) A specific description of the data the requester is seeking, including the date range(s) and the variable(s) being studied; and

(e) Any applicable timeframes or deadlines by which the requester seeks to obtain the data being requested.

(2) The center may request other information in addition to the information listed in Subsection (1).

**KEY: Utah Data Research Center, data research requests**

**Date of Last Change: March 1, 2018**

**Authorizing, and Implemented or Interpreted Law: 35A-14-302]**

**End of the Notices of Proposed Rules Section**

## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at [adminrules.utah.gov](http://adminrules.utah.gov). The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R154-1	Filing ID: 54775
Effective Date:	10/13/2022	

#### Agency Information

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

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

#### General Information

2. Rule catchline:
R154-1. Central Filing System for Agricultural Product Liens
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 70A-9a-320(6)(b) requires the Division of Corporations and Commercial Code to issue "rules necessary to implement a central filing system that will conform to the requirements of the Food Security Act of 1985, Pub. L. No. 99-198, as now enacted or as it may be hereafter amended."

#### 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 state law. Therefore, this rule should be continued.

#### Agency Authorization Information

Agency head or designee and title:	Leigh Veillette, Director	Date:	10/11/2022
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### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R305-2	Filing ID: 50558
Effective Date:	10/11/2022	

#### Agency Information

1. Department:	Environmental Quality
Agency:	Administration
Building:	MASOB

<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144820	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4820	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Bo Wood	385-499-3416	rwood@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R305-2. Electronic Meeting
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Subsection 52-4-207(2) requires a public body desiring to hold an electronic meeting to adopt rules governing the use of electronic meetings. Subsection 19-1-201(1)(d) authorizes the Department of Environmental Quality to make rules to achieve this purpose.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received regarding this rule since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is needed because it establishes the processes for conducting electronic meetings as required by Subsection 52-4-207(2). These specifics are not included in the authorizing statute and must therefore be specified by administrative rule. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Kimberly D. Shelley, Executive Director	<b>Date:</b>	10/06/2022
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<b>FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION</b>		
<b>Rule Number:</b>	<b>R305-7</b>	<b>Filing ID: 53072</b>
<b>Effective Date:</b>	<b>10/11/2022</b>	

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Administration	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144820	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4820	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Bo Wood	385-499-3416	rwood@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R305-7. Administrative Procedures
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The authority for this rule is found in Subsection 19-1-201.1(d)(ii) of the Environmental Quality Code, which authorizes the Department of Environmental Quality to make rules that govern adjudicative proceedings, consistent with Sections 19-1-301 and 19-1-301.5.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received regarding this rule since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is needed because it establishes the processes for conducting adjudicative procedures as authorized by Subsection 19-1-201.1(d)(ii). These specifics are not included in the authorizing statute and must therefore be specified by administrative rule. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Kimberly D. Shelley, Executive Director	<b>Date:</b>	10/06/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Rule Number:</b>	<b>R305-8</b>	<b>Filing ID: 50563</b>
<b>Effective Date:</b>	<b>10/11/2022</b>	

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Administration	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144820	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4820	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Bo Wood	385-499-3416	rwood@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R305-8. Board Member Attendance Requirements
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The authority for this rule is found in Subsection 19-1-201(1)(d)(i)(A), which requires the Department of Environmental Quality to make rules regarding board meeting attendance.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received on this rule since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is needed because it fulfills the requirements of Subsection 19-1-201(1)(d)(i)(A), specifying requirements and processes through administrative rule that are not present in statute. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Kimberly D. Shelley, Executive Director	<b>Date:</b>	10/06/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R305-9</b>	<b>Filing ID: 50564</b>
<b>Effective Date:</b>	<b>10/11/2022</b>	

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Administration	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144820	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4820	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Bo Wood	385-499-3416	rwood@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R305-9. Recusal of a Board Member for Conflict of Interest
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The authority for this rule is found in Subsection 19-1-201(1)(a)(i)(B), which requires the Department of Environmental Quality to make rules governing conflicts of interest procedures.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received on this rule since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>

## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

This rule is needed because it describes the conditions under which a conflict of interest exists and the processes that govern these situations. These specifics are not included in statute and must therefore be specified by administrative rule. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Kimberly D. Shelley, Executive Director	<b>Date:</b>	10/06/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R414-32</b>	<b>Filing ID:</b>	<b>50984</b>
<b>Effective Date:</b>	<b>10/12/2022</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R414-32. Hospital Record-keeping Policy
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26B-1-204 requires the Department of Health and Human Services (Department) to govern and administer its business through administrative rules, while Section 26-18-3 requires the Department to implement the Medicaid program through rulemaking.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Department did not receive any written comments regarding this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The Department has determined that this rule is needed because it establishes hospital record-keeping procedures to document services such as x-rays, laboratory analyses, and patient diagnosis, for the promotion of quality and cost-effective care for Medicaid members. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	10/10/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R414-504</b>	<b>Filing ID:</b>	<b>52991</b>
<b>Effective Date:</b>	<b>10/12/2022</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R414-504. Nursing Facility Payments



**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 the Medicaid program through administrative rules, and Title 26, Chapter 35a, sets forth provisions for nursing care facility assessment and reimbursement.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Department did not receive any written comments regarding this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The Department has determined that this rule is necessary because it provides rate calculations to reimburse nursing facilities and intermediate care facilities for persons with intellectual disabilities, directs providers to the Quality Improvement Incentive program and application process, and sets forth procedures that facilities must follow to receive Title XIX payments. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	10/10/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R434-30</b>	<b>Filing ID:</b>	<b>54219</b>
<b>Effective Date:</b>	<b>10/12/2022</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Family Health and Preparedness, Primary Care and Rural Health
<b>Room number:</b>	4163
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 142005
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2005

**Contact persons:**

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ashley Moretz	801-350-1546	amoretz@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:**

R434-30. Primary Care Grant Program

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

The rule was enacted to implement Title 26, Chapter 10b, which authorizes the Department of Health and Human Services (Department) to award grants from available state appropriations to entities that provide care to medically underserved populations. The chapter also sets requirements for the content of grant applications and the process, criteria, and permissible scope of awards.

**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:**

On January 15, 2022, proposed updates to this rule were published in the Utah State Bulletin to comply with the Governor's Executive Order 2021-12. Outdated elements of this rule were removed and program-related definitions were also added for clarity.

Public comments suggested several changes for clarity or consistency that the Department agreed were appropriate. The allowable costs for "equipment" was proposed for amendment as well.

During this period, the program's Advisory Committee recommended that the award ceiling for Referral Network grants be increased. The cost for allowable "equipment" purchases was increased from \$1,000 to \$5,000. The annual award ceiling for Referral Network grants was increased from \$25,000 to \$35,000. Minor, nonsubstantive changes were also made for clarity or consistency.

A Change on Proposed Rule to address the public comments and Advisory Committee's recommendation was published in the Utah State Bulletin on March 15, 2022, and made effective on 04/22/2022.

**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 its enabling statutes and the needs of the Primary Care Grant Program and it has been determined that this rule is necessary in order to continue publicizing, reviewing, and awarding primary care grants. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/12/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R501-1</b>	<b>Filing ID:</b>	<b>54356</b>
<b>Effective Date:</b>	<b>10/03/2022</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration, Administrative Services, Licensing	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jonah Shaw	385-310-2389	jshaw@utah.gov
Janice Weinman	385-321-5586	jweinman@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R501-1. General Provisions for Licensure
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 62A-2-106 requires the Office of Administration, Administrative Services, Licensing to make rules for all of Health and Human Services as defined as requiring licensure in Section 62A-2-101.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments have been received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule, authorized by Title 62A, Chapter 2, Licensure of Programs and Facilities, is necessary to establish the standards and provisions for licensing. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/03/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R501-7</b>	<b>Filing ID:</b>	<b>51182</b>
<b>Effective Date:</b>	<b>10/03/2022</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration, Administrative Services, Licensing	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jonah Shaw	385-310-2389	jshaw@utah.gov
Janice Weinman	385-321-5586	jweinman@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R501-7. Child Placing Adoption Agencies
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>

The Utah Adoption Act, Section 78B-6-1, governs adoptions in Utah and Section 62A-2-106 requires the Office of Administration, Administrative Services, Licensing to make rules.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments have been received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The Department of Health and Human Services will be revisiting this rule in the coming weeks for compliance with the Governor's Executive Order (EO No. 2021-12) and changes following the consolidation of the Departments of Health and Human Services. This rule is still necessary. Therefore, this rule should be continued as is until these changes can be addressed.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/03/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R501-8</b>	<b>Filing ID:</b>	<b>54008</b>
<b>Effective Date:</b>	<b>10/03/2022</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services		
<b>Agency:</b>	Administration, Administrative Services, Licensing		
<b>Building:</b>	MASOB		
<b>Street address:</b>	195 N 1950 W		
<b>City, state and zip:</b>	Salt Lake City, UT 84116		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Jonah Shaw	385-310-2389	jshaw@utah.gov	
Janice Weinman	385-321-5586	jweinman@utah.gov	
<b>Please address questions regarding information on this notice to the agency.</b>			

**General Information**

**2. Rule catchline:**

R501-8. Outdoor Youth Programs

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Section 62A-2-106 requires the Office of Administration, Administrative Services, Licensing to make rules for all of Health and Human Services as defined as requiring licensure in Section 62A-2-101.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments have been received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule is necessary to maintain the standards for licensing outdoor youth programs. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/03/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R501-11</b>	<b>Filing ID:</b>	<b>51195</b>
<b>Effective Date:</b>	<b>10/04/2022</b>		

**Agency Information**

Agency information

<b>1. Department:</b>	Health and Human Services		
<b>Agency:</b>	Administration, Administrative Services, Licensing		
<b>Building:</b>	MASOB		
<b>Street address:</b>	195 N 1950 W		
<b>City, state and zip:</b>	Salt Lake City, UT 84116		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Jonah Shaw	385-310-2389	jshaw@utah.gov	
Janice Weinman	385-321-5586	jweinman@utah.gov	

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

#### General Information

##### 2. Rule catchline:

R501-11. Social Detoxification Programs

##### 3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 62A-2-106 requires the Office of Administration, Administrative Services, Licensing to make rules for all of Health and Human Services as defined as requiring licensure in Section 62A-2-101.

##### 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received.

##### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Department of Health and Human Services will be revisiting this rule in the coming weeks for compliance with the Governor's Executive Order (EO No. 2021-12) and changes following the consolidation of the Departments of Health and Human Services. This rule is still necessary. Therefore, this rule should be continued as is until these changes can be addressed.

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/03/2022
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Rule Number:</b>	<b>R501-12</b>	<b>Filing ID:</b>	<b>52595</b>
<b>Effective Date:</b>	<b>10/03/2022</b>		

#### Agency Information

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Administration, Administrative Services, Licensing
<b>Building:</b>	MASOB
<b>Street address:</b>	195 N 1950 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116

#### Contact persons:

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jonah Shaw	385-310-2389	jshaw@utah.gov
Janice Weinman	385-321-5586	jweinman@utah.gov

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

#### General Information

##### 2. Rule catchline:

R501-12. Foster Care Services

##### 3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 62A-2-106 requires the Office of Administration, Administrative Services, Licensing to make rules for all of Health and Human Services as defined as requiring licensure in Section 62A-2-101.

##### 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received.

##### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Department of Health and Human Services will be revisiting this rule in the coming weeks for compliance with the Governor's Executive Order (EO No. 2021-12) and changes following the consolidation of the Departments of Health and Human Services. This rule is still necessary. Therefore, this rule should be continued as is until these changes can be addressed.

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/03/2022
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Rule Number:</b>	<b>R501-13</b>	<b>Filing ID:</b>	<b>51187</b>
<b>Effective Date:</b>	<b>10/03/2022</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration, Administrative Services, Licensing	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jonah Shaw	385-310-2389	jshaw@utah.gov
Janice Weinman	385-321-5586	jweinman@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R501-13. Adult Day Care
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 62A-2-106 requires the Office of Administration, Administrative Services, Licensing to make rules for all of Health and Human Services as defined as requiring licensure in Section 62A-2-101.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The Department of Health and Human Services will be revisiting this rule in the coming weeks for compliance with the Governor's Executive Order (EO No. 2021-12) and changes following the consolidation of the Departments of Health and Human Services. This rule is still necessary. Therefore, this rule should be continued as is until these changes can be addressed.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/03/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R539-1</b>	<b>Filing ID: 54224</b>
<b>Effective Date:</b>	<b>10/13/2022</b>	

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Services for People with Disabilities	
<b>Room number:</b>	4th Floor	
<b>Building:</b>	Cannon Bldg.	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 145145	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-5145	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Bruce Quaglia	435-669-4855	bquaglia@utah.gov
Jonah Shaw	801-538-4219	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R539-1. Eligibility
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Sections 62A-5-103 and 62A-5-105 both authorize and establish the Division of Services for People with Disabilities' (Division) responsibilities.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There have been no comments in support or opposition to this rule since the last review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This is foundational to the mission of the Division. It is the basis upon which all Division services are determined and then administered. This rule is further justified by the fact that it is mandated by statute in Subsection 62A-5-103(2)(b). Therefore, this rule should be continued.



**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/12/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R590-266</b>	<b>Filing ID:</b>	<b>51442</b>
<b>Effective Date:</b>	<b>10/14/2022</b>		

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room number:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R590-266. Utah Essential Health Benefits Package
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Subsection 31A-2-201(3)(a) authorizes the insurance commissioner to write rules to implement Title 31A, the Insurance Code. Subsection 31A-2-212(5) authorizes the insurance commissioner to require an insurer to comply with the federal Patient Protection and Affordable Care Act (PPACA) and other insurance rules related to the regulation of health benefit plans.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department of 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 for Utah to maintain self-governance of its health insurance market. A provision of PPACA allows each state to designate the essential health benefits that must be included in the small employer group and individual market health care plans; if the state does not designate such benefits, the federal government will enforce federal standards. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	10/14/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R590-275</b>	<b>Filing ID:</b>	<b>51465</b>
<b>Effective Date:</b>	<b>10/14/2022</b>		

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room number:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R590-275. Qualified Health Plan Alternate Enrollment
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>

Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, the Insurance Code. Subsection 31A-2-212(5) authorizes the insurance commissioner to require an insurer to comply with the federal Patient Protection and Affordable Care Act (PPACA) and other insurance rules related to the regulation of health benefit plans

**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 rules 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 for Utah to maintain self-governance of its health insurance market. A provision of PPACA allows each state to designate an alternate enrollment system for PPACA qualified health plans; if the state does not designate such a system, the federal government will enforce federal standards. Therefore, this rule should be continued.

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Generally, Section 77-27-7 outlines a Board of Pardons and Parole (Board) process for addressing situations where the Board has questions regarding the competency of an offender that is scheduled for a hearing.

**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 R671-206 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:**

This rule is necessary as it provides the Board, the public, and others guidance to understand how to proceed with Board processes when the individual appears to not be competent not to have a rational and factual understanding of a pending Board hearing. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	10/14/2022
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**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/03/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-206</b>	<b>Filing ID:</b>	<b>51820</b>
<b>Effective Date:</b>	<b>10/03/2022</b>		

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-312</b>	<b>Filing ID:</b>	<b>51823</b>
<b>Effective Date:</b>	<b>10/03/2022</b>		

**Agency Information**

Agency information:

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R671-206. Competency of Offenders



**General Information****2. Rule catchline:**

R671-312. Commutation Hearings for 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 authority of Board of Pardons and Parole (Board) is found in Article VII, Section 12. This includes the authority to commute individual sentences. This rule outlines processes the Board follows when they conduct a commutation hearing on a death penalty case. Commutation procedures are necessarily different in death penalty cases as sentences in these cases may only be commuted to life without the possibility of parole. Additional statutes cited for this rule reference general Board processes and requirements found in Section 77-27-27.

**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 R671-312 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:**

This rule is necessary as it provides general information and an outline of processes the Board will follow if they conduct a commutation hearing in a death penalty case. Utah retains the death penalty, so it is important for the Board's processes surrounding commutation in these situations to be clearly provided in rule. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/03/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-312a</b>	<b>Filing ID: 51853</b>
<b>Effective Date:</b>	<b>10/03/2022</b>	

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)
<b>Agency:</b>	Administration
<b>Street address:</b>	448 E Winchester, Suite 300
<b>City, state and zip:</b>	Murray, UT 84107

**Contact persons:**

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov

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

**General Information****2. Rule catchline:**

R671-312a. Commutation Procedures Applicable to Persons Sentenced to Death Before April 26, 1992

**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 authority of Board of Pardons and Parole (Board) is found in Article VII, Section 12. This includes the authority to commute individual sentences. Because Utah's law related to the Board's commutation authority was changed on April 26, 1992, the Board needed two additional rules to address those sentenced to death before April 26, 1992, and those sentenced to death after April 26, 1992. Rule R671-312a relates to commutation processes the Board will follow for individuals sentenced to death before April 26, 1992. Additional statutes cited for this rule reference general Board processes and requirements found in Section 77-27-27.

**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 R671-312a 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:**

This rule is necessary as it provides general information and an outline of processes the Board will follow if they conduct a commutation hearing in a death penalty case where the individual was sentenced before April 26, 1992. At that time, life without the possibility of parole was established which narrows decision options for the Board in death penalty cases. This rule outlines the commutation processes and procedures to be used for those sentenced to death before April 26, 1992. Because Utah retains the death penalty, it is important for the Board's processes surrounding commutation to be clearly provided in rule. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/03/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-312b</b>	<b>Filing ID: 51844</b>
<b>Effective Date:</b>	<b>10/03/2022</b>	

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R671-312b. Commutation Procedures Applicable to Persons Sentenced to Death After April 26, 1992
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The authority of Board of Pardons and Parole (Board) is found in Article VII, Section 12. This includes the authority to commute individual sentences. Because Utah's law related to the Board's commutation authority was changed on April 26, 1992, the Board needed two additional rules to address those sentenced to death before April 26, 1992, and those sentenced to death after April 26, 1992. Rule R671-312b relates to commutation processes the Board will follow for individuals sentenced to death after April 26, 1992. Additional statutes cited for this rule reference general Board processes and requirements found in Section 77-27-27.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-312b during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary as it provides general information and an outline of processes the Board will follow if they conduct a commutation hearing in a death penalty case where the individual was sentenced after April 26, 1992. At that time, life without the possibility of parole was

established which changes decision options for the Board in commutation hearings in death penalty cases. This rule outlines the commutation processes and procedures to be used for those sentenced to death after April 26, 1992. The Board is limited to commuting death sentences to life without the possibility of parole. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/03/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-509</b>	<b>Filing ID: 51843</b>
<b>Effective Date:</b>	<b>10/03/2022</b>	

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R671-509. Parole Progress / Violation Reports
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 77-27-11 provides statutory provisions associated with the revocation of parole. The authority to grant parole and revoke parole lies with the Board of Pardons and Parole (Board). This rule provides needed guidance to the Department of Corrections (Corrections) on what the Board expects from a report regarding progress or alleged violations of parole conditions.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>

## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

No written comments have been received by the Board regarding Rule R671-509 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:**

This rule is necessary as it outlines the Board's expectations related to parole progress or parole violation reports submitted to the Board by Corrections. It includes the required timeframes for receipt of these reports when a parolee has been detained or from when an alleged violation occurred. Violations of parole may lead to parole revocation or an adjustment in the conditions of parole supervision. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/03/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-510</b>	<b>Filing ID:</b>	<b>51846</b>
<b>Effective Date:</b>	<b>10/04/2022</b>		

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)		
<b>Agency:</b>	Administration		
<b>Street address:</b>	448 E Winchester, Suite 300		
<b>City, state and zip:</b>	Murray, UT 84107		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Mike Haddon	801-261-6467	mikehaddon@utah.gov	
<b>Please address questions regarding information on this notice to the agency.</b>			

**General Information**

<b>2. Rule catchline:</b>
R671-510. Evidence for Issuance of Warrants
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 77-27-11 provides statutory provisions associated with the revocation of parole. The authority to grant parole and revoke parole lies with the Board of Pardons and Parole (Board). This rule provides needed guidance to the Department of Corrections (Corrections) on the

requirements necessary for the Board to issue an arrest warrant based on allegations of parole condition violations.

**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 R671-510 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:**

This rule is necessary as it outlines the evidentiary requirements and information to be submitted to the Board when Corrections is alleging parole condition violations and requesting an arrest warrant based on the alleged violations. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/04/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-512</b>	<b>Filing ID:</b>	<b>51841</b>
<b>Effective Date:</b>	<b>10/04/2022</b>		

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R671-512. Execution of the Warrant
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 77-27-11 provides statutory provisions associated with the revocation of parole. The authority to revoke

parole lies with the Board of Pardons and Parole (Board). This rule outlines the steps that need to be taken after a parole violation arrest warrant has been executed.

**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 R671-512 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:**

This rule is necessary as it provides steps to be taken once a Board arrest warrant has been executed. Steps include providing the parolee with a copy of the arrest warrant and steps the offender may take to challenge the allegations of parole condition violations. It also provides information about how a parolee may access a waiver process, as well as what is needed from the Department of Corrections if the parolee refuses to accept documents. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/04/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-513</b>	<b>Filing ID:</b>	<b>51833</b>
<b>Effective Date:</b>	<b>10/04/2022</b>		

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)		
<b>Agency:</b>	Administration		
<b>Street address:</b>	448 E Winchester, Suite 300		
<b>City, state and zip:</b>	Murray, UT 84107		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Mike Haddon	801-261-6467	mikehaddon@utah.gov	
<b>Please address questions regarding information on this notice to the agency.</b>			

**General Information**

<b>2. Rule catchline:</b>
R671-513. Expedited Determination of Parolee Challenge to Probable Cause

**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 77-27-11 provides statutory provisions associated with the revocation of parole. The authority to revoke parole lies with the Board of Pardons and Parole (Board). This rule provides guidance to a parolee with parole violation allegations on the process that must be followed to challenge a probable cause statement or the evidence on which an arrest warrant was based.

**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 R671-513 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:**

This rule is necessary as it provides a parolee with allegations of parole condition violations with the steps necessary to challenge a probable cause statement from the Department of Corrections and to challenge the evidence relied upon to obtain an arrest warrant. This rule also provides the timeframes by which a challenge from a parolee must be submitted. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/04/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-514</b>	<b>Filing ID:</b>	<b>51837</b>
<b>Effective Date:</b>	<b>10/04/2022</b>		

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)		
<b>Agency:</b>	Administration		
<b>Street address:</b>	448 E Winchester, Suite 300		
<b>City, state and zip:</b>	Murray, UT 84107		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Mike Haddon	801-261-6467	mikehaddon@utah.gov	
<b>Please address questions regarding information on this notice to the agency.</b>			

**General Information**

<b>2. Rule catchline:</b>
R671-514. Waiver and Pleas of Guilt
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 77-27-11 provides statutory provisions associated with the revocation of parole. The authority to revoke parole lies with the Board of Pardons and Parole (Board). This rule outlines the steps and processes involved when a parolee waives their right to a parole violation hearing, when a parolee intends to admit to all violation conduct, and when a parolee admits to some violations and denies other violations.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-514 during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary to provide clear guidance on what will occur after a Board warrant is executed. The parolee has the right to deny the violation allegations and has a right to a parole violation hearing. Further, this rule outlines the steps the Board will take based on admissions or denials of alleged violation behavior, including entering multiple pleas based on the parole violation allegations. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/04/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-515</b>	<b>Filing ID:</b>	<b>51834</b>
<b>Effective Date:</b>	<b>10/04/2022</b>		

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)
<b>Agency:</b>	Administration
<b>Street address:</b>	448 E Winchester, Suite 300
<b>City, state and zip:</b>	Murray, UT 84107

**Contact persons:**

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R671-515. Timeliness of Parole Revocation Hearings
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 77-27-11 provides statutory provisions associated with the revocation of parole. The authority to revoke parole lies with the Board of Pardons and Parole (Board). This rule provides a timeline for the Board to conduct a parole violation hearing after a parolee is detained or otherwise in custody.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-515 during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary to provide expectations related to the timing of a parolee's parole violation hearing. The hearing is to be conducted within 30 days after a parolee is detained, and this rule outlines situations where the Board can exceed the 30-days based on good cause. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/04/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-516</b>	<b>Filing ID:</b>	<b>51836</b>
<b>Effective Date:</b>	<b>10/04/2022</b>		



**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R671-516. Parole Revocation Hearings
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 77-27-11 provides statutory provisions associated with the revocation of parole. The authority to revoke parole lies with the Board of Pardons and Parole (Board). This rule provides an outline for how parole revocation hearings are conducted by the Board, and what occurs if a parolee denies or admits allegations of parole condition violations.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-516 during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary to clearly delineate how the parole revocation process operates. It includes direction regarding how the Board conducts these hearings. It also provides guidance on how the hearings proceed based on whether the parolee admits to parole condition violation allegations or denies any allegations. If the parolee denies any of the alleged parole condition violations, the Board is then directed to conduct an evidentiary hearing to make specific findings related to the allegations denied. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/04/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-517</b>	<b>Filing ID: 51839</b>
<b>Effective Date:</b>	<b>10/04/2022</b>	

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R671-517. Evidentiary Hearings and Proceedings
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 77-27-11 provides statutory provisions associated with the revocation of parole. The authority to revoke parole lies with the Board of Pardons and Parole (Board). This rule provides the format and structure necessary for the Board to conduct an evidentiary hearing in situations where a parolee denies allegations of parole condition violations.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-517 during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary to openly outline how the Board conducts evidentiary hearings. These hearings are required in situations where a parolee denies any allegations of condition violations. Through these hearings, the Board determines whether there is sufficient evidence that violations have occurred. In these hearings, the Board must provide legal counsel services to the parolee, and through these hearings, a parolee's due process rights are protected. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/04/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-519</b>	<b>Filing ID: 51842</b>
<b>Effective Date:</b>	<b>10/04/2022</b>	

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R671-519. Proceedings When Criminal Charges Result in Acquittal
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 77-27-11 provides statutory provisions associated with the revocation of parole. The authority to revoke parole lies with the Board of Pardons and Parole (Board). This rule outlines how the Board proceeds if a parole violation allegation is for new criminal activity for which the parolee is acquitted in the court system.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-519 during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary to explain how the Board may proceed with an allegation of a parole condition violation associated with new criminal conduct that the parolee is subsequently acquitted of in the courts. A transcript from

the court criminal process may be used to document that an allegation of a parole condition violation did not occur. If the parolee is acquitted of new criminal charges, parties may still pursue a parole condition violation according to this rule. The evidentiary standard for a parole condition violation is preponderance of the evidence, which is a lower threshold than the beyond a reasonable doubt standard in the courts. As such, it is possible for the Board to decide a violation occurred even with an acquittal in the courts. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/04/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-520</b>	<b>Filing ID: 51847</b>
<b>Effective Date:</b>	<b>10/04/2022</b>	

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R671-520. Treatment of Confidential Testimony
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 77-27-11 provides statutory provisions associated with the revocation of parole. The authority to revoke parole lies with the Board of Pardons and Parole (Board). This rule provides instruction to the Board on how to proceed in a parole revocation evidentiary hearing when the testimony to be provided is considered confidential.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>



No written comments have been received by the Board regarding Rule R671-520 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:**

This rule is necessary to outline how the Board will proceed in a parole condition violation evidentiary hearing when a party desires confidential testimony to be considered. This rule specifies that the state must provide good cause for accepting testimony in camera. It includes items the Board must review in considering whether or not to take confidential testimony, as well as how that testimony is received, documented, and summarized to provide to the parolee during the Board's disclosure process. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/04/2022
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-522</b>	<b>Filing ID:</b>	<b>51845</b>
<b>Effective Date:</b>	<b>10/04/2022</b>		

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)		
<b>Agency:</b>	Administration		
<b>Street address:</b>	448 E Winchester, Suite 300		
<b>City, state and zip:</b>	Murray, UT 84107		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Mike Haddon	801-261-6467	mikehaddon@utah.gov	
<b>Please address questions regarding information on this notice to the agency.</b>			

**General Information**

**2. Rule catchline:**

R671-522. Continuances Due to Pending Criminal Charges

**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 77-27-11 provides statutory provisions associated with the revocation of parole. The authority to revoke parole lies with the Board of Pardons and Parole (Board). This rule makes clear that the Board may continue a hearing in its discretion to allow for the adjudication of new criminal charges.

**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 R671-522 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:**

This rule is necessary to ensure a proper notification is made to an individual with new criminal charges when a hearing is continued due to pending criminal charges. Once the charges have been resolved, the Board will reschedule the hearing. The parolee is to be updated during this process. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mike Haddon, Director	<b>Date:</b>	10/04/2022
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**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

**EXTENSIONS** are governed by Subsection 63G-3-305(6).

NOTICE OF FIVE-YEAR REVIEW EXTENSION		
<b>Rule Number:</b>	<b>R13-3</b>	<b>Filing ID: 53478</b>
<b>New Deadline Date:</b>	<b>02/07/2023</b>	

### Agency Information

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Administration	
<b>Street address:</b>	4315 S 2700 W, 3rd Floor	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Michael Broschinsky	801-957-7100	mbroschi@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

### General Information

<b>2. Rule catchline:</b>
R13-3. Americans with Disabilities Act Grievance Procedures
<b>3. Reason for requesting the extension:</b>
Due to personnel changes, the Executive Director's Office needs more time to review this rule.

### Agency Authorization Information

<b>Agency head or designee and title:</b>	Jenney Rees, Executive Director	<b>Date:</b>	10/07/2022
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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
<b>Rule Number:</b>	<b>R501-16</b>	<b>Filing ID: 51193</b>
<b>New Deadline Date:</b>	<b>02/01/2023</b>	

### Agency Information

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration, Administrative Services, Licensing	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jonah Shaw	385-310-2389	jshaw@utah.gov
Janice Weinman	385-321-5586	jweinman@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

### General Information

<b>2. Rule catchline:</b>
R501-16. Intermediate Secure Treatment Programs for Minors
<b>3. Reason for requesting the extension:</b>
As a result of consolidation, the Department of Health and Human Services (Department) is planning to repeal this rule, and is filing an extension in order to give the Department enough time to repeal this rule, rather than proceed with an unnecessary five-year review.

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	10/03/2022
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**End of the Notices of Five-Year Review Extensions Section**

## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Agriculture and Food

#### Animal Industry

No. 54816 (Amendment) R58-18: Elk Farming  
Published: 09/15/2022  
Effective: 10/24/2022

#### Plant Industry

No. 54791 (Amendment) R68-22: Industrial Hemp  
Research  
Published: 09/01/2022  
Effective: 10/24/2022

No. 54735 (Amendment) R68-28: Cannabis Processing  
Published: 07/15/2022  
Effective: 10/24/2022

No. 54735 (Change in Proposed Rule) R68-28: Cannabis  
Processing  
Published: 09/15/2022  
Effective: 10/24/2022

No. 54833 (Amendment) R68-32: Sale and Transfer of  
Industrial Hemp Waste Material to Medical Cannabis  
Cultivators  
Published: 09/15/2022  
Effective: 10/24/2022

No. 54782 (Amendment) R68-37: Industrial Hemp  
Cannabinoid Product Testing  
Published: 09/01/2022  
Effective: 10/11/2022

### Commerce

#### Consumer Protection

No. 54688 (Amendment) R152-23: Health Spa Services  
Protection Act Rule  
Published: 07/01/2022  
Effective: 10/24/2022

No. 54691 (Amendment) R152-32a: Pawnshop,  
Secondhand Merchandise Transaction Information Act Rule  
Published: 07/01/2022  
Effective: 10/24/2022

#### Professional Licensing

No. 54769 (Amendment) R156-71: Naturopathic Physician  
Practice Act Rule  
Published: 08/15/2022  
Effective: 10/20/2022

### Education

#### Administration

No. 54797 (Amendment) R277-120: Licensing of Material  
Developed with Public Education Funds  
Published: 09/01/2022  
Effective: 10/11/2022

No. 54798 (Amendment) R277-121: Board Waiver of  
Administrative Rules  
Published: 09/01/2022  
Effective: 10/11/2022

No. 54799 (New Rule) R277-313: Student Support License  
Areas of Concentration  
Published: 09/01/2022  
Effective: 10/11/2022

No. 54800 (Amendment) R277-320: Grow Your Own  
Teacher and School Counselor Pipeline Program  
Published: 09/01/2022  
Effective: 10/11/2022

No. 54801 (Amendment) R277-326: Early Learning  
Published: 09/01/2022  
Effective: 10/11/2022

## NOTICES OF RULE EFFECTIVE DATES

No. 54802 (Repeal) R277-514: Deaf Education in Public Schools  
Published: 09/01/2022  
Effective: 10/11/2022

No. 54803 (New Rule) R277-618: Homeless Teen Center Grant Program  
Published: 09/01/2022  
Effective: 10/11/2022

No. 54804 (New Rule) R277-629: Paid Professional Hours for Educators  
Published: 09/01/2022  
Effective: 10/11/2022

No. 54805 (New Rule) R277-919: Regulatory Sandbox Innovation Schools  
Published: 09/01/2022  
Effective: 10/11/2022

No. 54806 (Amendment) R277-920: School Improvement Implementation of the School Turnaround and Leadership Development Act  
Published: 09/01/2022  
Effective: 10/11/2022

No. 54807 (New Rule) R277-931: Required Provision of Period Products in Schools  
Published: 09/01/2022  
Effective: 10/11/2022

### Government Operations

#### Finance

No. 54697 (Amendment) R25-7: Travel-Related Reimbursements for State Travelers  
Published: 07/01/2022  
Effective: 10/18/2022

### Health and Human Services

#### Family Health and Preparedness, Emergency Medical Services

No. 54719 (Amendment) R426-6: Emergency Medical Services Per Capita Grants and Competitive Grants Program  
Published: 07/15/2022  
Effective: 10/10/2022

### Insurance

#### Administration

No. 54783 (Amendment) R590-160: Agency Review  
Published: 09/01/2022  
Effective: 10/11/2022

No. 54850 (Amendment) R590-164: Uniform Health Billing Rule  
Published: 09/15/2022  
Effective: 10/24/2022

No. 54851 (Amendment) R590-208: Uniform Application for Certificates of Authority  
Published: 09/15/2022  
Effective: 10/24/2022

No. 54852 (Amendment) R590-283: Defrayal of State-Required Benefits  
Published: 09/15/2022  
Effective: 10/24/2022

### Natural Resources

#### Water Resources

No. 54854 (New Rule) R653-11: Water Conservation Requirements and Incentives  
Published: 09/15/2022  
Effective: 10/24/2022

### School and Institutional Trust Lands

#### Administration

No. 54812 (Amendment) R850-23: Sand, Gravel and Cinders Permits  
Published: 09/01/2022  
Effective: 10/11/2022

No. 54813 (Amendment) R850-50: Range Management  
Published: 09/01/2022  
Effective: 10/11/2022

No. 54814 (Amendment) R850-140: Development Property  
Published: 09/01/2022  
Effective: 10/11/2022

### Transportation

#### Motor Carrier

No. 54809 (Amendment) R909-19: Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification  
Published: 09/01/2022  
Effective: 10/10/2022

#### Operations, Traffic and Safety

No. 54810 (Amendment) R920-50: Ropeway Operation Safety - Proposed Changes  
Published: 09/01/2022  
Effective: 10/10/2022

### Program Development

No. 54808 (Amendment) R926-16: Unsolicited Proposals for Transportation Infrastructure Public-Private Partnerships  
Published: 09/01/2022  
Effective: 10/10/2022

### Workforce Services

#### Employment Development

No. 54840 (Amendment) R986-200-239: How to Determine the Amount of the Financial Assistance Payment  
Published: 09/15/2022  
Effective: 10/24/2022



Housing and Community Development  
No. 54811 (Amendment) R990-300: Review Process for  
Plan for Moderate Income Housing Reports  
Published: 09/01/2022  
Effective: 10/11/2022

No. 54792 (Repeal) R990-400: Repeal Pandemic Housing  
Assistance  
Published: 09/01/2022  
Effective: 10/11/2022

**End of the Notices of Rule Effective Dates Section**

