

UTAH STATE BULLETIN

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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EXECUTIVE DOCUMENTS

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

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

EXECUTIVE ORDER 2022-06

Prohibiting the Use of TikTok by State Agencies and on State-owned Electronic Devices

WHEREAS, the social media application TikTok has over 100 million users in the United States;

WHEREAS, TikTok is owned and operated by ByteDance, a company headquartered in China;

WHEREAS, Chinese national security laws allow the Chinese government to compel companies headquartered in China to provide it with data, which may include the personal data, intellectual property, or proprietary information of users in the United States and Utah;

WHEREAS, ByteDance collects TikTok user data, including non-public personal information and potentially including user location information;

WHEREAS, ByteDance has acknowledged that its China-based employees have access to user data;

WHEREAS, ByteDance has refused to cut off user data flows to China or China-based employees;

WHEREAS, FBI Director Christopher Wray has noted TikTok poses national security concerns, including the possibility that the Chinese government uses TikTok to control data collection, influence TikTok's recommendation algorithm, or compromise personal devices;

WHEREAS, the Federal Communications Commission chair and United States Senators from both sides of the aisle have called for a TikTok ban due to security risks;

WHEREAS, the use of TikTok on State-owned electronic devices may enable the Chinese government to obtain confidential, private, or other data from Utah agencies or employees;

NOW, THEREFORE, I, Spencer J. Cox, governor of the state of Utah, by the authority vested in me by the Constitution and laws of this state, hereby order the following:

1. Application.

a. This executive order applies to all state executive branch agencies.

2. Definitions. As used in this order:

a. "Agency"

i. includes:

1. a department, division, office, bureau, or other organization within the state executive branch, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole; and

EXECUTIVE DOCUMENTS

ii. does not include:

1. an institution of higher education;
2. the Utah Board of Higher Education;
3. the State Board of Education;
4. an independent entity as defined in Utah Code § 63E-1-102;
5. the Attorney General's Office;
6. the State Auditor's Office;
7. the State Treasurer's Office;
8. the Legislative Branch; or
9. the Judicial Branch.

b. "State-owned electronic device" includes a state-owned mobile phone, desktop computer, laptop computer, tablet, or other electronic device.

3. Specific Requirements

a. Agencies and Contractors of Agencies

i. An agency or agency employee may not, on any State-owned electronic device, download or use the TikTok application or visit any TikTok website.

ii. An agency may not sponsor content on TikTok or maintain an agency-branded or agency-sponsored TikTok account.

iii. A person or entity contracted with an agency may not, on any State-owned electronic device, download or use the TikTok application or visit any TikTok website.

iv. The head of an agency:

1. shall implement this order; and

2. may grant exceptions to the prohibitions established in this Executive Order to enable administrative, civil, and criminal law enforcement investigations.

b. Department of Government Operations

i. The Department of Government Operations shall:

1. investigate any additional vulnerabilities TikTok presents to state networks or infrastructure;

2. make recommendations to the governor and agencies to address any identified vulnerabilities; and

3. take other actions necessary to implement this order.

THIS ORDER is effective immediately and shall remain in effect until otherwise modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 12th day of December, 2022.

(State Seal)

Spencer J. Cox
Governor, State of Utah

ATTEST:

Deidre M. Henderson
Lieutenant Governor, State of Utah

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

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

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least January 17, 2023. 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 April 14, 2023, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R70-580	Filing ID: 55105

Agency Information

1. Department:	Agriculture and Food	
Agency:	Regulatory Services	
Building:	TSOB, South Bldg. Floor 2	
Street address:	4315 S 2700 W	
City, state, and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO BOX 146500	
City, state, and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R70-580. Kratom Product Registration and Labeling
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Department of Agriculture and Food (Department) would like to make changes based on feedback from the kratom industry to clarify this rule and lessen burdensome or unnecessary requirements.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
In Section R70-580-3, language is added to clarify the liability of a kratom product registrant and remove the limitation related to changing alkaloid content in a kratom product because it is redundant to limitations already in the statute.
In Section R70-580-4, the limitation on having more than one DBA is removed.

In Section R70-580-6, some references to CFR labeling requirements are removed in favor of referencing Utah law and other clarifications are added.

Finally, in Section R70-580-10 the definition of adulterated is expanded concerning a product violation.

Fiscal Information

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

A) State budget:

These changes are clarifying in nature and should not impact the cost of the Department's administration of the program.

B) Local governments:

Local governments should not be impacted because they do not participate in the kratom program.

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

Small businesses should not be impacted because the costs of complying with the program requirements will not materially change. The changes are generally clarifications only.

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

Non-small businesses should not be impacted because the costs of complying with the program requirements will not materially change. The changes are generally clarifications only.

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**):

A person should not be impacted because the costs of complying with the program requirements will not materially change. The changes are generally clarifications only.

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

Compliance costs for affected persons will not change. The fees charged by the Department to participate in the kratom program will remain the same.

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 the narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 4-45-107		

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:	01/17/2023

9. This rule change MAY become effective on:	01/24/2023
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

Agency head or designee and title:	Craig W. Buttars, Commissioner	Date:	10/20/2022
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R70. Agriculture and Food, Regulatory Services.**R70-580. Kratom Product Registration and Labeling.****R70-580-1. Authority and Purpose.**

Pursuant to Section 4-45-107, this rule establishes the requirements for labeling and registration of products made from and containing kratom.

R70-580-2. Definitions.

(1) "Certificate of Analysis (COA)" means a certificate from a ~~[third party]~~ laboratory describing the results of the laboratory's analytical testing of a sample.

(2) "End Consumer" means an individual who does not resell the purchased kratom product.

(3) "Food" means a raw, cooked, or processed edible substance, ice, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

(4) "Label" means the display of ~~[all]~~ any written, printed, or graphic matter upon the immediate container of a kratom product or a statement by or under the control of the kratom processor or distributor, which is directly related to ~~[and accompanying]~~ the kratom product bearing the label.

(5) "Third-party Laboratory" means a laboratory that has no direct interest in a processor or distributor of kratom products that ~~[is capable of performing]~~ can perform mandated testing utilizing validated methods.

(6) "Approved Kratom Delivery Form" means a kratom product in raw leaf, capsule, tablet, powder, liquid~~[tincture]~~, tea bag, concentrated, extract, or gummy forms. The following are not~~[an]~~ approved kratom delivery forms:

(a) any form that is combustible or intended to be used for vaporization;

(b) any form that is intended to be added to food; or

(c) any form that mimics a candy product or is manufactured, packaged, or advertised in a way that appeals to children.

(7) "Kratom Type" means the specified strain of the botanical *Mitragyna speciosa*.

(8) "Kratom Processor" means any kratom product manufacturer, distributor, or retailer who offers a kratom product for sale or resale to consumers~~[in the state]~~.

(9) "Kratom Product" means a product manufactured or processed from kratom ~~[raw materials]~~ acquired by a kratom processor that is certified to be compliant with ~~[provisions of]~~ Title 4, Chapter 45, Kratom Consumer Protection Act.

(10) "Kratom Retailer" means a kratom processor who sells a kratom product to an end consumer.

R70-580-3. Product Registration.

(1) A kratom product distributed or available for distribution that is intended to be offered for sale to an end consumer in Utah, including on the internet or social media platforms, shall be:

(a) in an approved kratom delivery form; and

(b) registered with the department annually by the kratom processor.

(2) A product that contains the same kratom ingredients in the same kratom delivery form but a different container, package, or volume shall be included in a single registration.

(3) Application for registration shall be made on a form provided by the department that includes the following information:

(a) the name and address of the kratom processor and the name and address of the ~~[person]~~kratom processor whose name will appear on the label, if other than the kratom processor making the registration;

(b) the name of the kratom product included in the registration;

(c) the kratom type and recommended usage, including directions for use or serving size for the kratom product;

(d) the approved kratom delivery form;

(e) the weights or volumes, as appropriate, of the package of kratom product_s offered for sale for the recommended usage and ~~[for]~~the entire package;

(f) a complete copy of the label that will appear on the kratom product or the document that can be reached via a scannable bar code, QR code_s or web address, pursuant to Subsection R70-580-6~~[-]~~(7);

(g) a certificate of analysis for the kratom product from a third-party laboratory that shall obtain and keep the International Organization for Standardization (ISO) 17025:2017 accreditation from an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement;

(i) a third-party laboratory may test kratom product ~~[prior to]~~before obtaining ISO/IEC 17025:2017 accreditation provided by the third-party laboratory:

(A) adopts and follows minimum good laboratory practices which satisfy the OECD Principles of Good Laboratory Practice and Compliance Monitoring published by the Organization for Economic Co-operation and Development; and

(B) becomes ISO/IEC 17025:2017 accredited within 18 months, by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement;

(ii) if a kratom processor uses an out-of-state third-party laboratory they shall include a copy of the laboratory accreditation with the registration;

(h) certification that:

(i) the kratom ~~[manufacturer]~~processor has not added any substance to the kratom product that is listed in Title 58, Chapter 37, Utah Controlled Substances Act;

(ii) the kratom ~~[manufacturer]~~processor has not mixed or packed any nonkratom substance that affects the quality or strength of the kratom product to such a degree as to ~~[render]~~make the kratom product injurious to a consumer;

(iii) the kratom product manufacturer has not added any synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compound of the kratom plant;

(iv) the registrant assumes~~[full]~~ responsibility and liability for the product based on their role in the processing of the kratom

product and whether they are a kratom manufacturer, distributor, or retailer; and

(v) that the registered kratom product is compliant with applicable current state and federal guidelines for food safety.

(4) A non-refundable registration fee, as ~~[set forth]~~outlined in the fee schedule~~[d]~~ approved by the legislature, shall be paid to the department with the submission of a registration application.

(5) A separate registration fee shall be required for each kratom product manufactured or processed from raw materials with the same specifications, same name, and same kratom delivery form.

(6) The department may deny registration for an incomplete application.

(7) The department shall deny or withdraw registration for a kratom product that:

(a) violates Title 4, Chapter 45, Kratom Consumer Protection Act;

(b) is adulterated or contaminated with foreign materials that would be injurious to a consumer; or

~~[—e] makes a material change in the alkaloid content of the kratom product; or~~

~~[d]~~[c] if there is any reasonable basis to suspect that the kratom product is unsafe or that ingredients violate state law.

(8) A new registration application is required for the following:

(a) a change in the kratom product ingredients or processes that materially alters the product;

(b) a change to the recommended usage; and

(c) a change of name for the product.

(9) Other changes shall not require a new registration application but the registrant shall submit copies of all label changes to the department as soon as they are effective.

(10) The kratom processor registering the kratom product is responsible for the accuracy and ~~[—]~~completeness of the information submitted.

(11) A registration is renewable for up to~~[-a]~~ one-year ~~[period]~~with an annual renewal fee per kratom product that shall be paid on or before June 30th of each year.

(12) A kratom product that has been discontinued shall continue to be registered~~[-in Utah]~~ until the kratom product is no longer available for distribution.

(13) A late fee shall be assessed for a renewal of a kratom product registration submitted after June 30th and shall be paid before the registration renewal is issued.

R70-580-4. Establishment Registration.

(1) Pursuant to Subsection 4-45-104(5), a kratom processor shall register as a food establishment under Section 4-5-301.

(2) A kratom processor may be registered in another state that meets or exceeds the requirements in Section 4-5-301~~[-]~~ if they provide the department with a copy of the registration from the federal or state regulatory agency.

(3) A kratom processor shall be subject to any statutes, rules, regulations, policies, and procedures for food establishments specific to the form of the kratom product offered for sale~~[-in Utah]~~.

~~(4) [A kratom processor shall not have more than one DBA.]~~In their application for registration, each kratom processor shall identify any DBAs they operate that involve the production of kratom products and the person that is legally responsible to produce the kratom product. If the legally responsible person changes, the department shall be notified of the change within 30 days.

(5) The application for registration shall include a certification that the ~~[kratom processor]~~products manufacturer maintains a ~~[master]~~manufacturing batch record (M[M]BR) that documents:

- (a) batch-to-batch uniformity;
- (b) that each batch conforms to kratom raw material specifications;
- (c) that each batch record shows that each step of the M[M]BR was performed;
- (d) that the production processes, controls, and tests ensure reliable, reproducible results; and
- (e) that the finished kratom product meets each specification before the product is released for distribution.

(5) M[M]BR testing shall be performed on finished kratom products as identified by lot or batch number.

(6) Each M[M]BR shall also include the following information:

- (a) the lot or batch identification number of the tested product;
- (b) the date received;
- (c) the date of testing completion;
- (d) the method of analysis for each test conducted;
- (e) a photo of the kratom product that was tested;
- (f) the name and address of the kratom processor that manufactured the product; and
- (g) the name and address where the M[M]BR records are maintained and available for inspection by the department.

R70-580-5. Certificate of Analysis.

(1) At a minimum, the certificate of analysis for each batch of kratom product shall include the following test results:

- (a) the contents of mitragynine and 7-hydroxymitragynine in the kratom product certifying compliance with this rule and Subsection 4-45-104(1);

~~[b) at a minimum, test results that indicate:]~~

~~[i)](b) [that] the level of pathogens in the kratom product does not exceed the amounts listed in Table 1 when [a] one gram or greater sample is tested; and~~

[TABLE 1

Microbial Analytes and Action Levels
Microbial Limit Requirement

Total Aerobic Microbial Count NMT ≤10,000,000 cfu/g
Total Combined Yeast and Mold NMT ≤100,000 cfu/g
Total Bile-tolerant Gram-negative Bacteria NMT <10,000 cfu/g
Absence of Salmonella spp. & E. coli in 100g]

TABLE 1	
Microbial Analytes and Action Levels	Microbial Limit Requirement
Total Aerobic Microbial Count	NMT ≤10,000,000 cfu/g
Total Combined Yeast and Mold	NMT ≤100,000 cfu/g
Total Bile-tolerant Gram-negative Bacteria	NMT <10,000 cfu/g
Salmonella spp. & E. coli	Absence in 100g

~~[(i)](c)~~ that the levels of heavy metals in the kratom product do not exceed the amounts listed in Table 2~~[(i)]~~.

[TABLE 2

Heavy Metals

Metals Natural Health Products Acceptable limits in parts per million
Arsenic <2
Cadmium <0.82
Lead <1.2
Mercury <0.4]

TABLE 2	
Heavy Metals	
Metals	Natural Health Products Acceptable limits in parts per million
Arsenic	<2
Cadmium	<0.82
Lead	<1.2
Mercury	<0.4

2) Testing shall be performed on finished kratom products as identified by lot or batch number.

3) The certificate of analysis shall also include the following information:

- a) the lot or batch identification number of the tested product;
- b) the date received;
- c) the date of testing completion;
- d) the method of analysis for each test conducted;
- e) a photo of the kratom product that was tested;
- f) the name and address of the kratom processor that manufactured the product; and
- g) the name and address of the laboratory that completed the testing.

4) The lot or batch number on the certificate of analysis shall match the lot or batch number on the kratom product and shall be conspicuously placed on the container or label of the kratom product.

5) Upon receipt of an adverse or non-compliant test result, the kratom processor shall be required to produce a new certificate of analysis from an independent third-party laboratory on the reported product to affirm compliance.

6) Failure to submit a new certificate of analysis shall be cause for withdrawal or denial of [a-]product registration.

7) Mycotoxin testing of a kratom product may be required if the department has reason to believe that mycotoxins may be present.

R70-580-6. Label Requirements.

(1) ~~[A kratom product shall be labeled pursuant to 21 CFR 101.1, 21 CFR 101.2, 21 CFR 101.3, 21 CFR 101.4, 21 CFR 101.5, 21 CFR 101.7, 21 CFR 101.9(j)(13), 21 CFR 101.9(j)(17), 21 CFR 101.15, and 21 CFR 101.36]~~A kratom product that is marketed as conventional food as defined in Sections 4-5-102 and 4-45-102 shall be labeled pursuant to the labeling requirements of Section 4-5-201.

(2) A kratom product marketed as a dietary supplement as defined in Section 4-1-109 shall be labeled pursuant to the requirements of 21 CFR 101.36.

~~[(2)](3)~~ The label shall contain the factual basis upon which the kratom processor represents the product as a kratom product by identifying kratom within the list of ingredients.

~~(3)~~(4) The label shall identify each kratom product by a unique batch or lot number ~~[for]~~specifically linking each ~~[container that shall match the]~~kratom product to a specific batch ~~[and]or a lot [number on the certificate of analysis]~~manufactured by the kratom processor.

(4)(5) A kratom product shall not contain claims that the product is intended to diagnose, treat, cure, or prevent any medical condition or disease on the label or labeling.

~~(5)~~(6) The label of [E]each kratom product label shall include the following text pursuant to 21 CFR 101.93 (c), prominently displayed:

"This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease."

~~(6)~~(7) A kratom product shall meet the standards in 21 U.S.C. 9, the Food Drug and Cosmetic Act, other applicable federal laws and regulations, and ~~[all]~~any applicable state laws and regulations relating to the labeling of food and cosmetics.

(7)(8) If there is not sufficient room on the kratom product label, the kratom product shall display on the label a scannable bar code, QR code, or web address linked to a document containing the information required in Subsections R70-580-6(1) through R70-580-6(7)~~[(1) through (6)].~~

~~(8)~~(9) No~~[other]~~ information, illustration, or depiction that the processor knows or should know appeals to children shall appear on the label.

R70-580-7. Product Appearance and Flavor.

(1) A kratom processor may not produce a kratom product that is designed to mimic a candy product.

(2) A kratom processor may not produce a product that includes a candy-like flavor or another flavor the ~~[facility]~~kratom processor knows or should know appeals to children.

(3) A kratom processor may not shape a kratom product in any way that appeals to children, including products that are shaped like fruit, stars, cartoon renderings, humans, ~~[and]~~or animals.

(4) A kratom product shall be packaged in child-resistant packaging, pursuant to 16 CFR 1700.

R70-580-8. Inspection and Testing.

(1) The department shall conduct a randomized inspection of the kratom product distributed or available for distribution ~~[in the state]~~for compliance with this rule.

(2) The department shall periodically sample, analyze, and test a kratom product distributed ~~[within Utah]~~for compliance with registration and labeling requirements and the certificate of analysis.

(a) Each department sample shall include at least ten grams of kratom product.

(b) The department may test kratom product for any substance listed in Subsection R70-580-5(1) as well as for any of the following prohibited substances, at the discretion of the department:

(i) any pesticide;

(ii) any fentanyl derivative;

(iii) any of the following cannabinoids with an action level of 0.01% (w/w):

(A) delta-9-THC;

(B) delta-8-THC;

(C) THCA;

(D) CBD;

(E) CBDA;

(F) CBG;

(G) CBGA; or

(H) any other cannabinoid tested for by the laboratory with an action level of 0.01% (w/w);

(iv) cocaine; or

(v) any of the following Benzodiazepines:

(A) diazepam;

(B) alprazolam;

(C) triazolam;

(D) lorazepam; or

(E) clonazepam.

(c) Kratom product that is found to contain a prohibited substance shall be considered adulterated in violation of this rule.

(3) The department may conduct an inspection of any kratom product distributed or available for distribution if there is any reasonable basis to suspect that the kratom product is unsafe or that ingredients violate state law or rules.

(4) The test results from the department inspection samples shall be the official sample results.

(5) Upon request, a kratom processor shall provide documentation certifying that any batch of kratom raw materials acquired pursuant to a compliant specification purchase that is used to process or manufacture a kratom product is compliant with Section R70-580-5.

R70-580-9. Retailer Responsibilities.

(1) A retailer shall:

(a) ensure that kratom product is labeled correctly; and

(b) ensure that the kratom product offered for sale is properly registered with the department.

(2) A retailer shall provide the identity of the processor or manufacturer of a kratom product sold by the retailer upon request of the department.

(3) A retailer shall register a kratom product ~~[in lieu of]~~instead of the kratom processor if the product is not registered.

R70-580-10. Violation.

(1) Each improperly labeled kratom product shall be a separate violation of this rule.

(2) A kratom product shall be considered misbranded if it does not meet the labeling requirements of this rule.

(3) A kratom product shall be considered adulterated~~[if it is found to contain pathogenic microorganisms, mold, or fungus]~~based on the definition in Subsection 4-5-103(1).

(4) It is a violation to distribute or market a kratom product that is not registered with the department.

(5) Each unit manufactured or processed from a batch of raw material or on a single retail invoice shall be considered a separate violation of this rule for an unregistered product marketed for sale.

(6) It is a violation:

(a) to prepare, distribute, sell, or offer for sale a kratom product that violates Subsection 4-45-104 (1);

(b) to prepare, distribute, sell, or offer for sale a kratom product that is not in an approved kratom delivery form, including adding or processing kratom into ~~[another form of]~~any food consumed for taste, aroma, and nutritive value;

(c) to prepare, distribute, sell, or offer for sale a kratom product that would be potentially harmful to consumers;

(d) for a kratom processor to fail to register as a food establishment pursuant to Section 4-5-301 or Subsection R70-580-4(2);

(e) for a kratom processor to distribute, sell, or offer for sale a kratom product to an individual under 18 years of age; and

(f) for a kratom processor to improperly sample, test, falsify a certificate of analysis, or knowingly submits a falsified certificate of analysis for a kratom product.

R70-580-11. Penalties.

Any violation of or failure to comply with ~~any provision of~~ this rule or any specific requirements~~[.]~~ may be grounds for issuance of citations, fines, recall of kratom product, revocation of registration, or denial of future registration pursuant to Sections 4-2-303 and 4-2-304.

KEY: kratom, kratom product registration, kratom processor
Date of Last Change: ~~April 2, 2021~~ 2023
Authorizing, and Implemented or Interpreted Law: 4-45-107

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R70-620	Filing ID: 55106
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Agency Information

1. Department:	Agriculture and Food	
Agency:	Regulatory Services	
Building:	TSOB, South Bldg. Floor 2	
Street address:	4315 S 2700 W	
City, state, and zip:	Taylorsville UT 84129-2128	
Mailing address:	PO BOX 146500	
City, state, and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R70-620. Enrichment of Flour and Cereal Products
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Changes are needed to make the rule text more consistent with the requirements of the Utah Rulewriting Manual, as well as update the adoption of federal regulations.

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

The rule text has been updated to address formatting issues, provide clarity, and ensure the requirements of the Utah Rulewriting Manual are met, as well as adopt the standards in the 21 CFR Parts 137 and 139. This rule establishes enrichment standards and labeling requirements for flour and cereal products.

Fiscal Information

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

A) State budget:

The changes are clarifying and adopting federal regulations and will not impact the operation of the program and therefore will not have a fiscal impact on the state.

B) Local governments:

Local governments do not administer the program, are not regulated under the program, and will not be impacted.

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

Small businesses do not administer the program, are not regulated under the program, and will not be impacted.

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

There should be no fiscal impact on non-small businesses because the changes are clarifying existing practices and the operation of the program will not change.

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

There should be no fiscal impact on other persons because the changes are clarifying existing practices and the operation of the program will not change.

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

There should be no change in compliance costs for affected persons because compliance requirements are not changing.

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

NOTICES OF PROPOSED RULES

this table. Inestimable impacts will be included in the narratives above.)

Regulatory Impact Table

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

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

The Commissioner of the Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved this regulatory impact analysis.

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

Section 4-5-104

Incorporations by Reference Information**7. Incorporations by Reference:****A) This rule adds, updates, or removes the following title of materials incorporated by references:**

Official Title of Materials Incorporated (from title page)	21 CFR Part 137, Cereal Flours and Related Products
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Publisher	Code of Federal Regulations
Issue Date	5/3/2022
Issue or Version	2022

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

Official Title of Materials Incorporated (from title page)	21 CFR Part 139, Macaroni and Noodle Products
Publisher	Code of Federal Regulations
Issue Date	5/3/2022
Issue or Version	2022

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:	01/17/2023
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9. This rule change MAY become effective on:	01/24/2023
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Craig W. Buttars, Commissioner	Date:	10/28/2022
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R70. Agriculture and Food, Regulatory Services.**R70-620. Enrichment of Flour and Cereal Products.****R70-620-1. Purpose and Authority.**

~~[A-](1) This rule is [P]promulgated under the authority of Section 4-[6-3]5-104.~~

~~[B-](2) This rule establishes enrichment standards and labeling requirements for flour and cereal products.~~

~~(3) [The Utah Department of Agriculture and Food]This rule [adopts and-]incorporates by reference [the Code of Federal Regulations, April 1, 2000 edition Title 21, parts 137 and 139]the April 1, 2021 versions of 21 CFR Part 137 and 21 CFR Part 139, as its enrichment standards and labeling requirements governing the identity and quantity of vitamins and minerals to be added to flour and cereal manufactured or sold in Utah.~~

R70-620-2. Enrichment Standards.

~~(1) The following flour and cereal products have identity and enrichment standards as prescribed in 21 CFR [p]Parts 137 and 139.~~

~~[A-](a)~~ ~~[Enrichment standards for f]~~Flour and cereals produced from small grain and corn includ~~[e]~~ing:

- ~~(i)~~ enriched bromated flour~~[-]~~;
- ~~(ii)~~ enriched self-rising flour~~[-]~~;
- ~~(iii)~~ instantized - instant blending and quick-making forms of ~~[the same,] enriched bromated flour or enriched self-rising flour;~~
- ~~(iv)~~ enriched farina~~[-]~~;
- ~~(v)~~ enriched corn meals~~[-]~~;
- ~~(vi)~~ enriched corn grits~~[-]~~ and
- ~~(vii)~~ enriched rice.

~~[B-](b)~~ Food products containing 25~~[-percent]~~% or more of flour produced from small grain and corn includ~~[e]~~ing:

- ~~(i)~~ enriched white bread and rolls~~[-]~~;
- ~~(ii)~~ enriched macaroni products~~[-]~~;
- ~~(iii)~~ enriched noodle products~~[-]~~;
- ~~(iv)~~ enriched vegetable macaroni products~~[-]~~;
- ~~(v)~~ enriched vegetable noodle products~~[-]~~;
- ~~(vi)~~ enriched macaroni products made with non~~[-]~~fat milk~~[-]~~; and
- ~~(vii)~~ enriched macaroni products with fortified protein.

R70-620-3. Labeling.

~~[A-](1)~~ The flour and cereal products listed in Subsections R70-620-2~~[A-](1)(a)~~ and ~~[B-](b)~~ ~~[in the above enrichment standard]~~ shall be labeled in accordance with the ~~[Code of Federal Regulation Title 21,]~~ definitions and standards of identity of 21 CFR Parts 137 and 139.

~~[B-](2)~~ The unenriched counterpart of the flour and cereal products listed in Subsection R70-620-2~~[A-](1)(a)~~ ~~[of the above enrichment standards]~~ may be sold at retail ~~[in Utah]~~ and only if there is prominently shown on the ~~[principle] principal~~ display panel the word "unenriched" in type no smaller than one-half the height of the name of the product on the ~~[principle] principal~~ display panel.

R70-620-4. Certificate.

~~[A-](1)~~ Any flour sold to a distributor or processor must be certified, assuring the seller that the flour or any flour or cereal product derived from the flour when offered for retail sale will conform to the enrichment standards and labeling requirements.

~~[B-](2)~~ The ~~[required-]~~certificate shall ~~[be in]~~include the following form:

- ~~(a)~~ ~~[D]~~date;
- ~~(b)~~ "The following flour is unenriched. I hereby certify that the final product made from this flour will meet the enrichment standards prescribed for flour"~~[-]~~;
- ~~(c)~~ ~~[S]~~signature and ~~[T]~~title of ~~[D]~~distributor or ~~[P]~~processor; and
- ~~(d)~~ ~~[A]~~address of ~~[D]~~distributor or ~~[P]~~processor.

KEY: food inspection

Date of Last Change: ~~[March 6, 2004]~~2023

Notice of Continuation: April 29, 2020

Authorizing, and Implemented or Interpreted Law: ~~[4-6-3]~~4-5-104

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R70-930	Filing ID: 55053
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Agency Information

1. Department:	Agriculture and Food	
Agency:	Regulatory Services	
Building:	TSOB, South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO BOX 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R70-930. Method of Sale of Commodities
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Changes are needed to make the rule text more consistent with the requirements of the Utah Rulewriting Manual, as well as update the adoption of federal regulations.
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 text has been updated to address formatting issues, provide clarity, and ensure the requirements of the Utah Rulewriting Manual are met, as well as adopt the 2022 version of the Uniform Regulation for the Method of Sale of Commodities as published in the National Institute of Standards and Technology (NIST) Handbook 130.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The changes clarify information and adopt updated federal standards and will not impact the operation of the program and will not have a fiscal impact on the state.

B) Local governments:

Local governments do not administer the program, are not regulated under the program, and will not be impacted.

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

There should be no fiscal impact on small businesses because the changes are clarifying existing practices and the operation of the program will not change.

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

There should be no fiscal impact on non-small businesses because the changes are clarifying existing practices and the operation of the program will not change.

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

There should be no fiscal impact on other persons because the changes are clarifying existing practices and the operation of the program will not change.

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

There should be no change in compliance costs for affected persons because compliance requirements are not changing.

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 the narratives above.)**Regulatory Impact Table**

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

State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Commissioner of the Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved this regulatory impact analysis.

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

Section 4-9-103		
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Incorporations by Reference Information**7. Incorporations by Reference:****A) This rule adds, updates, or removes the following title of materials incorporated by references:**

Official Title of Materials Incorporated (from title page)	The Uniform Regulation for the Method of Sale of Commodities Handbook 130
Publisher	The National Institute of Standards and Technology (NIST)
Issue Date	January 1, 2022
Issue or Version	2022 version

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

A) Comments will be accepted until:	01/17/2023
--	------------

9. This rule change MAY become effective on:	01/24/2023
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Craig W. Buttars, Commissioner	Date:	11/08/2022
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R70. Agriculture and Food, Regulatory Services.

R70-930. Method of Sale of Commodities.

R70-930-1. Purpose and Authority.

Promulgated under the authority of Section 4-9-[2]103.

R70-930-2. ~~Adopted~~Incorporated by Reference.

Except as modified by ~~the department~~ Section R70-930-3, the Uniform Regulation for the Method of Sale of Commodities as published in the National Institute of Standards and Technology (NIST) Handbook 130, [2006]2022 edition, is ~~hereby adopted by the department, and~~ incorporated by reference within this rule.

R70-930-3. Modifications.

~~4-1~~(1) Berries and small fruits - if sold by volume, shall have the following capacities:

(a) Metric Capacities[—].

(i) 250 milliliters[7];

(ii) 500 milliliters[7]; or

(iii) 1 liter.

(b) Inch-Pound Capacities[—].

(i) 1/2 dry pint, having a capacity of 16.8 cubic inches and containing ~~not less than~~at least six ounces;

(ii) 1 dry pint, having a capacity of 33.6 cubic inches and containing ~~not less than twelve~~at least 12 ounces; or

(iii) 1 dry quart having a capacity of 67.2 cubic inches and containing ~~not less than twenty-four~~at least 24 ounces; except that weights used in the sale of red currants shall be 21 ounces for quarts, 10.5 ounces for pints and 5.3 ounces for half pints.

KEY: inspections

Date of Last Change: ~~July 2, 1997~~2023

Notice of Continuation: July 6, 2021

Authorizing, and Implemented or Interpreted Law: 4-9-[2]103

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R156-31b	Filing ID: 55111
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Agency Information

1. Department:	Commerce
Agency:	Professional Licensing
Building:	Heber M Wells Building
Street address:	160 E 300 S
City, state and zip:	Salt Lake City, UT 84111-2316
Mailing address:	PO Box 146741

City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Jeff Busjahn	801-530-6789	jbusjahn@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R156-31b. Nurse Practice Act Rule

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

The Division of Professional Licensing (Division) in collaboration with the Board of Nursing and the Nursing Advisory Peer Education Committee is filing these proposed amendments to clarify and update the rule, implement certain requirements in accordance with statutory changes made by H.B. 389, H.B. 384, and S.B. 101 passed in the 2022 General Session, and reduce barriers to licensure under Executive Order No. 2021-1.

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

The amendments to Section R156-31b-102 define the "Certificate of Academic Status" to be completed by an applicant for a registered nurse apprentice license, and clarify the definition of an "Individualized Healthcare Plan".

The amendments to Section R156-31b-301a (renumbered to R156-31b-302b) remove barriers to licensure for an LPN who has not practiced as a nurse in any jurisdiction for eight or more years, by allowing the applicant the option of completing an approved re-entry program and passing the NCLEX-PN within 60 days of application, instead of completing all of the requirements for an applicant who has never held an LPN license.

New Section R156-31b-302c further defines the Registered Nurse Apprentice licensure process under statutory changes made by SB 101 in the 2022 General Session by: 1) requiring the student applicant to submit evidence of their qualifications under Subsections 58-31b-302(3)(e) through (f) by causing the program in which the applicant is enrolled to submit a Certificate of Academic Status directly to the Division; and 2) clarifying that the program has the sole discretion whether or not to submit a Certificate on behalf of its student.

The amendments to Section R156-31b-301b (renumbered to R156-31b-302d) remove barriers to licensure for an RN who has not practiced as a nurse in any jurisdiction for eight or more years, by allowing the applicant the option of

completing an approved re-entry program and passing the NCLEX-RN within 60 days of application, instead of completing all of the requirements for an applicant who has never held an RN license.

The amendments to Section R156-31b-301d (renumbered to R156-31b-302f) remove an incorrect reference to the CGFNS Certification Program Verification Letter because this option is not available for an LPN.

The amendments to Section R156-31b-402 (renumbered to R156-31b-501): 1) update the table formatting; and 2) update the fine schedule to add fines for (a) violations of new Sections 58-1-510 and R156-31b-703b regarding anesthesia and sedation in accordance with H.B. 384 (2022); and (b) failing to comply with the American Nurses Association Code of Ethics for Nurses in violation of Subsection R156-31b-703a(20).

In accordance with Section 58-31b-601 as amended by H.B. 389 (2022), the amendments to Sections R156-31b-602 (renumbered to R156-31b-601) and R156-31b-603 update the requirements for limited-time approval of non-accredited nursing education programs by providing a temporary approval process for nursing education programs seeking accreditation for the purpose of qualifying graduates for licensure.

The amendment to Section R156-31b-703a adds the American Nurses Association (ANA) Code of Ethics for Nurses, 2015 edition, to the nurse standards of professional accountability.

The amendments to R156-31b-703b establish the knowledge, skills, and education and training standards for a certified registered nurse anesthetist (APRN-CRNA) who provides general anesthesia, deep sedation, or moderate sedation, in accordance with new Section 58-1-510 enacted by H.B. 384 (2022). The standards incorporated by reference are the following: 1) American Association of Nurse Anesthesiology (AANA) Standards for Nurse Anesthesia Practice, 2019 edition; or the following American Society of Anesthesiologists (ASA) standards: (i) Basic Standards for Preanesthesia Care, 2020 edition; (ii) Standards for Basic Anesthetic Monitoring, 2020 edition; and (iii) Standards for Postanesthesia Care, 2019 edition; 2) the following American Dental Association (ADA) standards: (i) Guidelines for the Use of Sedation and General Anesthesia by Dentists, 2016 edition; (ii) Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, 2016 edition; (iii) Guidelines for Teaching Pediatric Pain Control and Sedation to Dentists and Dental Students, 2021 edition; and (iv) ADA Policy Statement: The Use of Sedation and General Anesthesia by Dentists, 2007 edition; or 3) the following American Association of Oral and Maxillofacial Surgeons (AAOMS) standards: (i) Office Anesthesia Evaluation Manual, 2018 9th edition; and (ii) Parameters of Care, 2017 6th edition.

Per Executive Order No. 2021-12, formatting changes are also made throughout this rule to conform this rule to the Utah Rulewriting Manual.

Public Hearing Information:

The rule hearing will be held on 12/20/2022 at 9:00 AM at the Heber Wells Building, 160 E 300 S, Conference Room 475, Salt Lake City, UT; and also electronically via Google Meet, information below.

Meeting link:

meet.google.com/uvt-skdj-eip

Join by phone:

(US) +1 224-513-0291

PIN: 895025220

Fiscal Information

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

A) State budget:

As described in box 5C for small businesses, the proposed amendments to renumbered Sections R156-31b-302b and R156-31b-302d may indirectly benefit state agencies who employ nurses if these state agencies are able to more easily hire qualified licensed nurses to practice in Utah, but the full fiscal and non-fiscal impacts cannot be estimated because the data necessary to determine how many such licensees might be hired is unavailable, and because the benefits each state agency may experience from any resulting increased ability to employ qualified nurses will vary widely depending on the requirements of the agency and the individual characteristics of each nurse.

The remainder of the proposed amendments are not expected to result in any impact to the state budget as they merely streamline and update this rule in accordance with Executive Order No. 2021-12 or implement statutory changes made by H.B. 389, H.B. 384, and S.B. 101 (2022) and will not affect state practices or procedures over and above the statutory changes.

B) Local governments:

As described in 5C for small businesses, the proposed amendments to renumbered Sections R156-31b-302b and R156-31b-302d may indirectly benefit local governments who employ nurses if they are able to more easily hire qualified licensed nurses to practice in Utah, but the full fiscal and non-fiscal impacts cannot be estimated because the data necessary to determine how many such licensees might be hired is unavailable, and because the benefits each local government may experience from any resulting increased ability to employ qualified nurses will vary widely depending on the requirements of the local government and the individual characteristics of each nurse.

The remainder of the proposed amendments are not expected to result in any impact to local governments as they merely streamline and update the rule in accordance with Executive Order No. 2021-12 or implement statutory changes made by H.B. 389, H.B. 384, and S.B. 101 (2022) and will not affect local government practices or procedures over and above the statutory changes.

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

The proposed amendments to renumbered Sections R156-31b-302b and R156-31b-302d may indirectly benefit the estimated 6,069 small businesses in Utah comprising establishments employing nurses, such as private or group practices, hospitals, or medical centers (NAICS 623110, 621399, 621330, 623110, 622310, 622210, 624310, 624230, 621610, 624120, 623990, 623312, 623220, 622110, 621991, 621910, 621493, 621420, 62111), as the amendments may facilitate the ability of these businesses to hire qualified licensed nurses to practice in Utah.

The full fiscal and non-fiscal impact cannot be estimated because the data necessary to determine how many such licensees might be hired is unavailable, and because the benefits that a small business may experience from any resulting increased ability to employ qualified nurses will vary widely depending on the requirements of the small business and the individual characteristics of each nurse.

The remainder of the proposed amendments are expected to have no measurable impact on small businesses' revenues or expenditures as they merely streamline and update this rule in accordance with Executive Order No. 2021-12 or implement statutory changes made by H.B. 389, H.B. 384, and S.B. 101 (2022).

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

The proposed amendments to renumbered Sections R156-31b-302b and R156-31b-302d may indirectly benefit the estimated 382 non-small businesses in Utah comprising establishments employing nurses, such as private or group practices, hospitals, or medical centers (NAICS 623110, 621399, 621330, 623110, 622310, 622210, 624310, 624230, 621610, 624120, 623990, 623312, 623220, 622110, 621991, 621910, 621493, 621420, 62111), as the amendments may facilitate the ability of these businesses to hire qualified licensed nurses to practice in Utah.

The full fiscal and non-fiscal impact cannot be estimated because the data necessary to determine how many such licensees might be hired is unavailable, and because the benefits that a non-small business may experience from any resulting increased ability to employ qualified nurses will vary widely depending on the requirements of the non-small business and the individual characteristics of each nurse.

The remainder of the proposed amendments are expected to have no measurable impact on non-small businesses' revenues or expenditures as they merely streamline and update the rule in accordance with Executive Order No. 2021-12 or implement statutory changes made by H.B. 389, H.B. 384, and S.B. 101 (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**):

There are approximately 50,679 licensed nurses that may be affected by the proposed amendments, but the Division does not anticipate any measurable fiscal impact to these persons over and above the statutory changes and the impact already addressed in the fiscal notes for H.B. 389, H.B. 384, and S.B. 101 (2022).

The proposed amendments to renumbered Sections R156-31b-302b and R156-31b-302d are expected to remove barriers to licensure for an RN or LPN who has not practiced as a nurse in any jurisdiction for eight or more years, by allowing them the option of completing an approved re-entry program and passing the NCLEX exam within 60 days of application, instead of completing all of the requirements for an applicant who has never held a license. However, the full fiscal and non-fiscal impact to these individuals cannot be estimated because the data necessary to determine how many of these individuals might be able to obtain licensure and then become hired is unavailable, and the benefits that each may experience from any resulting increased ability to become employed will vary depending on the employer and the individual characteristics of each nurse.

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

As described in box 5E for other persons, the Division does not anticipate any compliance costs for any affected persons from these proposed amendments.

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

Regulatory Impact Table

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

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

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

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

The Division, in concert with the Board of Nursing and the Nursing Advisory Peer Education Committee, propose amendments to Rule R156-31b, the Nurse Practice Act Rule. The proposed amendments are to update this rule and implement certain requirements in accordance with statutory changes made by H.B. 389, H.B. 384, and S.B. 101 (2022). The changes are to reduce barriers of entry for LPN and RN licensees to reenter the profession after a period of inactivity. Additionally, the Division has made formatting changes throughout this rule to conform this rule to the Utah Rulewriting Manual in accordance with Executive Orders No. 2021-1 and 2021-12.

Small Businesses (less than 50 employees):

The Division finds that will not be a fiscal impact for small businesses. The Division approximates that there are 6,069 small businesses that employ nurses in private or group practices, hospitals, and medical centers (NAICS 623110, 621399, 621330, 623110, 622310, 622210, 624310, 624230, 621610, 624120, 623990, 623312, 623220, 622110, 621991, 621910, 621493, 621420, 62111).

The proposed amendments are expected to benefit these small businesses by allowing them to hire nurses more easily. Further, the Division does not foresee any negative impact on small businesses since the grammatical amendments are made to make this rule comport to the Utah Rulewriting Manual.

Regulatory Impact to Non-Small Businesses (50 or more employees):

The Division finds that there are approximately 382 non-small businesses that employ nurses in private and group practices, hospitals, and medical centers (NAICS 623110, 621399, 621330, 623110, 622310, 622210, 624310, 624230, 621610, 624120, 623990, 623312, 623220, 622110, 621991, 621910, 621493, 621420, 62111)). However, these amendments will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses.

Further, any of these costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

Citation Information

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

Section 58-31b-101	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)
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Incorporations by Reference Information

7. Incorporations by Reference:

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

Official Title of Materials Incorporated (from title page)	American Nurses Association (ANA) Code of Ethics for Nurses
Publisher	American Nurses Association
Issue Date	2015 edition

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

Official Title of Materials Incorporated (from title page)	American Association of Nurse Anesthesiology (AANA) Standards for Nurse Anesthesia Practice
Publisher	American Association of Nurse Anesthesiology
Issue Date	2019 edition

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

Official Title of Materials Incorporated (from title page)	American Society of Anesthesiologists (ASA) Standards - Basic Standards for Preanesthesia Care
Publisher	American Society of Anesthesiologists
Issue Date	2020 edition

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

Official Title of Materials Incorporated (from title page)	American Society of Anesthesiologists (ASA) Standards - Standards for Basic Anesthetic Monitoring
Publisher	American Society of Anesthesiologists
Issue Date	2020 edition

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

Official Title of Materials Incorporated (from title page)	American Society of Anesthesiologists (ASA) Standards - Standards for Post anesthesia Care
Publisher	American Society of Anesthesiologists
Issue Date	2019 edition

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

Official Title of Materials Incorporated (from title page)	Guidelines for the Use of Sedation and General Anesthesia by Dentists
Publisher	American Dental Association (ADA)
Issue Date	2016 edition

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

Official Title of Materials Incorporated (from title page)	Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students
Publisher	American Dental Association (ADA)
Issue Date	2016 edition

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

Official Title of Materials Incorporated (from title page)	Guidelines for Teaching Pediatric Pain Control and Sedation to Dentists and Dental Students
Publisher	American Dental Association (ADA)
Issue Date	2021 edition

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

Official Title of Materials Incorporated (from title page)	ADA Policy Statement: The Use of Sedation and General Anesthesia by Dentists
Publisher	American Dental Association (ADA)
Issue Date	2007 edition

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

Official Title of Materials Incorporated (from title page)	Office Anesthesia Evaluation Manual
Publisher	American Association of Oral and Maxillofacial Surgeons (AAOMS)
Issue Date	2018 9th edition

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

Official Title of Materials Incorporated (from title page)	Parameters of Care
Publisher	American Association of Oral and Maxillofacial Surgeons (AAOMS)
Issue Date	2017 6th edition

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: 01/17/2023

B) A public hearing (optional) will be held:

On:	At:	At:
12/20/2022	9:00 AM	The rule hearing information is in Box 4 above

9. This rule change MAY become effective on: 01/24/2023

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

Agency head or designee and title:	Mark B. Steinagel, Division Director	Date:	11/28/2022
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R156. Commerce, ~~Occupational and~~ Professional Licensing.**R156-31b. Nurse Practice Act Rule.****R156-31b-101. Title - Authority - Relationship to Rule R156-1.**

(1) This rule is known as the "Nurse Practice Act Rule."

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 31b, Nurse Practice Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-31b-102. Definitions.

~~[In addition to the]~~ The following definitions supplement the definitions in Title 58, Chapter 1, ~~[General Rule of the]~~ Division of ~~[Occupational and]~~ Professional Licensing Act, and Title 58, Chapter 31b, Nurse Practice Act~~[the following rule definitions supplement the statutory definitions]~~:

(1) "Accreditation" means formal recognition and approval of a nurse education program by an accrediting body for nursing education that is approved by the United States Department of Education.

(2) "Administering" means the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person.

(3) "APRN" means advanced practice registered nurse.

(4) "APRN-CRNA" means advanced practice registered nurse with registered nurse anesthetist certification.

(5) "Approved continuing education" means:

(a) continuing education that has been approved by a nationally or internationally recognized approver of professional continuing education for health-related industries;

(b) nursing education courses offered by an approved education program as defined in Subsection (6);

(c) health-related coursework taken from an educational institution accredited by a regional or national institutional accrediting body recognized by the U.S. Department of Education;

(d) continuing education approved by any state board of nursing; or

(e) training or educational presentations offered by the Division.

(6) "Approved education program" as defined in Subsection 58-31b-102(3) is further defined to mean a prelicensing nursing education program that meets the standards in Sections 58-31b-601 and R156-31b-~~602~~601.

(7) "Approved re-entry program" means a program designed to evaluate nursing competencies for nurses that is:

(a)(i) approved by a state board of nursing; or

(ii) offered by an accredited nursing education program;

and

(b) includes a minimum of 150 hours of supervised clinical learning.

(8) "Certificate of Academic Status" means the Division form that may be completed by an approved registered nursing education program for an applicant for a registered nurse apprentice license, to prove the applicant's qualifications for licensure under Subsections 58-31b-302(3)(e) and (f) and Section R156-31b-302c.

(~~[8]~~9) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.

(~~[9]~~10)(a) "Clinical practice experiences" means, as used in the Commission on Collegiate Nursing Education Standards for Accreditation of Baccalaureate and Graduate Nursing Programs, amended 2018, planned learning activities in nursing practice that allow students to understand, perform, and refine professional competencies at the appropriate program level.

(b) "Clinical practice experiences" may be known as clinical learning opportunities, clinical practices, clinical strategies, clinical activities, experiential learning strategies, or practice.

(~~[10]~~11) "Completed" an education program under Section 58-31b-302, means:

(a) graduation from the education program, verified by official transcripts showing degree and date of program completion; and

(b) for an LPN applicant under Subsections 58-31b-302(2)(e) and R156-31-103a(1)(a), may include:

(i) current enrollment in an RN approved education program; and

(ii) completion of coursework in the RN approved education program that is equivalent to the coursework of a PN approved education program.

(~~[11]~~12) "Comprehensive nursing assessment" means:

(a) conducting extensive initial and ongoing data collection:

(i) for individuals, families, groups, or communities; and

(ii) addressing anticipated changes in patient conditions as well as emergent changes in patient health status;

(b) recognizing alterations to previous patient conditions;

(c) synthesizing the biological, psychological, spiritual, and social aspects of the patient's condition;

(d) evaluating the impact of nursing care; and

(e) using data generated from the assessments conducted pursuant to Subsections (a) through (d) to:

(i) make independent decisions regarding patient health care needs;

(ii) plan nursing interventions;

(iii) evaluate any possible need for different interventions;

and

(iv) evaluate any possible need to communicate and consult with other health team members.

(~~[12]~~13) "Contact hour" in the context of continuing education means 60 minutes, and may include a ten-minute break.

(~~[13]~~14) "Delegate" means:

(a) to transfer to another nurse the authority to perform a selected nursing task in a selected situation;

(b) for an APRN who specializes in psychiatric mental health nursing, to transfer to a licensed mental health therapist selected psychiatric APRN supervisory clinical experiences within generally accepted industry standards; or

(c) to transfer to an unlicensed individual, including unlicensed assistive personnel or a responsible caregiver, the authority to perform a task that, according to generally accepted industry standards or law, does not require a nursing assessment as defined in Subsections (~~[11]~~12) and (~~[17]~~18).

(~~[14]~~15) "Delegatee" means one or more persons assigned by a delegator to act on the delegator's behalf.

(~~[15]~~16) "Delegator" means:

(a) a licensed nurse directly responsible for a patient's care, who assigns to another licensed or unlicensed individual the authority to perform a task on behalf of the delegator in accordance with

Subsection[s] 58-31b-102(12)(g)[~~7~~] or R156-31b-102(13), [~~and~~] or Section[s] R156-31b-701a[~~7~~] or R156-31b-701b; or

(b) a responsible caregiver who delegates to an unlicensed direct care worker the performance of nursing care for a patient in accordance with Sections 58-31b-308.1 and R156-31b-701c.

(~~146~~17)(a) "Disruptive behavior" means conduct, whether verbal or physical, that:

- (i) is demeaning, outrageous, or malicious;
- (ii) occurs during the process of delivering patient care;

and

- (iii) places a patient at risk.

(b) "Disruptive behavior" does not include criticism that is offered in good faith with the aim of improving patient care.

(~~147~~18) "Focused nursing assessment" means an appraisal of a patient's status and situation at hand, including:

- (a) verification and evaluation of orders; and
- (b) assessment of:
 - (i) the patient's nursing care needs;
 - (ii) the complexity and frequency of the required nursing care;

- (iii) the stability of the patient; and

(iv) the availability and accessibility of resources, including appropriate equipment, adequate supplies, and other appropriate health care personnel to meet the patient's nursing care needs.

(~~148~~19) "Foreign nurse education program" means any program that originates or occurs outside of the United States.

(~~149~~20) "Individualized healthcare plan" or "IHP" means a written document that:

(a) outlines the provision of student healthcare services intended to achieve specific student outcomes; and

(b) includes a confirmed medical diagnosis by a licensed health care provider as defined in Subsection 78B-3-403(13), that is within the health care provider's scope of practice.

(~~20~~21) "Licensure by equivalency" applies only to a licensed practical nurse and may be warranted if the person seeking licensure:

(a)(i) has, within the two-year period preceding the date of application, successfully completed course work in a registered nurse education program that meets the criteria established in Sections 58-31b-601 and R156-31b-602; and

(ii) has been unsuccessful on the NCLEX-RN at least one time; or

(b)(i) is currently enrolled in an accredited registered nurse education program; and

(ii) has completed course work that is certified by the education program provider as being equivalent to the course work of an ACEN-accredited practical nursing program, as verified by the nursing education program director or administrator.

(~~24~~22) "LPN" means licensed practical nurse.

(~~22~~23) "MAC" means medication aide certified.

(~~23~~24) "Medication" means a prescription or nonprescription drug as defined in Subsection[s] 58-17b-102(26), 58-17b-102(39), or 58-17b-102(~~63~~64) of the Pharmacy Practice Act.

(~~24~~25) "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.

(~~25~~26) "Nonapproved education program" means a nurse prelicensing course of study that does not meet the criteria of Section 58-31b-601, including a foreign nurse education program.

(~~26~~27) "Nurse" means:

(a) an individual licensed under Title 58, Chapter 31b, Nurse Practice Act as:

(i) a licensed practical nurse;

(ii) a registered nurse;

(iii) an advanced practice registered nurse; or

(iv) an advanced practice registered nurse-certified registered nurse anesthetist; or

(b) a certified nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act.

(~~27~~28) "Other specified health care professional," as used in Subsection 58-31b-102(13), means an individual in addition to a registered nurse or a licensed physician who is permitted to direct the tasks of a licensed practical nurse, and includes:

(a) an advanced practice registered nurse;

(b) a certified nurse midwife;

(c) a chiropractic physician;

(d) a dentist;

(e) an osteopathic physician;

(f) a physician assistant;

(g) a podiatric physician;

(h) an optometrist;

(i) a naturopathic physician; or

(j) a mental health therapist as defined in Subsection 58-60-102(5).

(~~28~~29) "Patient" means one or more individuals:

(a) who receive medical or nursing care; and

(b) to whom a licensee owes a duty of care.

(~~29~~30) "Patient surrogate" means an individual who has legal authority to act on behalf of a patient when the patient ~~is unable to~~ cannot act or make decisions unaided, including:

(a) a parent;

(b) a foster parent;

(c) a legal guardian; or

(d) a person legally designated as the patient's attorney-in-fact.

(~~30~~31) "PN" means an unlicensed practical nurse.

(~~34~~32) "Psychiatric mental health nursing specialty" means an expertise in psychiatric mental health, whether as a clinical nurse specialist or nurse practitioner licensed as an APRN.

(~~32~~33) "Practica" means working in the nursing field as a student, not exclusive to patient care activities.

(~~33~~34) "Practitioner" means a person authorized by law to prescribe treatment, medication, or medical devices.

(~~34~~35) "RN" means a registered nurse.

(~~35~~36) "School" means any private or public institution of primary or secondary education, including a charter school, preschool, kindergarten, or special education program.

(~~36~~37) "Supervision" means the global definitions of levels of supervision in Section R156-1-102a, as follows:

(a) "Direct supervision" and "immediate supervision" mean the same as defined in Section R156-1-102a.

(b) "Indirect supervision" means the same as defined in Section R156-1-102a.

(c) "General supervision" means the same as defined in Section R156-1-102a.

(d) "Supervising licensee" means the same as defined in Section R156-1-102a.

(~~37~~38)(a) "Unlicensed assistive personnel," as used in Subsection 58-31b-102(~~147~~18), is further defined to mean an unlicensed individual who performs health care services in a complementary or assistive role to a nurse in carrying out acts included within the definition of the practice of nursing.

(b) "Unlicensed assistive personnel" includes the following:

NOTICES OF PROPOSED RULES

(i) a nurse aide, orderly, assistant, attendant, technician, home health aide, medication aide permitted or certified by a state agency, unlicensed direct care worker, or any other individual who provides personal care or assistance regarding health-related services; and

(ii) a nursing student not licensed as a nurse, who provides care that is not part of the student's formal educational program, and who must comply with applicable laws and rules regarding the student's performance of care.

(~~38~~39) "Unprofessional conduct," as defined in Title 58, Chapter 1, [~~General Rules of the~~] Division of [~~Occupational and~~] Professional Licensing Act, and Title 58, Chapter 31b, Nurse Practice Act, is further defined in Section R156-31b-502.].

~~R156-31b-103. Authority – Purpose.~~

~~This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 31b, Nurse Practice Act.~~

~~R156-31b-104. Organization – Relationship to Rule R156-1.~~

~~The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.]~~

~~R156-31b-304~~302a. License Classifications - Professional Upgrade.

(1) A licensed practical nurse license shall be superseded upon the issuance of a registered nurse license.

(2)(a) An advanced practice registered nurse may hold both an APRN and an RN license in Utah.

(b) Unless the APRN requests that both the APRN and RN licenses remain active, the RN license shall be superseded upon the issuance of the APRN license.

~~R156-31b-304a~~302b. LPN License -- Education, Examination, and Experience Requirements.

(1) Under Subsection 58-31b-302(2), an LPN applicant who has never obtained a license in any state, district, or territory of the United States or in any [~~country~~] jurisdiction outside of the United States shall:

(a) under Subsection 58-31b-302(2)(e), demonstrate that the applicant:

(i) has completed a PN approved education program;

(ii) has completed a PN education program that is equivalent to a PN approved education program;

(iii)(A) has completed an RN approved education program; and

(B) has taken, but not passed the NCLEX-RN at least one time; or

(iv)(A) is enrolled in an RN approved education program; and

(B) has completed coursework that is equivalent to the coursework of a PN approved education program; and

(b) under Subsection 58-31b-302(2)(f), pass the NCLEX-PN examination pursuant to Section R156-31b-301e.

(2) Under Subsection 58-31b-302(2), an LPN applicant who holds a current LPN license issued by another state, district, or territory of the United States, or [~~another country~~] by a jurisdiction outside of the United States, shall:

(a) demonstrate that the license issued by the other jurisdiction meets the requirements for licensure by endorsement in Subsection 58-1-302(1); or

(b) complete the requirements of Subsection 58-31b-302(2) and Subsection (1) for an applicant who has never obtained an LPN license.

(3) An applicant who holds a current LPN license in an interstate Party state, as defined in Section 58-31e-102 of the Nurse Licensure Compact, shall:

(a) apply for a license within 90 days of establishing residency in Utah; and

(b) complete the requirements of Subsection (2).

(4) An LPN applicant who [~~has been~~] was licensed [~~previously~~] in Utah, but whose license has expired or lapsed, shall:

(a) if the applicant has not practiced as a nurse in any jurisdiction for up to five years, document current compliance with the continuing competency requirements in Subsection R156-31b-303(3);

(b) if the applicant has not practiced as a nurse in any jurisdiction for more than five years but less than eight years:

(i) pass the NCLEX-PN examination within 60 days following the date of application; or

(ii) complete an approved re-entry program; or

(c) if the applicant has not practiced as a nurse in any jurisdiction for [~~more than~~] eight years or more [~~but less than ten~~] years:

(i) complete an approved re-entry program; and

(ii) pass the NCLEX-PN examination within 60 days following the date of application[~~or~~

~~(d) if the applicant has not practiced as a nurse in any jurisdiction for ten years or more, complete the requirements of Subsection 58-31b-302(2) and Subsection (1) for an applicant who has never obtained an LPN license].~~

(5) Under Subsection 58-31b-302(2), an LPN applicant who has been licensed in another state, district, or territory of the United States or another country, but whose license has expired or lapsed, shall:

(a)(i) demonstrate that the applicant meets the requirements of Subsections (1)(a) and R156-31b-301e]302g(1); and

(b) comply with Subsection (4) as applicable.

R156-31b-302c. Registered Nurse Apprentice License - Education, Examination, and Experience Requirements.

(1) Under Subsection 58-31b-306.1(4), an applicant for a registered nurse apprentice license shall submit evidence of their qualifications under Subsections 58-31b-302(3)(e) through (f) by causing the approved registered nurse education program in which the applicant is enrolled to submit a Certificate of Academic Status directly to the Division.

(2) The registered nurse education program in which an applicant is enrolled has the sole discretion to decide if it will submit a Certificate of Academic Status for the applicant.

~~R156-31b-304b~~302d. RN License -- Education, Examination, and Experience Requirements.

(1) Under Subsection 58-31b-302(~~3~~4), an RN applicant who has never obtained a license in any state, district, or territory of the United States, or [~~any country~~] in a jurisdiction outside of the United States, shall:

(a) under Subsection 58-31b-302(~~3~~4)(e) demonstrate that the applicant has completed an RN approved education program; and

(b) under Subsection 58-31b-302(~~3~~4)(f) pass the NCLEX-RN examination pursuant to Section R156-31b-301e]302g.

(2) Under Subsection 58-31b-302(~~[3]4~~), an RN applicant who holds a current RN license issued by another state, district, or territory of the United States, or ~~[another country]~~ in a jurisdiction outside the United States, shall:

(a) demonstrate that the license issued by the other jurisdiction meets the requirements for licensure by endorsement in Subsection 58-1-302(1); or

(b) complete the requirements of Subsection 58-31b-302(~~[3]4~~) and Subsection (1) for an applicant who has never obtained an RN license.

(3) An applicant who holds a current RN license in an interstate Party state, as defined in Section 58-31e-102 of the Nurse Licensure Compact, shall:

(a) apply for a license within 90 days of establishing residency in Utah; and

(b) complete the requirements of Subsection (2).

(4) An RN applicant who ~~[has been]~~ was licensed ~~[previously]~~ in Utah, but whose license has expired or lapsed, shall:

(a) if the applicant has not practiced as a nurse in any jurisdiction for up to five years, document current compliance with the continuing competency requirements in Section R156-31b-303;

(b) if the applicant has not practiced as a nurse in any jurisdiction for more than five years but less than eight years:

(i) pass the NCLEX-RN examination within 60 days following the date of application; or

(ii) complete an approved re-entry program; or

(c) if the applicant has not practiced as a nurse in any jurisdiction for ~~[more than] eight or more years~~ [but less than ten years]:

(i) complete an approved re-entry program; and

(ii) pass the NCLEX-RN examination within 60 days following the date of application; ~~or~~

~~(d) if the applicant has not practiced as a nurse in any jurisdiction for ten years or more, complete the requirements of Subsection 58-31b-302(3) and Subsection (1) for an applicant who has never obtained an RN license].~~

(5) Under Subsection 58-31b-302(~~[2]4~~), an RN applicant who has been licensed in another state, district, or territory of the United States or ~~[another country]~~ in a jurisdiction outside the United States, but whose license has expired or lapsed, shall:

(a) comply with Subsection R156-31b-~~[304d]~~ 302f(1); and

(b) comply with Subsection (4) as applicable.

R156-31b-~~[304e]~~ 302e. APRN License -- Education, Examination, and Experience Requirements.

(1) Under Subsection 58-31b-302(~~[4]5~~), an applicant for licensure as an APRN shall:

(a) under Subsection 58-31b-302(4)(d), demonstrate that the applicant holds a current, active RN license in good standing;

(b) under Subsection 58-31b-302(~~[4]5~~)(e), demonstrate that the applicant has completed an APRN prelicensing education program that meets the requirements of Subsection 58-31b-601(1);

(c) pass a national certification examination for nurse practitioner, clinical nurse specialist, certified nurse midwife, or registered nurse anesthetist pursuant to Section R156-31b-~~[304e]~~ 302g, that is administered by a certification body approved by:

(i) the National Commission for Certifying Agencies; or

(ii) the Accreditation Board for Specialty Nursing Certification; and

(d) if the applicant specializes in psychiatric mental health nursing, demonstrate that the applicant meets the requirements in Subsection (2).

(2)(a) Under Subsection 58-31b-302(~~[4]5~~)(g), the supervised clinical practice requirements in mental health therapy and psychiatric mental health nursing for an APRN practicing within the psychiatric mental health nursing specialty, shall consist of at least 4,000 hours of psychiatric mental health nursing education and clinical practice as follows:

(i) 1,000 hours shall be credited as a block of time for completion of Clinical Practice Experience in an approved education program in psychiatric mental health nursing, regardless of the number of hours completed by the applicant; and

(ii) the remaining 3,000 hours shall:

(A) be completed after passing the applicable national certification examination, and within five years of graduation from an accredited master's or doctoral level educational program;

(B) include a minimum of 1,000 hours of mental health therapy practice; and

(C) include at least 2,000 clinical practice hours completed under the supervision of:

(I) an APRN specializing in psychiatric mental health nursing;

(II) a licensed mental health therapist as delegated by the supervising APRN; or

(III) a physician holding active board certification with the American Board of Psychiatry and Neurology, or equivalent as determined by the Division.

(b) An applicant who obtains the clinical practice hours outside of Utah may receive credit for that experience by demonstrating that the training completed is equivalent to the training under Subsection (2)(a).

(c) An approved supervisor shall verify the applicant's practice as a licensee engaged in the practice of mental health therapy for at least 4,000 hours in a period of at least two years.

(d) Duties and responsibilities of a supervisor include:

(i) maintaining a relationship with the supervisee in which the supervisor is independent from control by the supervisee, and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(ii) supervising not more than three supervisees unless otherwise approved by the Division in collaboration with the Board; and

(iii) submitting appropriate documentation to the Division for work completed by the supervisee, including the supervisor's evaluation of the supervisee's competence to practice.

(3) An applicant who holds a current APRN license issued by another state, district, or territory of the United States, or ~~[another country]~~ in a jurisdiction outside the United States, shall:

(a)(i) demonstrate that the license issued by the other jurisdiction meets the requirements for endorsement in Subsection 58-1-302(1); and

(ii) document current national certification as a nurse practitioner, clinical nurse specialist, certified nurse midwife, or registered nurse anesthetist pursuant to Section R156-31b-~~[304e]~~ 302g, from a certification body approved by:

(A) the National Commission for Certifying Agencies; or

(B) the Accreditation Board for Specialty Nursing Certification; or

(b) complete the requirements of Subsection 58-31b-302(~~[4]5~~) and Subsection (1) for an applicant who has never obtained an APRN license.

(4) An APRN applicant who has been licensed previously in Utah, but whose license has expired, lapsed, or been on inactive

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status, shall demonstrate current certification in the individual's specialty area.

(5) An applicant who has been licensed previously in another state, district, or territory of the United States, or another country, but whose license has expired or lapsed, shall:

(a)(i) comply with Subsection (3)(a)(ii); and

(ii) demonstrate that the applicant is currently certified in the individual's specialty area; or

(b) complete the requirements of Subsection 58-31b-302([4]5) and Subsection (1) for an applicant who has never obtained an APRN license.

R156-31b-[304d]302f. Nonapproved Nursing Education Programs.

(1) Under Subsection 58-31b-303(1)(b) and Section R156-31b-[304a]302b, an applicant for LPN licensure who graduated from a nonapproved nursing education program shall demonstrate that the nursing education program completed by the applicant is equivalent by submitting:

(a) a CGFNS Credentials Evaluation Service Professional Report that is acceptable to the Division and the Board;[

~~_____ (b) a CGFNS Certification Program Verification Letter;]~~
or

([e]b) documentation of meeting the endorsement requirements of Subsection 58-1-302(1).

(2) Under Subsection[s] 58-31b-303(2)(b) and Section R156-31b-[304b]302d, an applicant for RN licensure who graduated from a nonapproved nursing education program shall submit:

(a) a CGFNS Certification Program Verification Letter; or

(b) documentation of meeting the endorsement requirements of Subsection 58-1-302(1).

R156-31b-[304e]302g. Examination Requirements.

(1)(a) An applicant for licensure as an LPN, RN, Certified Nurse Midwife, or APRN shall pass the applicable licensure or certification examination within five years of the applicant's date of graduation from the approved education program, except as provided in Subsection (1)(b).

(b) An individual specializing in psychiatric mental health nursing shall complete the applicable certification examination [prior ~~to~~]before beginning the 3,000 hours of required psychiatric clinical and mental health therapy practice.

(c) An individual who does not pass the licensure or certification examination pursuant to Subsection (1)(a) or (b) shall complete another approved nursing education program before again attempting to pass the licensure or certification examination.

(2) An applicant for certification as a MAC shall pass the NCSBN Medication Aide Certification Examination within one year of completing the approved training program.

R156-31b-[304f]302h. Licensing Fees.

An applicant for licensure shall pay the [applicable]nonrefundable application fee before the application may be considered by the Division or Board.

R156-31b-[309]306. APRN Intern License.

(1)(a) Under Subsections 58-31b-306(1)(b) and (3)(b), an APRN intern license expires the earlier of:

(i) 180 days from the date of issuance;

(ii) 30 days after the applicant has failed the specialty certification examination; or

(iii) upon issuance of an APRN license.

(b) The Division in collaboration with the Board may extend the term of an APRN intern license upon a showing of extraordinary circumstances beyond the control of the applicant.

(2) An individual holding an APRN intern license specializing in psychiatric mental health nursing shall work under the supervision of an APRN pursuant to Section R156-31b-301c.

(3) It is the professional responsibility of an APRN intern to:

(a) inform the Division of examination results within ten calendar days of receipt; and

(b) cause the examination agency to send the examination results directly to the Division.

R156-31b-[402]501. Administrative Penalties.

Under Sections 58-1-501, 58-31b-501, 58-31b-502, 58-31b-502.5, 58-31b-503, Subsection 58-31b-102(1), and Section R156-31b-502, and unless otherwise ordered by the presiding officer, the following fine schedule shall apply:

TABLE FINE SCHEDULE				
VIOLATION	FIRST OFFENSE		SUBSEQUENT OFFENSE	
58-1-501(1)(a)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(1)(b)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(1)(c)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(1)(d)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(1)(e)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(1)(f)(i)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(1)(g)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(a)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(b)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(c)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(d)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(e)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(f)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(g)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(h)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(i)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(j)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(k)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(l)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(m)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-1-501(2)(n)	\$ 250	\$ 4,000	\$ 4,000	\$ 8,000
58-1-501(2)(o)	\$ 250	\$ 4,000	\$ 4,000	\$ 8,000
58-1-501.5	\$ 250	\$ 4,000	\$ 4,000	\$ 8,000
58-1-508(2)	\$ 500 per violation			
58-31b-501(1)	\$ 500	\$ 4,000	\$ 4,000	\$ 8,000
58-31b-501(2)	\$ 500	\$ 4,000	\$ 4,000	\$ 8,000
58-31b-501(3)	\$ 2,000	\$ 7,500	\$ 7,500	\$ 9,500
58-31b-502(1)(a)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(b)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(c)	\$ 4,000	\$ 8,000	\$ 8,000	\$10,000
58-31b-502(1)(d)	\$ 2,000	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(e)	\$ 1,000	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(f)	\$ 1,000	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(g)	\$ 1,000	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(h)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(i)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(j)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(k)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(l)	\$ 1,000	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(m)	\$ 1,000	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(n)	double the original penalty, up to \$20,000			
58-31b-502(1)(o)	\$ 1,000	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(p)	\$ 1,000	\$ 5,000	\$ 5,000	\$10,000
58-31b-502(1)(q)	\$ 1,000	\$ 5,000	\$ 5,000	\$10,000
58-31b-502.5(1)	\$ 500	\$ 5,000	\$ 1,500	\$10,000
Ongoing: \$2,000 per day but not less than the second offense				
58-31b-502.5(2)	\$ 500	\$ 5,000	\$ 1,500	\$10,000
Ongoing: \$2,000 per day but not less than the second offense				
58-31b-502.5(3)	\$ 5,000		\$10,000	

Ongoing: \$2,000 per day but not less than the second offense				
58-31b-601	\$ 2,000	\$ 7,500	\$ 7,500	\$ 9,500
58-31b-801	\$ 1,000	\$ 5,000	\$ 5,000	\$10,000
58-31b-803	\$ 1,000	\$ 5,000	\$ 5,000	\$10,000
58-37-19	first offense \$250, second offense \$500			
	subsequent offenses \$1,000			
R156-1-501(6)	\$ 500	\$ 4,000	\$ 4,000	\$ 8,000
R156-1-501(7)	\$ 500	\$ 4,000	\$ 4,000	\$ 8,000
R156-1-501(8)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
R156-1-501(9)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
R156-1-501.1	\$ 500	\$ 5,000	\$ 5,000	\$10,000
R156-31b-502(1)(a)	\$ 500	\$ 4,000	\$ 4,000	\$ 8,000
R156-31b-502(1)(b)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
R156-31b-502(1)(c)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
R156-31b-502(1)(d)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
R156-31b-502(1)(e)	\$ 1,000	\$ 5,000	\$ 5,000	\$10,000
R156-31b-502(1)(f)	\$ 500	\$ 5,000	\$ 5,000	\$10,000
R156-31b-502(1)(g)	\$ 250	\$ 1,500	\$ 1,500	\$10,000
R156-31b-502(1)(h)	\$ 250	\$ 1,500	\$ 1,500	\$10,000
R156-31b-502(1)(i)	\$ 250	second offense \$500		
	subsequent offenses \$1,000			
R156-31b-502(1)(j)	\$ 250	second offense \$500		
	subsequent offenses \$1,000			
R156-31b-501(1)(k)	\$ 1,000	\$ 5,000	\$ 5,000	\$10,000
R156-31b-602	\$ 2,000	\$ 7,500	\$ 7,500	\$ 9,500
R156-37-502	\$ 1,000	\$ 1,000		
	\$ 1,000 for each additional violation			

Subsequent offenses. Unless a specific fine amount is specified elsewhere, a sanction for an offense subsequent to a second offense shall be the greater of \$10,000 or \$2,000 per day-]

TABLE 1
Fine Schedule

VIOLATION	FIRST OFFENSE	SUBSEQUENT OFFENSE
58-1-501(1)(a)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(1)(b)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(1)(c)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(1)(d)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(1)(e)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(1)(f) (i)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(1)(g)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(2)(a)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(2)(b)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(2)(c)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(2)(d)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(2)(e)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(2)(f)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(2)(g)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(2)(h)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(2)(i)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000

58-1-501(2)(j)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(2)(k)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(2)(l)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(2)(m)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-1-501(2)(n)	\$ 250 - \$ 4,000	\$ 4,000 - \$ 8,000
58-1-501(2)(o)	\$ 250 - \$ 4,000	\$ 4,000 - \$ 8,000
58-1-501.5	\$ 250 - \$ 4,000	\$ 4,000 - \$ 8,000
58-1-508(2)	\$500 per violation	
58-31b-501(1)	\$ 500 - \$ 4,000	\$ 4,000 - \$ 8,000
58-1-510	\$ 500 - \$ 1,000	\$1,000 - \$2,000
58-31b-501(2)	\$ 500 - \$ 4,000	\$ 4,000 - \$ 8,000
58-31b-501(3)	\$ 2,000 - \$ 7,500	\$ 7,500 - \$ 9,500
58-31b-502(1)(a)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(b)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(c)	\$ 4,000 - \$ 8,000	\$ 8,000 - \$10,000
58-31b-502(1)(d)	\$ 2,000 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(e)	\$ 1,000 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(f)	\$ 1,000 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(g)	\$ 1,000 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(h)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(i)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(j)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(k)	\$ 500 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(l)	\$ 1,000 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(m)	\$ 1,000 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(n)	double the original penalty, up to \$20,000	
58-31b-502(1)(o)	\$ 1,000 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(p)	\$ 1,000 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502(1)(q)	\$ 1,000 - \$ 5,000	\$ 5,000 - \$10,000
58-31b-502.5(1)	\$ 500 - \$ 5,000	\$ 1,500 - \$10,000

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<u>Ongoing: \$2,000 per day but not less than the second offense</u>		
<u>58-31b-502.5(2)</u>	<u>\$ 500 - \$ 5,000</u>	<u>\$ 1,500 - \$10,000</u>
<u>Ongoing: \$2,000 per day but not less than the second offense</u>		
<u>58-31b-502.5(3)</u>	<u>\$ 5,000</u>	<u>\$10,000</u>
<u>Ongoing: \$2,000 per day but not less than the second offense</u>		
<u>58-31b-601</u>	<u>\$ 2,000 - \$ 7,500</u>	<u>\$ 7,500 - \$ 9,500</u>
<u>58-31b-801</u>	<u>\$ 1,000 - \$ 5,000</u>	<u>\$ 5,000 - \$10,000</u>
<u>58-31b-803</u>	<u>\$ 1,000 - \$ 5,000</u>	<u>\$ 5,000 - \$10,000</u>
<u>58-37-19</u>	<u>first offense \$250</u>	<u>second offense \$500</u>
<u>subsequent offenses \$1,000</u>		
<u>R156-1-501(6)</u>	<u>\$ 500 - \$ 4,000</u>	<u>\$ 4,000 - \$ 8,000</u>
<u>R156-1-501(7)</u>	<u>\$ 500 - \$ 4,000</u>	<u>\$ 4,000 - \$ 8,000</u>
<u>R156-1-501(8)</u>	<u>\$ 500 - \$ 5,000</u>	<u>\$ 5,000 - \$10,000</u>
<u>R156-1-501(9)</u>	<u>\$ 500 - \$ 5,000</u>	<u>\$ 5,000 - \$10,000</u>
<u>R156-1-501.1</u>	<u>\$ 500 - \$ 5,000</u>	<u>\$ 5,000 - \$10,000</u>
<u>R156-31b-502(1) (a)</u>	<u>\$ 500 - \$ 4,000</u>	<u>\$ 4,000 - \$ 8,000</u>
<u>R156-31b-502(1) (b)</u>	<u>\$ 500 - \$ 5,000</u>	<u>\$ 5,000 - \$10,000</u>
<u>R156-31b-502(1) (c)</u>	<u>\$ 500 - \$ 5,000</u>	<u>\$ 5,000 - \$10,000</u>
<u>R156-31b-502(1) (d)</u>	<u>\$ 500 - \$ 5,000</u>	<u>\$ 5,000 - \$10,000</u>
<u>R156-31b-502(1) (e)</u>	<u>\$ 1,000 - \$ 5,000</u>	<u>\$ 5,000 - \$10,000</u>
<u>R156-31b-502(1) (f)</u>	<u>\$ 500 - \$ 5,000</u>	<u>\$ 5,000 - \$10,000</u>
<u>R156-31b-502(1) (g)</u>	<u>\$ 250 - \$ 1,500</u>	<u>\$ 1,500 - \$10,000</u>
<u>R156-31b-502(1) (h)</u>	<u>\$ 250 - \$ 1,500</u>	<u>\$ 1,500 - \$10,000</u>
<u>R156-31b-502(1) (i)</u>	<u>\$ 250</u>	<u>second offense \$500</u>
<u>subsequent offenses \$1,000</u>		
<u>R156-31b-502(1) (j)</u>	<u>\$ 250</u>	<u>second offense \$500</u>
<u>subsequent offenses \$1,000</u>		
<u>R156-31b-502(1) (k)</u>	<u>\$ 1,000 - \$ 5,000</u>	<u>\$ 5,000 - \$10,000</u>
<u>R156-31b-502(1) (l)</u>	<u>\$ 250 - \$ 5,000</u>	<u>\$ 5,000 - \$10,000</u>
<u>R156-31b-502(1) (m)</u>	<u>\$ 500 - \$ 1,000</u>	<u>\$ 1,000 - \$ 2,000</u>
<u>R156-31b-602</u>	<u>\$ 2,000 - \$ 7,500</u>	<u>\$ 7,500 - \$ 9,500</u>
<u>R156-37-502</u>	<u>\$ 1,000</u>	<u>\$ 1,000</u>
<u>\$ 1,000 for each additional violation</u>		

<u>Subsequent offenses.</u>	<u>Unless a different fine amount is specified elsewhere, a sanction for an offense subsequent to a second offense is the greater of \$10,000 or \$2,000 per day.</u>
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R156-31b-502. Unprofessional Conduct.

- (1) "Unprofessional conduct" includes:
- (a) failing to destroy a license that has expired due to the issuance and receipt of an increased scope of practice license;
- (b) knowingly accepting or retaining a license that has been issued pursuant to a mistake or on the basis of erroneous information;
- (c) as an RN or LPN, issuing a prescription for a prescription drug to a patient, except in accordance with Section 58-17b-620 or as otherwise legally permissible;
- (d) failing as the nurse accountable for directing nursing practice of an agency to verify:
- (i) that standards of nursing practice are established and carried out;
- (ii) that safe and effective nursing care is provided to patients;
- (iii) that guidelines exist for the organizational management and management of human resources needed for safe and effective nursing care to be provided to patients; or
- (iv) that the nurses employed by the agency have the knowledge, skills, ability, and current competence to carry out the requirements of their jobs;
- (e) engaging in sexual contact with a patient surrogate concurrent with the nurse-patient relationship, unless the nurse affirmatively shows by clear and convincing evidence that the contact:
- (i) did not result in any form of abuse or exploitation of the surrogate or patient; and
- (ii) did not adversely alter or affect in any way:
- (A) the nurse's professional judgment in treating the patient;
- (B) the nature of the nurse's relationship with the surrogate;
- or
- (C) the nature of the nurse's relationship with the patient;
- (f) engaging in disruptive behavior in the practice of nursing;
- (g) prescribing to oneself any controlled substance drug, in violation of Subsection R156-37-502(1)(a);
- (h) violating a federal or state law relating to controlled substances, including self-administering a controlled substance that is not lawfully prescribed by another licensed practitioner having authority to prescribe the drug, in violation of Section R156-37-502;
- (i) as an APRN, failing to comply with Section 58-37-19, regarding discussion with a patient or the patient's guardian before issuing an initial opiate prescription;
- (j) as an APRN, violating Title 26, Chapter 61a, Utah Medical Cannabis Act; ~~and~~
- (k) failing to practice within limits of competency, in violation of Section 58-31b-801;
- (l) failing to comply with the American Nurses Association (ANA) Code of Ethics for Nurses, in violation of Subsection R156-31b-703a(20); or
- (m) violation Section R156-31b-703b.

(2) "Unprofessional conduct" does not include, when licensed as an RN, and in accordance with a school's policies and Sections R156-31b-70a and R156-31b-701b, delegating or training an unlicensed assistive person to administer medications in accordance with a prescribing practitioner's order and an IHP.

R156-31b-601. Requirements for ~~Non-accredited~~ Limited-time Approval of Nursing Education Programs.

(1) ~~Under Subsection 58-31b-601(2), a nursing education program may, prior to obtaining an accreditation described in Subsection 58-31b-601(1), qualify for a limited time as an approved education program if the program was granted limited time approval on or before May 15, 2016.~~

~~(2) The provider of a~~ A nursing education program with [limited time] temporary approval under Subsection 58-31b-601(2) or (3)(a) shall: ~~[pursuant to Subsection (1) shall, pursuant to Subsection (3):]~~

(a) disclose to each student who enrolls that:

(i) program accreditation is pending, meaning that the program has an active application on file with an accrediting body as defined in Subsection R156-31b-102(1), by having submitted initial notification to the accrediting body;

(ii) any education completed ~~[prior to]~~ before the accrediting body's final determination will satisfy, at least in part, state requirements for prelicensing education; and

(iii) if the program fails to achieve accreditation ~~[on or before June 30, 2022]~~ in accordance with Section 58-31b-601, a student who has not yet graduated will not be made eligible for the NCLEX by the state; and

(b) attest to each student who enrolls that the program is allowed to enroll new students because it meets the requirements of ~~[Subsection] Section 58-31b-601(2)(e)~~.

~~(3)2~~ The disclosure required by Subsection ~~(2)1~~ shall:

(a) be signed by each student who enrolls ~~[with the provider]~~; and

(b) at a minimum, state the following: "The nursing program in which you are enrolling has not yet been accredited. The program is being reviewed by the (insert the name of the accrediting body). This program is allowed to enroll new students because it meets the requirements of ~~[Subsection] Section 58-31b-601(2)(e)~~ for temporary approval. Any education you complete ~~[on or before June 30, 2022]~~ in accordance with Section 58-31b-601, or a final approved determination by the (insert the name of the accrediting body) will satisfy ~~[associated]~~ state requirements for licensure. If the (insert the name of the accrediting body) ultimately determines that the program does not qualify for accreditation, you will not be made eligible for the NCLEX by the state of Utah."

(3) A nursing education program with temporary approval under Subsection 58-31b-601(2) or (3)(a) shall provide to the Board:

(a) a Board-approved annual report by December 31 of each calendar year; and

(b) copies of the correspondence between the program provider and the accrediting body, within 30 days of the program's receipt or transmission of the correspondence.

(4) If an accredited program under Subsection 58-31b-601(1) or a program with temporary approval under Subsection 58-31b-601(2) or (3)(a) receives notice or determines that its accreditation status or candidacy for accreditation is in jeopardy, the [institution offering the] program shall:

(a) immediately notify the Board of its accreditation status;

(b) immediately and verifiably notify each enrolled student in writing of the program's accreditation status, including:

(i) the estimated date when the accrediting body will make its final determination as to the program's accreditation; and

(ii) the potential impact of [a] the program's accreditation status on the [graduate's] student's ability to:

(A) secure licensure and employment[or]; and

(B) transfer academic credits to another institution in the future; and

(c) attempt negotiations with other academic institutions to establish a transfer articulation agreement.

(5) [If] Under Section 58-31b-601, if a program with [limited time] temporary approval fails to achieve accreditation[or] or before June 30, 2022], or if an accredited[a] program loses its accreditation, the [institution offering the] program shall:

(a) [submit a written report of official notice of losing accreditation to the Board] within ten days of receiving formal notification from the accrediting body, submit to the Board:

(i) a written report of official notice of losing accreditation; and

(ii) a written plan to close the program and cease operations;

(b) notify in writing each matriculated and pre-enrollment nursing student about the program's accreditation status; and

(c) [inform] notify in writing each nursing student who will graduate from a non-accredited program that they will not be eligible for initial licensure through the state[; and

(d) provide the Board with a written plan to close the program and cease operations to the Board within ten days of receiving formal notice of losing accreditation from the program's accrediting body].

~~R156-31b-603. Education Providers Requirements for Ongoing Communication with the Board.~~

~~An education program that has achieved limited time approval of its program shall provide to the Board:~~

~~(1) a Board approved annual report, by December 31 of each calendar year; and~~

~~(2) copies of correspondence between the program provider and the accrediting body, within 30 days of receipt or submission of the correspondence.]~~

R156-31b-701a. Delegation of Nursing Tasks in a Non-school Setting.

Under Subsections 58-31b-102(12)(g) and R156-31b-102(~~[43]~~14), the delegation of nursing tasks in a non-school setting is as follows:

(1) Under Section 58-1-307.1, the nursing tasks that an unlicensed individual may perform without delegation by a health care provider are listed on the Division's website at <https://dopl.utah.gov/nurse>.

(2) A delegator retains accountability for the appropriate delegation of tasks and for the nursing care of the patient.

(3) Tasks that are appropriate for delegation with prior assessment are as follows:

(a) a delegator may not delegate to unlicensed assistive personnel a task requiring the specialized knowledge, judgment, or skill of a licensed nurse;

(b) a delegator may not delegate a task that is:

(i) outside the area of the delegator's responsibility;

(ii) outside the delegator's personal knowledge, skills, or ability; or

(iii) beyond the ability or competence of the delegatee to perform:

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(A) as personally known by the delegator; and
(B) as evaluated according to generally accepted nursing practice standards of health, safety, and reasonable prudence; and
(c) a nursing task may be delegated if it meets the following criteria, as applied to each specific patient situation:
(i) it is considered routine care for the specific patient;
(ii) it poses little potential hazard for the patient;
(iii) it is generally expected to produce a predictable outcome for the patient;
(iv) it is administered according to a previously developed plan of care; and
(v) it does not inherently involve nursing judgment that cannot be separated from the procedure; and
(d) before determining which, if any, nursing tasks may be delegated, the delegator shall make a focused nursing assessment of the circumstances, and evaluate the following factors to determine the degree of supervision required to ensure safe care:
(i) the stability and condition of the patient;
(ii) the training, capability, and willingness of the delegatee to perform the delegated task;
(iii) the nature of the task being delegated, including the complexity, irreversibility, predictability of outcome, and potential for harm inherent in the task;
(iv) the proximity and availability to the delegatee of the delegator or other qualified nurse during the time when the task will be performed; and
(v) any immediate risk to the patient if the task is not carried out; and
(e) if a delegator, upon review of the criteria established in this subsection, determines that a proposed delegatee cannot safely provide the requisite care, the delegator may not delegate the task to the proposed delegatee.
(4) Requirements for instruction and demonstration of competency ~~prior to~~ before the delegation of tasks are as follows:
(a) in delegating a nursing task, the delegator shall:
(i) provide instruction and direction necessary to allow the delegatee to safely perform the specific task;
(ii) explain the delegation to ensure that the delegatee understands which patient is to be treated, and according to what time frame; and
(iii) instruct the delegatee how to intervene in any foreseeable risks that may be associated with the delegated task; and
(b)(i) if the employing facility or agency requires initial and ongoing demonstration of competency of direct patient care tasks, and makes competency documentation available to the delegator, the delegator may use that competency documentation;
(ii) if the employing facility or agency does not require demonstration of competency or does not provide competency documentation that is satisfactory to the delegator, or if a task falls outside tasks in which the proposed delegatee has previously been proven competent, the delegator or qualified educator shall:
(A) require the proposed delegatee to provide to the delegator or qualified educator a physical or verbal demonstration of the delegated task; and
(B) document the observed or spoken demonstration; and
(iii) teaching of a task, demonstration of competency, and documentation may be conducted per individual or in a group training session.
(5) Requirements for a delegator during the supervision and monitoring of a task are as follows:
(a) provide ongoing appropriate supervision and evaluation of the delegatee;

(b) ensure that the delegator or another qualified nurse is readily available, either in person or by telecommunication, to:
(i) evaluate the patient's health status;
(ii) evaluate the performance of the delegated task;
(iii) determine whether goals are being met; and
(iv) determine the appropriateness of continuing delegation of the task; and
(c) if the delegated task is to be performed more than once, establish a system for ongoing monitoring of the delegatee.
(6) A delegatee is prohibited from the following without express permission from the delegator:
(a) further delegate to another person a delegated task, or any part of a delegated task; or
(b) expand the scope of the delegated task.
(7) A medical facility's internal policies or practices required or allowed to be performed by an unlicensed person shall not be deemed to have been delegated by a licensee.

R156-31b-703a. Standards of Professional Accountability.

The following standards apply equally to the LPN, RN, and APRN licenses. In demonstrating professional accountability, a licensee shall:

(1) practice within the legal boundaries that apply to nursing;
(2) comply with applicable statutes and rules;
(3) demonstrate honesty and integrity in nursing practice;
(4) base nursing decisions on nursing knowledge and skills, and the needs of patients;
(5) seek clarification of orders when needed;
(6) obtain orientation and training competency when encountering new equipment and technology or unfamiliar care situations;
(7) demonstrate attentiveness in delivering nursing care;
(8) implement patient care, including medication administration, properly and in a timely manner;
(9) document any care provided;
(10) communicate to other health team members relevant and timely patient information, including:
(a) patient status and progress;
(b) patient response or lack of response to therapies;
(c) significant changes in patient condition; and
(d) patient needs;
(11) take preventive measures to protect patient, others, and self;
(12) respect patients' rights, concerns, decisions, and dignity;
(13) promote a safe patient environment;
(14) maintain appropriate professional boundaries;
(15) contribute to the implementation of an integrated health care plan;
(16) respect patient property and the property of others;
(17) protect confidential information unless obligated by law to disclose the information;
(18) accept responsibility for individual nursing actions, competence, decisions, and behavior in the course of nursing practice;~~and~~
(19) maintain continued competence through ongoing learning and application of knowledge in each patient's interest; and
(20) comply with the American Nurses Association (ANA) Code of Ethics for Nurses, 2015 edition, which is incorporated by reference.

R156-31b-703b. Scope of Nursing Practice Implementation.

(1) Under Subsection 58-31b-102(13), an LPN shall be expected to:

- (a) conduct a focused nursing assessment;
- (b) plan for and implement nursing care within limits of competency;
- (c) conduct patient surveillance and monitoring;
- (d) assist in identifying patient needs;
- (e) assist in evaluating nursing care;
- (f) participate in nursing management by:
 - (i) assigning appropriate nursing activities to other LPNs;
 - (ii) delegating care for stable patients to unlicensed assistive personnel in accordance with this rule~~[these rules]~~ and applicable statutes;
 - (iii) observing nursing measures and providing feedback to nursing managers; and
 - (iv) observing and communicating outcomes of delegated and assigned tasks; and
- (g) serve as faculty in areas of competence.

(2) Under Subsection 58-31b-102(14), an RN shall be expected to:

- (a) interpret patient data, whether obtained through a focused nursing assessment or otherwise, to:
 - (i) complete a comprehensive nursing assessment; and
 - (ii) determine whether, and according to what timeframe, another medical professional, a patient's family member, or any other person should be apprised of a patient's nursing needs;
- (b) detect faulty or missing patient information;
- (c) apply nursing knowledge effectively in the synthesis of the biological, psychological, spiritual, and social aspects of the patient's condition;
- (d) utilize broad and complete analyses to plan strategies of nursing care and nursing interventions that are integrated within each patient's overall health care plan or IHP;
- (e) demonstrate appropriate decision-making~~[decision making]~~, critical thinking, and clinical judgment to make independent nursing decisions and to identify health care needs;
- (f) correctly identify changes in each patient's health status;
- (g) comprehend clinical implications of patient signs, symptoms, and changes as part of ongoing or emergent situations;
- (h) critically evaluate the impact of nursing care, the patient's response to therapy, and the need for alternative interventions;
- (i) intervene on behalf of a patient when problems are identified so as to revise a care plan as needed;
- (j) appropriately advocate for patients by:
 - (i) respecting patients' rights, concerns, decisions, and dignity;
 - (ii) identifying patient needs;
 - (iii) attending to patient concerns or requests; and
 - (iv) promoting a safe and therapeutic environment by:
 - (A) providing appropriate monitoring and surveillance of the care environment;
 - (B) identifying unsafe care situations; and
 - (C) correcting problems or referring problems to appropriate management level when needed;
- (k) communicate with other health team members regarding patient choices, concerns, and special needs, including:
 - (i) patient status and progress;
 - (ii) patient response or lack of response to therapies; and
 - (iii) significant changes in patient condition;

(l) demonstrate the ability to responsibly organize, manage, and supervise the practice of nursing by:

- (i) delegating tasks in accordance with this rule~~[these rules]~~ and applicable statutes; and
- (ii) matching patient needs with personnel qualifications, available resources, and appropriate supervision;
- (m) teach and counsel patient families regarding an applicable health care regimen, including general information about health and medical conditions, specific procedures, wellness, and prevention;
- (n) if acting as a chief administrative nurse:
 - (i) ensure that organizational policies, procedures, and standards of nursing practice are developed, kept current, and implemented to promote safe and effective nursing care;
 - (ii)(A) assess the knowledge, skills, and abilities of nursing staff and assistive personnel; and
 - (B) ensure personnel are assigned to nursing positions appropriate to their determined competence and licensure, certification, or registration level; and
- (iii) ensure that thorough and accurate documentation of personnel records, staff development, quality assurance, and other aspects of the nursing organization are maintained;
- (o) if employed by a department of health:
 - (i) implement standing orders and protocols; and
 - (ii) complete and provide to a patient prescriptions that have been prepared and signed by a physician in accordance with Section 58-17b-620;
- (p) serve as faculty in areas of competence; and
- (q) perform any task within the scope of practice of an LPN.

(3) Under Subsection 58-31b-102(11), the following scope and standards shall apply to the practice of advanced practice registered nursing:

- (a) ~~[An]~~an APRN who chooses to change or expand from a primary focus of practice shall, at the request of the Division, document competency within that expanded practice based on education, Clinical Practice Experiences, and certification~~[-The]~~ with the burden to demonstrate competency ~~[rests]~~upon the ~~[licensee]~~APRN.
- (b) ~~[An individual licensed as]~~an APRN may practice within the scope of practice of an RN and an LPN in Utah~~[-];~~.
- (c) ~~[An]~~an APRN who wishes to practice as an RN in a Party state, as defined in Section 58-31e-102 of the Nurse Licensure Compact, shall reinstate, qualify for, and obtain an RN Compact license in Utah.
- (4) Under Subsections 58-1-510(3) and (4) and 58-31b-102(11)(d), a certified registered nurse anesthetist (APRN-CRNA) licensed under Subsection 58-31b-301(2) who provides general anesthesia, deep sedation, or moderate sedation, shall possess the knowledge, skills, and education and training required by the following standards, and shall comply with the following standards, which are incorporated by reference:
 - (a)(i) American Association of Nurse Anesthesiology (AANA) Standards for Nurse Anesthesia Practice, 2019 edition; or
 - (ii) the following American Society of Anesthesiologists (ASA) standards:
 - (A) Basic Standards for Preanesthesia Care, 2020 edition;
 - (B) Standards for Basic Anesthetic Monitoring, 2020 edition; and
 - (C) Standards for Postanesthesia Care, 2019 edition; or
 - (b) the following American Dental Association (ADA) standards:

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- (i) Guidelines for the Use of Sedation and General Anesthesia by Dentists, 2016 edition;
(ii) Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, 2016 edition;
(iii) Guidelines for Teaching Pediatric Pain Control and Sedation to Dentists and Dental Students, 2021 edition; and
(iv) ADA Policy Statement: The Use of Sedation and General Anesthesia by Dentists, 2007 edition; or
(c) the following American Association of Oral and Maxillofacial Surgeons (AAOMS) standards:
(i) Office Anesthesia Evaluation Manual, 2018 9th edition;
and
(ii) Parameters of Care, 2017 6th edition.

KEY: licensing, nurses

Date of Last Change: ~~December 27, 2021~~ **2023**

Notice of Continuation: October 27, 2022

Authorizing, and Implemented or Interpreted Law: 58-31b-101; 58-1-106(1)(a); 58-1-202(1)(a)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R357-3	Filing ID: 55107
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Agency Information

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

General Information

2. Rule or section catchline:
R357-3. Economic Development Tax Increment Financing Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this rule filing is to modify the terms under which an agreement can be modified.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Section R357-3-107 is amended so that the office may extend the timeline outlined in an agreement due to unforeseen circumstances.

Fiscal Information

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

A) State budget:

There is no new aggregate anticipated cost or savings to the state budget. This filing is merely updating the office's procedures.

B) Local governments:

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

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

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

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

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

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

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

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

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

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

this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

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

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

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

Citation Information

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

Section 63N-2-110

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: 01/17/2023

9. This rule change MAY become effective on: 01/24/2023

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

Agency head or designee and title:	Dan Hemmert, Executive Director	Date:	11/21/2022
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R357. Governor, Economic Opportunity.

R357-3. Economic Development Tax Increment Financing Rule. R357-3-107. Modification of Agreement.

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

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

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

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

(b) Nonsubstantive Modifications: G[Ø] Utah and the business entity may make nonsubstantive modifications to the tax credit contract to:

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

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

(iii) adjust the timeline;

(A) less than 24 months[-]; or

(B) up to 48 months for unforeseen circumstances, as determined by the office.

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

(3) Requests and modifications shall be documented and maintained by G[Ø] Utah.

(4) When a business entity acquires another company with employees in Utah or if another Utah company acquires a business entity and the office can distinguish between both entities' employees and separate how much new state revenue is generated from the acquiree and acquirer, no changes to the baseline employees or new state revenues will be made.

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

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

(i) on the G[Ø] Utah Board approval date; or

(ii) at the time of acquisition; and

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

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

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

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

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(c) extends the contract by one year.

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

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

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

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

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

(c) other evidence as requested by the office.

KEY: economic development, jobs, tax credit

Date of Last Change: 2023[October 27, 2022]

Authorizing, and Implemented or Interpreted Law: 63N-2-1[04]10

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R428-1	Filing ID: 55112
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Agency Information

1. Department:	Health and Human Services	
Agency:	Center for Health Data, Health Care Statistics	
Room number:	106	
Building:	Cannon Health Bldg	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO 144004	
City, state and zip:	Salt Lake City, UT 84114-4004	
Contact persons:		
Name:	Phone:	Email:
Jonah Shaw	385-310-2389	jshaw@utah.gov
Bri Murphy	385-501-9347	brilmurphy@utah.gov
Mike Martin	801-538-9205	mikemartin@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R428-1. Health Data Plan and Incorporated Documents

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

This filing updates the submittal guide for the All Payer Claims Database (APCD) from Version 4.0 to Version 4.1.

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):

Update material incorporated by reference to reflect technical requirements expected for compliance; specifically clarify effective dates for the All Payer Claims Database (APCD) (Version 4.0 and Version 4.1) Data Submittal Guide. These changes will align variables for the Utah APCD with the national Common Data Layout.

Fiscal Information

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

A) State budget:

This rule iterates forward to the current versions of documents. The Utah Department of Health and Human Services (DHHS) determines enactment of the amended version will not create any cost or savings impact to the state budget or DHHS budget, since the change will not increase workload and can be carried out with existing budget.

B) Local governments:

This filing does not create any direct cost or savings impact to local governments since 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):

None--Small businesses are not impacted by this rule change, with all potentially impacted having more than 50 employees. As a result, this rule will have no effect on small businesses for costs or savings.

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

Some data suppliers will need to program changes to their system in order to be consistent with the updated guidelines. According to our research with APCD data carriers, some suppliers may incur cost while others report \$0 as an estimate for compliance. Based on cost estimated we received from data suppliers, we estimate a compliance cost of \$8,500 per carrier to comply with proposed APCD DSG 4.1.

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**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities.

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

DHHS anticipates that some APCD carriers will need to make programming changes to implement the additional flexibility and clarifications. By agreement with the APCD data suppliers, changes to the APCD DSG are limited to once per calendar year, so they should anticipate these changes as part of their normal business process in preparation for next year. The burden of these changes is consistent with that understanding. Based on figures reported in Box 7D and current APCD submission roster, DHHS estimates a one-time industry cost of \$357,000 (42 active carriers x \$8,500) to comply with proposed APCD DSG 4.1.

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

Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$357,000	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	(\$357,000)	\$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 26-33a-104		
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Incorporations by Reference Information

7. Incorporations by Reference:

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

Official Title of Materials Incorporated (from title page)	Utah All-Payer Claims Database Data Submission Guide Version 4.1
Publisher	Department of Health and Human Services, Health Information and Analysis Programs
Issue Date	03/01/23
Issue or Version	4.1

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

Official Title of Materials Incorporated (from title page)	Utah All-Payer Claims Database Data Submission Guide Version 4.0
Publisher	Department of Health and Human Services, Health Information and Analysis Programs
Issue Date	01/15/20
Issue or Version	4.0

Public Notice Information

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

A) Comments will be accepted until:	01/17/2023
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NOTICES OF PROPOSED RULES

9. This rule change MAY become effective on:	01/24/2023
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

Agency head or designee and title:	Tracy Gruber, Executive Director	Date:	11/29/2022
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R428. Health and Human Services, Center for Health Data, Health Care Statistics.

R428-1. Health Data Plan and Incorporated Documents.

R428-1-1. ~~Legal~~ Authority.

This rule is promulgated in accordance with Title 26, Chapter 33a, Utah Health Data Authority Act.

R428-1-2. Purpose.

This rule ~~adopts and~~ incorporates documents related to the collection, analysis, and dissemination of data covered in Title 26, Chapter 33a, Utah health Data Authority Act ~~[this title]~~.

R428-1-3. Health Data Plan Adoption.

As required by Section 26-33a-104, the Health Data Committee adopts by rule the health data plan dated October 3, 1991.

R428-1-4. Incorporation by Reference.

The following documents ~~[are adopted and]~~ incorporated by reference:

(1) "Utah Healthcare Facility Data Submission Guide" means Utah Healthcare Facility Data Submission Guide, Version 2.1.1 for data submissions required on or after March 1, 2021;

(2) "NCQA Survey Specifications" means HEDIS Measurement Year 2020, Vol. 3: Specifications for Survey Measures, published by NCQA;

(3) "NCQA HEDIS Specifications" means HEDIS Measurement Year 2020, Volume 5: HEDIS Compliance Audit: Standards, Policies, and Procedures, published by NCQA;

(4) "Data Submission Guide for Claims Data" means:

(a) Utah All-Payer Claims Database Data Submission Guide Version 4.0 for data submissions required before ~~[on or after]~~ March 1, 2023 ~~[0-]; and~~

(b) Utah All-Payer Claims Database Data Submission Guide Version 4.1 for data submissions required on or after March 1, 2023.

KEY: APCD, health, health policy, health planning

Date of Last Change: 2023 ~~March 25, 2021~~

Notice of Continuation: August 13, 2021

Authorizing, and Implemented or Interpreted Law: 26-33a-104

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R477-7-3	Filing ID: 55115
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Agency Information

1. Department:	Government Operations	
Agency:	Human Resource Management	
Room number:	2100	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84114-1531	
Contact persons:		
Name:	Phone:	Email:
Bryan Embley	801-618-6720	bkembley@utah.gov

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

General Information

2. Rule or section catchline:

R477-7-3. Annual Leave

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

The purpose of the amendment is to codify the conditions under which the Division of Human Resource Management (DHRM) Director may make exceptions to the "use or lose" provisions for annual leave balances, as well as the conditions under which agencies can pay out such leave to employees outside of already established methods.

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

The amendment specifies that the DHRM Director may extend the deadline by which employees must use or forfeit annual leave by a specified time period and for a specific number of hours. The amendment also states that agencies can pay employees for annual leave outside of already established conditions only with the approval of the DHRM Director and the Governor's Office of Planning and Budget (GOPB).

Fiscal Information

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

A) State budget:

The amendment to suspend the loss of annual leave is not expected to have any fiscal impact. The amendment to allow agencies to pay an employee for some amount of

unused annual leave may result in a cost to the state but the amount of that cost is inestimable because the number of hours allowed under such a payout and the actual number of hours employee have on the date of the payout will vary. Any monies paid as a result of authorizations given under this rule will have to be approved by GOPB and each state agency's leaders in compliance with normal finance practices. These amendments do not mandate any expenditure of state funds.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

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 amendment to allow agencies to pay employees for annual leave may result in a fiscal benefit to certain employees. However, the amount of the benefit is inestimable because the number of hours allowed to be paid down, the number of hours the employee actually has, and the employee's wage at the time will vary each time such a payout occurs.

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 direct compliance costs for these amendments.

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

Regulatory Impact Table

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

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

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

After conducting a thorough analysis, it was determined that these proposed rule changes will not result in a fiscal impact to businesses. Rules published by DHRM have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the "Utah Personnel Management Act," Title 63A, Chapter 17. This act limits the provisions of career service and this rule to employees of the executive branch of state government. Jenney Rees, Executive Director of the Department of Government Operations.

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 34-43-103	Section 39-3-1	Section 63G-1-301
Section 63A-17-106	Section 63A-17-504	Section 63A-17-505

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.)

NOTICES OF PROPOSED RULES

A) Comments will be accepted until:	01/17/2023
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9. This rule change MAY become effective on:	01/24/2023
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

Agency head or designee and title:	John Barrand, Division Director	Date:	12/01/2022
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R477. Government Operations, Human Resource Management. R477-7. Leave.
R477-7-3. Annual Leave.

(1) An eligible employee shall accrue leave based on the following years of benefits eligible state service:

- (a) less than five years -- four hours per pay period;
- (b) at least five and less than ten years -- five hours per pay period;
- (c) at least ten and less than 20 years -- six hours per pay period; or

(d) 20 years or more -- seven hours per pay period.

(2) The following employees shall accrue seven hours of annual leave per pay period, effective from the day the employee is appointed through the duration of the appointment:

- (a) schedule AB employees;
- (b) agency deputy directors;
- (c) division directors appointed to career service exempt positions; and
- (d) an employee who is schedule A, FLSA exempt, and who has a direct reporting relationship to an executive director, deputy director, commissioner, or board.

(3) The accrual rate for an employee rehired to a position which receives leave benefits shall be based on any eligible employment in which the employee accrued leave.

(4) The first eight hours of annual leave used by an employee in the calendar leave year shall be the employee's personal preference day.

(5) Management may not restrict the use of annual leave used in a calendar year to less than the amount the employee accrues in the year.

(6) An employee forfeits unused accrued annual leave time exceeding 320 hours during year end processing for each calendar year unless the DHRM Division Director authorizes an extension to this timeframe for a specific number of hours.

(7) An agency may payout an employee's annual leave hours under conditions not connected with separation from employment with authorization from the DHRM Division Director and GOPB.

KEY: holidays, leave benefits, vacations

Date of Last Change: 2023|July 1, 2022|

Notice of Continuation: March 9, 2022

Authorizing, and Implemented or Interpreted Law: 34-43-103; 39-3-1; 63G-1-301; 63A-17-106; 63A-17-504; 63A-17-505

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R590-177	Filing ID: 55109

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule or section catchline:
R590-177. Life Insurance Illustrations Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards. Other changes make the language of this rule more clear, remove the Penalties section (old R590-177-12) because penalties are already provided for in statute, remove the Enforcement Date section (old R590-177-14) because this rule is already in force, and update the Severability section (new R590-177-11) to use the Department's current language. The changes do not add, remove, or change any regulations or requirements.

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

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the Department functions.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.

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

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.

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

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

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

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

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

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

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

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

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.			

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

Section 31A-2-201	Section 31A-22-425	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: 01/17/2023

9. This rule change MAY become effective on: 01/24/2023

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

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	11/22/2022
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R590. Insurance, Administration.**R590-177. Life Insurance Illustrations Rule.****R590-177-1. Authority.**

This rule is ~~issued based upon the authority granted the commissioner under:~~

~~A. Subsection 31A-2-201(3)(a) to implement the provisions of Title 31A;~~

~~B. Subsection 31A-22-425(1)(c) to establish standards for illustrations; and~~

~~C. Subsection 31A-23a-402(8) to define unfair methods of competition and unfair or deceptive acts or practices in the business of insurance] promulgated by the commissioner pursuant to Sections 31A-2-201, 31A-22-425, and 31A-23a-402.~~

R590-177-2. Purpose[.]

~~The purpose of this rule is to provide rules for life insurance policy illustrations that will protect consumers and foster consumer education. The rule provides illustration formats, prescribes standards to be followed when illustrations are used, and specifies the disclosures that are required in connection with illustrations. The goals of this rule are to ensure that illustrations do not mislead purchasers of life insurance and to make illustrations more understandable. Insurers will, as far as possible, eliminate the use of footnotes and caveats and define terms used in the illustration in language that would be understood by a typical person within the segment of the public to which the illustration is directed.~~

R590-177-3. Applicability] and Scope.

~~[A. This rule applies to all group and individual life insurance policies and certificates except:~~

- ~~(1) variable life insurance;~~
- ~~(2) individual and group annuity contracts;~~
- ~~(3) credit life insurance; or~~
- ~~(4) life insurance policies with no illustrated death benefits on any individual exceeding \$10,000.~~

~~B. The provisions of this rule apply to policies sold on or after January 1, 1997.]~~

- ~~(1) The purpose of this rule is to:~~
 - ~~(a) establish rules for life insurance policy illustrations to protect consumers and foster consumer education;~~
 - ~~(b) provide formats, standards, and required disclosures; and~~
 - ~~(c) ensure that illustrations are understandable and not misleading.~~
- ~~(2) This rule applies to a group or individual life insurance policy or certificate sold on or after January 1, 1997, except:~~
 - ~~(a) variable life insurance;~~
 - ~~(b) individual and group annuity contracts;~~
 - ~~(c) credit life insurance; and~~
 - ~~(d) a life insurance policy with no illustrated death benefit on any individual exceeding \$10,000.~~

R590-177-[4]3. Definitions.

~~[In addition to definitions in Section 31A-1-301, the following definitions shall apply for the purposes of this rule] Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:~~

~~[A.](1) "Actuarial Standards Board" means the board established by the American Academy of Actuaries to [develop and] promulgate standards of actuarial practice.~~

~~[B.](2) "Contract premium" means the gross premium [that is-] required to be paid under a [fixed premium-] policy, including the~~

premium for a rider ~~[for which-]~~ if the rider benefits are shown in the illustration.

~~[C.](3) "Currently payable scale" means a scale of non-guaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next 95 days.~~

~~[D.](4)(a) "Disciplined current scale" means a scale of non-guaranteed elements, certified annually by an illustration actuary, constituting a limit on illustrations currently being illustrated by an insurer [that is-] and reasonably based on [actual-] recent historical experience[-, as certified annually by an illustration actuary designated by the insurer].~~

~~(b) Further guidance in determining the disciplined current scale, as contained in standards established by the Actuarial Standards Board, may be relied upon if the standards:~~

- ~~[(1)](i) are consistent with [all provisions of-] this rule;~~
- ~~[(2)](ii) limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;~~
- ~~[(3)](iii) do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and~~
- ~~[(4)](iv) do not permit assumed expenses to be less than minimum assumed expenses.~~

~~[E.](5) "Generic name" means a short title descriptive of the policy being illustrated such as "whole life," "term life," or "flexible premium adjustable life."~~

~~[F. "Guaranteed elements" and "non-guaranteed elements"]~~

~~[(1)](6) "Guaranteed element[s]" means [the-] a premium[s], benefit[s], value[s], credit[s], or charge[s] under a life insurance policy [of life insurance-] that [are-] is guaranteed and determined at issue.~~

~~[(2)](7) "Non-guaranteed element[s]" means [the-] a premium[s], benefit[s], value[s], credit[s], or charge[s] under a life insurance policy [of life insurance-] that [are-] is not guaranteed or not determined at issue.~~

~~[G.](8) "Illustrated scale" means a scale of non-guaranteed elements [currently being illustrated-] that is not more favorable to the policy owner than the lesser of:~~

- ~~[(1)](a) the disciplined current scale; or~~
- ~~[(2)](b) the currently payable scale.~~

~~[H.](9) "Illustration" means a presentation or depiction that includes a non-guaranteed element[s] of a life insurance policy [of life insurance-] over a period of years [and that is one of the three types-] as defined below:~~

~~[(1)](a) "Basic illustration" means a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and non-guaranteed elements.~~

~~[(2)](b) "Supplemental illustration" means an illustration furnished in addition to a basic illustration [that meets the applicable requirements of this rule, and-] that may be presented in a format differing from the basic illustration, but may only depict a scale of non-guaranteed elements [that is-] permitted in a basic illustration.~~

~~[(3)](c) "In force illustration" means an illustration furnished [at any time-] after [the-] a policy [that it depicts-] has been in force for one year or more.~~

~~[I.](10) "Illustration actuary" means an actuary [meeting] who meets the requirements of Section [11 who-] R590-177-10 and certifies [to-] an illustration[s] based on the standard of practice promulgated by the Actuarial Standards Board.~~

~~[J-](11)~~ "Lapse-supported illustration" means an illustration of a policy form failing the test of self-supporting as defined in this rule, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first five years and 100% policy persistency thereafter.

~~[K-(4)](12)(a)~~ "Minimum assumed expense[s]" means the minimum expense[s] that may be used in the calculation of the disciplined current scale for a policy form.~~[The-]~~

~~(b)~~ An insurer may choose to designate ~~[each year-]~~the method of determining assumed expenses each year for all policy forms from the following:

~~(a)~~(i) fully allocated expenses;

~~(b)~~(ii) marginal expenses; and

~~(c)~~(iii) a generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the ~~[National Association of Insurance Commissioners or by]~~ NAIC or the commissioner.

~~(2)(c)~~ Marginal expenses may be used only if greater than a generally recognized expense table.

~~(d)~~ If no generally recognized expense table is approved, fully allocated expenses must be used.

~~[L-](13)~~ "Non-term group life" means a group life insurance policy or an individual [policies of-]life insurance policy issued to a member[s] of an ~~[employer group or other permitted]~~ eligible group where:

~~(1- every-)(a)~~ each plan of coverage was selected by the ~~[employer or other-]~~ group representative;

~~(2)(b)~~ some portion of the premium is paid by the group or through payroll deduction; and

~~(3)(c)~~ group underwriting or simplified underwriting is used.

~~[M-](14)~~ "Policy owner" means the owner named in ~~[the]~~ a policy or the certificate holder in the case of a group policy.

~~[N-](15)~~ "Premium outlay" means the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket.

~~[O-](16)(a)~~ "Self-supporting illustration" means an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the ~~[fifteenth]~~ 15th policy anniversary or the ~~[twentieth-]~~ 20th policy anniversary for second-or-later-to-die policies, or upon policy expiration if sooner, the accumulated value of all policy cash flows equals or exceeds the total policy owner value available.~~[For this purpose, policy-]~~

~~(b)~~ The policy owner value ~~[will-]~~in a self-supporting illustration includes cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

R590-177-[5]4. Policies to Be Illustrated.

~~[A- Each-](1)~~ An insurer marketing ~~[policies to which-]~~a policy subject to this rule ~~[is applicable-]~~shall notify the commissioner whether a policy form ~~[is to-]~~will be marketed with or without an illustration.~~[For all policy forms being actively marketed on January 1, 1997, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after January 1, 1997, the identification shall be made at the time of filing.-]~~

~~(a)~~ The notice shall be made in writing at the time of filing.

~~(b)~~ Any previous identification may be changed by notice to the commissioner.

~~[B-](2)~~ If ~~[the-]~~an insurer identifies a policy form ~~[as one]~~ to be marketed without an illustration, any use of an illustration ~~[for any policy using that form prior to-]~~before the first policy anniversary is prohibited.

~~[C-](3)~~ If a policy form is ~~[identified by the insurer as one to be-]~~marketed with an illustration, a basic illustration ~~[prepared and delivered in accordance-]~~that complies with this rule is required~~[- except that a-]~~.

~~(a)~~ A basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals.

~~(b)~~ The illustration furnished to an applicant for a group life insurance policy or ~~[policies-]~~a policy issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

~~[D-](4)~~ Potential enrollees of non-term group life insurance subject to this rule shall be furnished a quotation with the enrollment materials.

~~(a)~~ The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage.~~[This-]~~

~~(b)~~ The quotation ~~[shall not be-]~~is not considered an illustration ~~[for purposes of-]~~under this rule, but all information provided shall be consistent with the illustrated scale.

~~(c)~~ A basic illustration shall be provided at delivery of the certificate to an enrollee[s] for non-term group life insurance who enrolls for more than the minimum premium necessary to provide pure death benefit protection.~~[In addition, the-]~~

~~(d)~~ The insurer shall make a basic illustration available to any non-term group life insurance enrollee who requests it.

R590-177-6. General Rules and Prohibitions.

~~[A-](1)~~ An illustration used in the sale of a life insurance policy shall ~~[satisfy the applicable requirements of-]~~comply with this rule, be clearly labeled "life insurance illustration," and contain the following ~~[basic-]~~information:

~~(1-)(a)~~ the name and address of the insurer;

~~(2-)(b)~~ the name and business address of the producer or insurer's authorized representative, if any;

~~(3-)(c)~~ the name, age, and sex of the proposed insured, except where a composite illustration is permitted under this rule;

~~(4-)(d)~~ the underwriting or rating classification ~~[up]~~on which the illustration is based;

~~(5-)(e)~~ the generic name of the policy, the company product name, if different, and form number;

~~(6-)(f)~~ the initial death benefit; and

~~(7-)(g)~~ the dividend option election or application of non-guaranteed elements, if applicable.

~~[B-](2)~~ When using an illustration in the sale of a life insurance policy, an insurer or its producer[s] or other authorized representative~~s shall-~~ may not:

~~(1)(a)~~ represent the policy as anything other than a life insurance policy;

~~(2)(b)~~ use or describe a non-guaranteed element[s] in a manner that is misleading or has the capacity or tendency to mislead;

~~(3)(c)~~ state or imply that the payment or amount of a non-guaranteed element[s] is guaranteed;

~~(4)(d)~~ use an illustration that does not comply with the requirements of this rule;

~~[(5)](c)~~ use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;

~~[(6)](f)~~ provide an applicant with an incomplete illustration;

~~[(7)](g)~~ represent ~~[in any way]~~ or imply that a premium payment[s] will not be required for each year of the policy ~~[in order to]~~ maintain the illustrated death benefit[s], unless that is the fact;

~~[(8)](h)~~ use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan for using a non-guaranteed element[s] to pay a portion of future premiums;

~~[(9)](i)~~ except for ~~[policies]~~ a policy that can never develop nonforfeiture values, use an illustration that is "lapse-supported"; or

~~[(10)](j)~~ use an illustration that is not "self-supporting."

~~[(C)](3)~~ If an interest rate used to determine ~~[the]~~ an illustrated non-guaranteed element[s] is shown, it ~~[shall]~~ may not be greater than the earned interest rate underlying the disciplined current scale.

(4) An insurer may not use a footnote or caveat to define contract terms.

(5) An insurer shall use language that is understood by an average person.

R590-177-[7]6. Standards for Basic Illustrations.

~~[(A)](1)~~ Format. A basic illustration shall conform ~~[with]~~ to the following requirements:

~~[(1)](a)~~ The illustration shall be labeled with the date ~~[on which]~~ it was prepared.

~~[(2)](b)~~ Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration, ~~[e.g.]~~ for example, the fourth page of a seven-page illustration shall be labeled "page 4 of 7 pages".

~~[(3)](c)~~ The assumed date[s] of payment receipt and benefit pay-out within a policy year shall be clearly identified.

~~[(4)](d)~~ If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the number[s] of years the policy is assumed to have been in force.

~~[(5)](e)(i)~~ The assumed payments ~~[on which]~~ the illustrated benefits and values are based on shall be identified as premium outlay or contract premium, as applicable.

(ii) For ~~[policies]~~ a policy that does not require a specific contract premium, the illustrated payments shall be identified as a premium outlay.

~~[(6) Guaranteed](f)~~ Any guaranteed death benefit[s] and values available upon surrender~~[, if any,]~~ for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.

~~[(7)](g)~~ If the illustration shows any non-guaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration~~[. These elements], and~~ shall be clearly labeled non-guaranteed.

~~[(8) The](h)~~ Any guaranteed elements~~[, if any,]~~ shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements, ~~[e.g.]~~ for example, "see page one for guaranteed elements."

~~[(9)](i)~~ The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown ~~[in close proximity to]~~ near the corresponding value available upon surrender.

~~[(10)](j)~~ The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans, and policy loan interest, as applicable.

~~[(11) Illustrations](k)~~ An illustration may show policy benefits and values in graphic or chart form in addition to the tabular form.

~~[(12)](l)~~ Any illustration of a non-guaranteed element[s] shall be accompanied by a statement indicating that:

~~[(a)](i)~~ the benefits and values are not guaranteed;

~~[(b)](ii)~~ the assumptions on which they are based are subject to change by the insurer; and

~~[(c)](iii)~~ actual results may be more or less favorable.

~~[(13)](m)~~ If the illustration shows that the premium payer may have the option to allow policy charges to be paid using a non-guaranteed value[s], the illustration must clearly disclose that:

(i) a charge continues to be required; and ~~[that,]~~

(ii) depending on actual results, the premium payer may need to continue or resume premium outlays.

(A) Similar disclosure shall be made for a premium outlay of lesser amounts or shorter durations than the contract premium.

(B) If a contract premium is due, the premium outlay display ~~[shall]~~ may not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

~~[(14)](n)~~ If the applicant plans to use dividends or policy values, guaranteed or non-guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

~~[(15)](o)~~ The illustration shall be complete, not misleading, and the narrative summary, numeric summary, and tabular detail shall be consistent.

~~[(B)](2)~~ Narrative Summary. A basic illustration shall include~~[the following]~~:

~~[(1)](a)~~ a brief description of the policy being illustrated, including a statement that it is a life insurance policy;

~~[(2)](b)(i)~~ a brief description of the premium outlay or contract premium, as applicable, for the policy~~[. For,]~~ or

(ii) for a policy that does not require payment of a specific contract premium, ~~[the illustration shall show]~~ an illustration of the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premium[s] allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code;

~~[(3)](c)~~ a brief description of any policy feature[s], rider[s], or option[s], guaranteed or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;

~~[(4)](d)~~ identification and a brief definition of column headings and key terms used in the illustration; and

~~[(5)](e)~~ a statement containing ~~[in substance]~~ substantially the following: "This illustration assumes that the currently illustrated non-guaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

~~[(C)](3)~~ Numeric Summary.

~~[(1)](a)~~ Following the narrative summary, a basic illustration shall include a numeric summary of the death benefit[s] and values and the premium outlay and contract premium, as applicable.

(i) For a policy that provides for a contract premium, the guaranteed death benefit[s] and values shall be based on the contract premium ~~[- This summary -] and shall be shown for at least policy years 5, 10, and 20, and at age 70, if applicable, on the [three bases shown below] bases in Subsection (3)(a)(iii).~~

(ii) For multiple life policies, the summary shall show at least policy years 5, 10, 20, and 30 on the ~~[three bases shown below] bases in Subsection (3)(a)(iii).~~

(iii) The bases to be shown in a numeric summary are:

~~[(a) - P] (A) policy guarantees;~~

~~[(b) - I] (B) insurer's illustrated scale; and~~

~~[(c) - I] (C) insurer's illustrated scale used but with the non-guaranteed elements reduced as follows:~~

~~[(+)] (I) dividends at 50% of the dividends contained in the illustrated scale used;~~

~~[(+)] (II) non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and~~

~~[(+)] (III) all non-guaranteed charges, including term insurance charges, and mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.~~

~~[(2)] (b) In addition, if coverage would cease [prior to] before policy maturity or age 100, the year in which coverage ceases shall be identified for each of the three bases.~~

~~[D-] (4) Statements. Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this rule.~~

~~[(+)] (a) A statement [to be -] signed and dated by the applicant or policy owner [reading -] as follows: "I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The producer has told me they are not guaranteed."~~

~~[(2)] (b) A statement [to be -] signed and dated by the insurance producer or other authorized representative of the insurer [reading -] as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."~~

~~[E-] (5) Tabular Detail.~~

~~[(+)] (a) A basic illustration shall include the following for at least each policy year from one to ten and for every fifth policy year thereafter ending at age 100, policy maturity, or final expiration[;] and, except for term insurance beyond the [twentieth] 20th year, for any year in which the premium outlay and contract premium, if applicable, is to change:~~

~~[(+)] (i) the premium outlay and mode the applicant plans to pay and the contract premium, as applicable;~~

~~[(b)] (ii) the corresponding guaranteed death benefit, as provided in the policy; and~~

~~[(+)] (iii) the corresponding guaranteed value available upon surrender, as provided in the policy.~~

~~[(2)] (b) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.~~

~~[(3)] (c) Non-guaranteed elements may be shown if described in the contract.~~

~~(i) In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, [they -] non-guaranteed elements may be shown if the insurer's current practice is to pay terminal dividends.~~

(ii) If any non-guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any.

(iii) If no guaranteed benefit or value is available at any duration for which a non-guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

R590-177-[8]7. Standards for Supplemental Illustrations.

~~[A-] (1) A supplemental illustration may be provided [so long as] if:~~

~~[(+)] (a) it is appended to, accompanied by, or preceded by a basic illustration that complies with this rule;~~

~~[(2)] (b) the non-guaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration;~~

~~[(3)] (c) it contains the same statement required of a basic illustration that non-guaranteed elements are not guaranteed; [and]~~

~~[(4)] (d) for a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration [For policies that do -]; and~~

~~(e) for a policy that does not require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the premium outlay shown in the basic illustration.~~

~~[B-] (2) The supplemental illustration shall include a notice referring to the basic illustration for guaranteed elements and other important information.~~

R590-177-[9]8. Delivery of Illustration and Record Retention.

~~[A- (+)] (1) (a) If a basic illustration is used [by an insurance producer or other authorized representative of the insurer] in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this rule, shall be:~~

~~(i) submitted to the insurer at the time of policy application [A copy also shall be -]; and~~

~~(ii) provided to the applicant.~~

~~[(2)] (b) If the policy [is -] issued [other than -] is not as applied for, a revised basic illustration conforming to the policy as issued shall [be sent with the policy. The revised illustration shall conform to the requirements of this rule, shall be labeled "Revised Illustration" and shall be signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner -];~~

~~(i) be sent with the policy;~~

~~(ii) conform to the requirements of this rule;~~

~~(iii) be labeled "Revised Illustration"; and~~

~~(iv) be signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered; and~~

~~(c) be provided to the insurer and the policy owner after being signed and dated.~~

~~[B- (+)] (2) (a) If no illustration is used by an insurance producer or other authorized representative in the sale of a life insurance policy or if the policy [is -] applied for [other than -] is not as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. [On the same form, the applicant shall acknowledge -]~~

~~(i) The form shall include an acknowledgement from the applicant that:~~

~~(A) no illustration conforming to the policy applied for was provided[and shall further acknowledge an understanding that]; and~~

~~(B) an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery.[This form]~~

~~(ii) The form shall be submitted to the insurer at the time of policy application.~~

~~[(2)](b)~~ If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered~~[-A-]~~, and a copy shall be provided to the insurer and the policy owner.

~~[C-](3)~~ If the basic ~~[illustration]~~ or revised illustration is sent to the applicant or policy owner by mail from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer.

~~(a)~~ The insurer's obligation ~~[under this subsection shall be]~~ is satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page.

~~(b)~~ The requirement to make a diligent effort ~~[shall be deemed]~~ is satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

~~[D-](4)(a)~~ A copy of ~~[the any]~~ basic ~~[illustration and a]~~ or revised basic illustration, ~~[if any,]~~ signed as applicable, shall be retained by the insurer until three years after the policy is no longer in force, along with any certification that either:

~~(i)~~ no illustration was used; or ~~[that]~~

~~(ii)~~ the policy ~~[was]~~ applied for ~~[other than]~~ was not as illustrated~~[-, shall be retained by the insurer until three years after the policy is no longer in force].~~

~~(b)~~ A copy of a basic or revised basic illustration need not be retained if no policy is issued.

R590-177-[40]2. Annual Report; Notice to Policy Owners.

~~[A- In the case of-](1)~~ If a policy is designated as one for which an illustration[s] will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain [at least the following information:]the information in Subsection (1)(a) or (1)(b).

~~[(1) for-](a)~~ For a universal life ~~[policies]~~ insurance policy, the report shall include the following:

~~[(a)](i)~~ the beginning and end date of the current report period;

~~[(b)](ii)~~ the policy value at the end of the previous report period and at the end of the current report period;

~~[(c)](iii)~~ the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type~~[e.g.,]~~ such as interest, mortality, expense, and riders;

~~[(d)](iv)~~ the current death benefit at the end of the current report period on each life covered by the policy;

~~[(e)](v)~~ the net cash surrender value of the policy as of the end of the current report period;

~~[(f)](vi)~~ the amount of any outstanding loans~~[-, if any,]~~ as of the end of the current report period; and

~~[(g) for fixed premium policies-](vii)~~ if, assuming guaranteed interest, mortality and expense loads, and ~~[continued scheduled]~~ any required premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice ~~[to this effect]~~ shall be included in the report~~[-or]~~

~~(h) for flexible premium policies: if assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report].~~

~~[(2) For all other policies]~~ (b) For any other policy, where applicable:

~~[(a)](i)~~ the current death benefit;

~~[(b)](ii)~~ the annual contract premium;

~~[(c)](iii)~~ the current cash surrender value;

~~[(d)](iv)~~ the current dividend;

~~[(e)](v)~~ the application of current dividend; and

~~[(f)](vi)~~ the amount of any outstanding loan.

~~[(3) Insurers-](c)~~ An insurer writing a life insurance ~~[policies-]policy~~ that does not ~~[build-]develop~~ nonforfeiture values ~~[shall only be-]~~ is only required to provide an annual report ~~[with respect to these policies-]~~ for those years when a change has been made to non-guaranteed policy elements by the insurer.

~~[B-](2)(a)~~ If the annual report does not include an in force illustration, it shall ~~[contain-]~~ prominently display the following notice~~[-displayed prominently]:~~

"IMPORTANT POLICY OWNER NOTICE: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling (insurer's phone number), writing to (insurer's name) at (insurer's address) or contacting your producer. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department."

~~(b)~~ The insurer may vary the sequential order of the methods for obtaining an in force illustration.

~~[C-](3)~~ Upon the request of ~~[the-]a~~ policy owner, ~~[the-]an~~ insurer shall furnish an in force illustration of current and future benefits and values based on the insurer's present illustrated scale.~~[This-]~~

~~(a)~~ The illustration shall comply with the requirements of ~~[Section 6A, 6B, 7A and 7E]~~ Subsections R590-177-5(1), R590-177-5(2), R590-177-6(1), and R590-177-6(5).

~~(b)~~ No signature or ~~[other-]~~ acknowledgment of receipt of this illustration ~~[shall be-]~~ is required.

~~[D-](4)~~ If, since the last annual report, an insurer has made an adverse change in a non-guaranteed element[s] that could affect the policy~~[has been made by the insurer since the last annual report]~~, the annual report shall ~~[contain-]~~ prominently display a notice ~~[of that fact and-]~~ describing the nature of the change~~[-prominently displayed].~~

R590-177-[44]10. Annual Certifications.

~~[A-](1)~~ The board of directors of each insurer shall appoint one or more illustration actuaries.

~~[B-](2)~~ The illustration actuary shall certify that:

~~[(4)](a)~~ the disciplined current scale used in any illustration~~[s-is in conformity with-]~~ conforms to the Actuarial Standard of Practice No. 24, Compliance with the NAIC Life Insurance Illustrations Model Regulation promulgated by the Actuarial Standards Board; and

~~[(2)](b)~~ the illustrated scale[s] used in an insurer-authorized illustration[s] meets the requirements of this rule.

~~[C-](3)~~ The illustration actuary shall:

~~[(4)](a)~~ be a member in good standing of the American Academy of Actuaries;

~~[(2)](b)~~ be familiar with the standard of practice regarding life insurance policy illustrations;

~~[(3)](c)~~ not have been found by the commissioner, following appropriate notice and hearing, to have:

~~[(a)](i)~~ violated any provision of, or any obligation imposed by, the insurance law or other law in the course of dealings as an illustration actuary;

~~[(b)](ii)~~ been found guilty of fraudulent or dishonest practices;

~~[(c)](iii)~~ demonstrated incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or

~~[(d)](iv)~~ resigned or been removed as an illustration actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;

~~[(4) not fail to-](d)~~ notify the commissioner of any action taken by a commissioner of another state similar to that under Subsection ~~[(3) above](3)(c)~~;

~~[(5)](c)~~ disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five years and within the scope of the certification has been reduced for a reason[s] other than a change[s] in the experience factors underlying the disciplined current scale. If

(i) if a non-guaranteed element[s] illustrated for a new ~~[policies are-]policy~~ is not consistent with ~~[those illustrated-]the illustration for a similar in force [policies]policy~~, this shall be disclosed in the annual certification. If; and

(ii) if a non-guaranteed element[s] illustrated for both a new and an in force ~~[policies are-]policy~~ is not consistent with the non-guaranteed element[s] actually being paid, charged, or credited to the same or similar form[s], this shall be disclosed in the annual certification; and

~~[(6)](f)~~ disclose in the annual certification the method used to allocate overhead expenses for all illustrations:

~~[(a)](i)~~ fully allocated expenses;

~~[(b)](ii)~~ marginal expenses; or

~~[(c)](iii)~~ a generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the ~~[National Association of Insurance Commissioners-]NAIC~~ or by the commissioner.

~~[(D-1)](4)(a)~~ The illustration actuary shall file a certification with the insurer's board of directors:

~~[(a)](i)~~ annually for all policy forms for which illustrations are used; and

~~[(b)](ii)~~ before a policy form is illustrated.

~~[(2)](b)~~ If the illustration actuary becomes aware of an error in a previous certification~~[is discovered]~~, the illustration actuary shall promptly notify the insurer's board of directors ~~[of the insurer-]and the commissioner~~~~[promptly]~~.

~~[(E-)](5)~~ If an illustration actuary ~~[is unable to-]certify~~ the scale for any policy form illustration the insurer intends to use, the actuary shall promptly notify the insurer's board of directors ~~[of the insurer-]and the commissioner~~~~[promptly of the inability to certify]~~.

~~[(F- A responsible-)](6)~~ An officer of the insurer, other than the illustration actuary, shall certify annually:

~~[(1)](a)~~ that the illustration formats meet the requirements of this rule and that the scales used in ~~[insurer authorized-]any illustration[s]~~ are ~~[those-]scales~~ certified by the illustration actuary; and

~~[(2)](b)~~ that the company has provided ~~[its producers with]each producer and authorized representative~~ information about the

expense allocation method used by the company in its illustrations and disclosed as required in Subsection ~~[(C-6) of this section](3)(f)~~.

~~[(G-)](7)~~ The annual certification[s] shall be:

~~[(a)]~~ completed each year by a date determined by the insurer~~[The certifications shall be-]~~;

~~[(b)]~~ maintained by the insurer for a period of ~~[5-]five years~~; and~~[-be-]~~

~~[(c)]~~ available for inspection by the commissioner.

~~[(H-)](8)~~ If an insurer changes the illustration actuary responsible for ~~[all or a-]any~~ portion of the company's policy forms, the insurer shall notify the commissioner and disclose the reason for the change.

R590-177-12. Penalties.

~~An insurer or producer that violates this rule is subject to the penalties provided for in Sections 31A-23a-111, 31A-23a-112, and 31A-2-308 in addition to any other penalties provided by the laws of the state.~~

R590-177-13. Severability.

~~If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the rule and its application to other persons or circumstances may not be affected.~~

R590-177-14. Enforcement Date.

~~The commissioner will begin enforcing the revised provisions of this rule 45 days from the effective date of the revised rule.~~

R590-177-11. Severability.

~~If any provision of this rule, Rule R590-177, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

KEY: insurance

Date of Last Change: 2023~~[November 24, 2009]~~

Notice of Continuation: February 25, 2021

Authorizing, and Implemented or Interpreted Law: 31A-23-302

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R590-197	Filing ID: 55110
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Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146901

NOTICES OF PROPOSED RULES

City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R590-197. Treatment of Guaranty Association Assessments as Qualified Assets
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards. Other changes make the language of this rule more clear, add a Definitions section (new R590-197-3), and update the Severability section (new R590-197-5) to use the Department's current language. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the Department functions.
B) Local governments:
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no compliance costs for any affected persons. The changes are largely clerical in nature.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0

Net Benefits	Fiscal \$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 31A-2-201	Section 31A-17-201	Section 31A-28-109

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:	01/17/2023

9. This rule change MAY become effective on:	01/24/2023
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

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	11/22/2022
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R590. Insurance, Administration.**R590-197. Treatment of Guaranty Association Assessments as Qualified Assets.****R590-197-1. Authority.**

This rule is promulgated by the ~~[insurance]~~ commissioner pursuant to ~~[the general authority to adopt a rule granted under 31A-2-201(3). Specific rulemaking authority in Subsection 31A-17-201(2)(a) allows the department to authorize other assets than those specified in the insurance code, as qualified assets in the determination of an insurers financial condition. Pursuant to Subsection 31A-28-109(8) the insurance commissioner is authorized to approve the amounts and time periods for which contributions are treated as assets]~~ Sections 31A-2-201, 31A-17-201, and 31A-28-109.

R590-197-2. Purpose and Scope.

~~[This rule is issued in order to establish the standards by which assessments paid by insurers to insurance guaranty associations may be treated as "qualified assets" as that term is defined in 31A-17-201(2).]~~

(1) The purpose of this rule is to establish the standard by which an assessment paid by an insurer to an insurance guaranty association may be treated as a qualified asset.

(2) This rule applies to an insurer licensed in Utah.

R590-197-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-17-201. Additional terms are defined as follows:

(1) "Qualified asset," as defined in Section 31A-17-201, includes a guaranty fund or guaranty association assessment paid in any state, if it is probable that the insurer can offset the assessment against present or future premium tax or income tax paid in the state in which the assessment was paid.

R590-197-4. ~~[Extent to Which]~~ Paid Assessments Are Qualified Assets.

~~[A. The term "qualified assets" in 31A-17-201 includes guaranty fund or guaranty association assessments paid in any state, but only to the extent it is probable the company will be able to offset those assessments against present or future premium taxes or income taxes paid in the state in which the assessments were paid.]~~

~~[B. (1) The amount of [the] an assessment[s] allowed as a qualified [assets shall] asset may not exceed [two and one half] 2-1/2 times the amount of premium or income tax[es] paid for the previous calendar year.~~

~~[C. The insurance.] (2) The commissioner may disallow [any such] an assessment as a qualified asset [to the extent] if the commissioner determines a company is unlikely to realize a present or future premium tax or income tax offset [as a result] because of the assessment.~~

~~[D. For purposes of subsection (A) above, a company is deemed.] (3) An insurer is considered to have paid income or premium [taxes where it actually] tax when it reduces its gross premium tax liability by use of a credit or other legally allowable deduction.~~

R590-197-4]5. Severability.

[If any provision or portion of this rule or the application of it to any company, person or circumstance is for any reason held to be invalid, such invalidity does not affect the remainder of the rule and the application of the provision to other companies, persons or circumstances.] If any provision of this rule, Rule R590-197, 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: 2023 ~~[January 25, 2000]~~

Notice of Continuation: November 15, 2019

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-17-201

NOTICE OF PROPOSED RULE

TYPE OF RULE: New

Rule or Section Number:

R623-8

Filing ID:
55029

Agency Information

1. Department: Lieutenant Governor

Agency: Elections

NOTICES OF PROPOSED RULES

Room number:	220	
Street address:	350 N State Street	
City, state and zip:	Salt Lake City, UT 84114	
Mailing address:	PO Box 142325	
City, state and zip:	Salt Lake City, Utah 84114-2325	
Contact persons:		
Name:	Phone:	Email:
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:
R623-8. Ballot Chain of Custody
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Section 20a-3a-404 requires the office of elections to make rules establishing the requirements for election officials regarding ballot security, including ballot custody, processing, and tabulation.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule establishes requirements and guidelines for election officials regarding ballot security, including the custody, documentation of custody, handling, processing, disposition, tabulation of ballots and retention practices.

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 chain of custody regarding ballot security and does not include any direct fiscal cost or savings to the state budget. There is no requirement to purchase equipment 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/hire outside staff, but that is not required.
B) Local governments:
This rule only provides requirements and guidelines for chain of custody regarding ballot security and does not

include any direct fiscal cost or savings to local governments. There is no requirement to purchase equipment 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/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?):

As this rule has 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Lieutenant Governor of the Governor's Office, 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:

Section 20A-3a-404		
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Public Notice Information

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

A) Comments will be accepted until:		01/17/2023
B) A public hearing (optional) will be held:		
On:	At:	At:
12/19/2022	10:00 AM	https://utah-gov.zoom.us/j/2179649426

9. This rule change MAY become effective on:	01/24/2023
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

Agency head or designee and title:	Ryan Cowley, Director	Date:	11/01/2022
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R623. Lieutenant Governor, Elections.

R623-8. Ballot Chain of Custody.

R623-8-1. Purpose.

This rule establishes requirements and guidelines for an election official regarding ballot security, including the custody, documentation of custody, handling, processing, disposition, and tabulation of ballots.

R623-8-2. Authority.

This rule is authorized by Section 20A-3a-404 and enacted under the authority of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

R623-8-3. Definitions.

In addition to the terms defined in Section 20A-1-102, the following definitions apply to this rule:

"Active ballot" means a ballot that is being processed for a current election.

"Chain of Custody" means the sequence of custody, control, and transfer of materials.

R623-8-4. General Duties.

(1) An election official shall be accompanied by at least one additional election official when active ballots are handled, collected, delivered to ballot processing centers, or processed.

(2) An election official shall be identifiable as an election official through the use of a badge, uniform, or other markings.

R623-8-5. Ballot Collection.

(1) An election official shall document the following information each time active ballots are collected:

(a) names of any election official collecting ballots;
(b) the name of the collection site, for example, drop box or post office;

(c) date and time of the ballot collection;
(d) the seal number used to secure the ballots; and
(e) any damage to ballots, ballot box, and concerns, including unusual situations or irregularities.

(2) An election official shall document the following information each time active ballots are received by the ballot processing center:

(a) the time and date active ballots are returned to the ballot processing center;
(b) seal numbers when received at the ballot processing center; and
(c) the recorded number of active ballots received at the ballot processing center.

R623-8-6. Ballot Processing.

(1) Active ballots shall be processed in a secure location where access is controlled by an election official.

(2) An election official shall ensure that active ballots in a processing center are secured or monitored.

(3) An election official shall ensure that active ballots are:
(a) divided into batches and separated from other active ballots through each step of the process; and

(b) clearly identified as to which stage of the process they are in.

(4) On each day that tabulation is performed, tabulated active ballots shall be reconciled by an election official at least once a day against:

(a) the statewide voter registration database; and

NOTICES OF PROPOSED RULES

(b) the number of processed active ballots for that processing session.

(5) An election official shall ensure that each batch of active ballots is documented, noting the completion of each step according to Section R623-8-10.

(6) An election official shall ensure that the name of each watcher is documented, potentially via a sign in and out with the date and time.

(7) An election official shall provide clear and consistent instructions to watchers when checking in in accordance with Section 20A-3a-801.

(8) An election official shall ensure that counted and uncounted active ballots are clearly marked as such and are segregated from each other.

(9) An election official shall ensure that each replicated active ballot is documented in accordance with Subsection 20A-4-104(3).

(10) An election official shall document the following when adjudicating active ballots:

(a) the names of each election official adjudicating the active ballot; and

(b) a record of which active ballots the official adjudicated.

(11) Ballot processing centers may be monitored by cameras; if so, a retention policy shall be developed and implemented regarding the storage of camera footage.

(12) Ballot processing centers shall be viewable to the public, but accessible only to authorized personnel.

R623-8-7. Polling Place Ballots.

(1) An election official shall ensure that the number of voters checked in at a polling place shall be reconciled with the number of voted active ballots received at the polling place.

(2) At the polling place, an election official shall ensure that the following information is documented:

(a) the name of each election official receiving and delivering active ballots; and

(b) how many active ballots were received at the ballot processing center.

R623-8-8. Equipment.

(1) The county clerk, or a designee, shall document each election official that has access to each piece of equipment and the level of access maintained by each election official.

(2) An election official shall ensure the following:

(a) each piece of election equipment has a barcode or control number on an access point that can be tracked; and

(b) each barcode or control number is documented.

(3) An election official shall ensure that any election equipment maintenance is documented in accordance with Subsection 20A-5-902(2).

(4) An election official shall be present for any equipment maintenance.

R623-8-9. Certificate of Compliance.

A certificate of compliance shall be included with any election return in accordance with Subsection 20A-3a-404(2).

R623-8-10. Election Return Archiving.

(1) An election official shall ensure that archived material, including every ballot after an election, is stored and sealed in a receptacle and clearly labeled with the following information:

(a) a description of the contents;

(b) the name and date of the election; and

(c) the destruction date.

(2) Archived material shall include:

(a) any electronic or physical ballot images and back-ups; and

(b) any external storage medium used to collect ballot images or back-ups.

(3) Archived material containers shall be sealed and seal numbers, if used, shall be documented.

(4) Any access to archived material containers shall be documented.

(5) The storage area shall be secure and accessible only to authorized County Clerk staff and personnel.

(6) Chain of custody documentation shall be retained in accordance with Section 20A-4-202.

R623-8-11. Physical Areas.

The county clerk or designees shall ensure that any party who accesses the ballot processing center or server rooms shall be properly authorized to enter.

R623-8-12. Documenting Problems.

Any documentation required in this rule shall include any reporting problems or irregularities, and, if applicable shall include:

(1) details of any observed issues or problems;

(2) the date and time of when issues or problems occurred;

(3) any action taken in response to issues or problems; and

(4) any resolution to issues or problems.

KEY: elections, custody, Lieutenant Governor, ballots

Date of Last Change: 2023

Authorizing, and Implemented or Interpreted Law: 20A-3a-404

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:

R628-12

Filing ID:
55116

Agency Information

1. Department:	Money Management Council	
Agency:	Administration	
Room number:	Suite 180	
Building:	State Capitol	
Street address:	350 N State Street	
City, state and zip:	Salt Lake City, UT 84114	
Mailing address:	PO Box 2315	
City, state and zip:	Salt Lake City, UT 84114-2315	
Contact persons:		
Name:	Phone:	Email:
Ann Pedroza	801-538-1883	apedroza@utah.gov

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

General Information

2. Rule or section catchline:

R628-12. Certification of Qualified Depositories for Public Funds

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

It was brought to the Council's attention by a financial institution that wanted to become qualified to hold public funds in Utah, that the language in this rule violates the National Banking Act that makes the OCC the sole regulator that may examine banks. A financial institution can respond to discrete information requests but the language in this rule is too broad and open ended. In preparing this rule change, it was noted that several statute references needed to be changed.

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 change recognizes that there are other laws that might limit the examination of a financial institution as it relates to the Money Management Act. Several statute references in this rule have been updated.

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, as this rule change does not apply to the state.

B) Local governments:

There is no anticipated cost or savings to local governments, as this rule change does not apply to local governments.

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

There is no anticipated cost or savings to small businesses, as this change does not apply to 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, as this change does not apply to non-small businesses.

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

There is no anticipated financial impact to any financial institution, as the change does not impose any additional requirements on any financial institution.

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

There are no compliance costs for affected persons as the change does not impose any additional requirements.

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

Regulatory Impact Table

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

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

The Council Chair of the Utah Money Management Council, K. Wayne Cushing, 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 51-7-18(2)(b)	Subsection 51-7-3(29)	
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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:	01/17/2023
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9. This rule change MAY become effective on:	01/24/2023
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	K. Wayne Cushing, Chair	Date:	12/01/2022
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R628. Money Management Council, Administration.

R628-12. Certification of Qualified Depositories for Public Funds.

R628-12-1. Authority.

This rule is issued pursuant to Sub[~~S~~]sections 51-7-3(~~[24]~~29) and 51-7-18(2)(b).

R628-12-2. Scope.

This rule applies to all federally insured depository institutions with offices and branches in ~~[the state of]~~ Utah at which deposits are accepted or held.

R628-12-3. Purpose.

This rule establishes the requirements which must be met by a federally insured depository institution to become and remain a qualified depository eligible to receive and hold deposits of public funds. It also establishes the conditions under which eligibility may be terminated and the procedures to be followed in terminating a depository institution's status as a qualified depository.

R628-12-4. General Rule.

A Utah depository institution as defined in Subsection 7-1-103(~~[36]~~38) or a out-of-state depository institution as defined in Subsection 7-1-103-(~~[25]~~26), which may conduct business in this state under Section 7-1-702, whose deposits are insured by an agency of the federal government, may be certified as a qualified depository

eligible to receive public funds on deposit if it meets ~~[all of]~~ the following criteria.

A. Before April 1 of each year, pay to the Department of Financial Institutions an annual certification fee as described in Subsection 51-7-18.1(8);

B. Within 30 days of the close of each calendar quarter, submit a report of condition in the form prescribed by the Commissioner of Financial Institutions. The Commissioner may require any additional reports as may be considered necessary to determine the character and condition of the institution's assets, deposits and other liabilities, and its capital and to ensure compliance with the Money Management Act, the rules of the Money Management Council, and any order issued pursuant to an action of the Council. All reports shall be verified by oath or affirmation of the president or a authorized vice president of the institution. Any officer who knowingly makes or causes to be made any false statement or report to the Commissioner or any false entry in the books or accounts of the institution is guilty of a class A misdemeanor, as authorized in Subsection 51-7-18.1(3)(~~f~~)(d).

C. Within ~~ten~~[10] business days of the end of each month, file a report with the Commissioner of Financial Institutions of the amount of public funds held on the form prescribed by this rule. The Commissioner may require more frequent reporting if determined that it is necessary to protect public treasurers and to ensure compliance with the Money Management Act, the rules of the Money Management Council or any order issued pursuant to an action of the Council. All reports shall be verified by the oath or affirmation of the president or a authorized vice president of the institution. Any officer who knowingly makes or causes to be made any false statement or report to the Commissioner or any false entry in the books or accounts of the institution is guilty of a class A misdemeanor, as authorized by Subsection 51-7-18.3(d).

D. Have and maintain a positive amount of capital as defined in Subsection R628-11-4-(~~]~~)(B).

R628-12-5. Notification of Certification.

Not less than quarterly, the Money Management Council shall prepare or cause to be prepared a list of all qualified depositories and the maximum amount of public funds that each is eligible to hold under Rule R628-11. This list shall be distributed to each public treasurer via US Postal Service or electronic means. Additions and deletions shall be made on the list for the next successive quarter.

R628-12-6. Examination of Qualified Depositories.

To the extent permitted by applicable statute, rule, or regulation, ~~[F]~~the Commissioner shall have the right to examine the books and records of any qualified depository if the Commissioner determines that examination is necessary to ascertain the character and condition of its assets, its deposits and other liabilities, and its capital and to ensure compliance with the Money Management Act, the rules of the Money Management Council, and any order issued pursuant to an action of the Council.

R628-12-7. Grounds for Termination of Status as a Qualified Depository.

Any of the following events constitutes grounds for termination of a depository institution's status as a qualified depository and immediate relinquishment of all public funds deposits:

A. Termination of the institution's federal deposit insurance.

B. Failure to pay the annual certification fee.

C. Failure to file the required financial reports.

D. Failure to maintain a positive amount of capital as defined in Subsection R628-11-4[-](B).

E. Making any false statement or filing any false report with the Commissioner.

F. Accepting, receiving, or renewing deposits of public funds over[~~in excess of~~] the maximum amount of public funds allowed.

G. Failure to comply with a written order issued by the Commissioner pursuant to Sub[S]section 51-7-18.1(7) within 15 days of receipt of the order.

H. Request by a depository institution to be removed from the list of qualified depositories.

R628-12-8. Procedures for Termination and Reinstatement of Status as a Qualified Depository.

A. If the Money Management Council determines that the grounds for termination of a depository institution's status as a qualified depository exist, upon the vote of at least three members of the Money Management Council, a depository institution may be terminated as a qualified depository. Termination will be effective upon service of notice to the institution of the Council's action. Notice of termination will state the grounds upon which the Council acted and the remedies required to cure the violation.

B. After the date of service of notice of termination as a qualified depository, the institution shall not accept, receive or renew any deposits of public funds until specifically authorized in writing by the Commissioner and all existing accounts shall be transferred to a qualified depository.

C. An institution may be reinstated as a qualified depository upon the written authorization of the Commissioner, if it has corrected the violation which constituted grounds for termination.

KEY: public investments, banking law, financial institutions

Date of Last Change: 2023[1990]

Notice of Continuation: February 19, 2021

Authorizing, and Implemented or Interpreted Law: 51-7-3([24]22); 51-7-18(2)(b); 7-1-102, 103(3)[6]8

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R907-1-3	Filing ID: 55101
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Agency Information

1. Department:	Transportation
Agency:	Administration
Room no.:	Administrative Suite, 1st Floor
Building:	Calvin Rampton
Street address:	4501 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 148455
City, state and zip:	Salt Lake City, UT 84114-8455

Contact person(s):

Name:	Phone:	Email:
Leif Elder	801-580-8296	lelder@utah.gov
Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov

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

General Information

2. Rule or section catchline:

R907-1-3. Appointment of the Presiding Officer and Hearing Record

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

The Department of Transportation (Department) wants the Executive Director or a deputy director to have the authority to appoint an administrative law judge (ALJ) to preside over an informal agency action if they determine that doing so serves the interests of the Department, the state, or a party. The purpose of this proposed change is to grant that authority.

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

This proposed change adds Subsection R907-1-3(4) and makes a technical, nonsubstantive change. This new subsection also allows the executive director or a deputy director authority to appoint an ALJ to preside over a matter that does not involve a relocation assistance appeal if they determine that doing so serves the interests of the Department, the state, or a party. This new Subsection R907-1-3(4) also allows the executive director or a deputy director to pay the costs of hiring an ALJ and to hire and pay the costs of a stenographer for matters that do not involve relocation assistance appeals.

Fiscal Information

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

A) State budget:

This proposed change might impact the state's budget. Should the executive director or deputy director decide to appoint an ALJ to preside over a matter or hire a

stenographer to record and transcribe a hearing and cover both costs, the state's budget would be affected. The Department has a contract with an ALJ that authorizes the ALJ to charge the Department \$200 to \$250 per hour for presiding over agency actions. Stenographers charge approximately \$60 to more than \$100 per hour, depending on the firm and the services provided, plus expenses. However, it is impossible to predict how often or if the executive director or a deputy will appoint an ALJ or hire a stenographer to preside over or record and transcribe a hearing and agree to cover the costs.

B) Local governments:

This proposed rule change will not have a fiscal impact on local governments because local governments do not participate in the Department's agency actions.

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

This proposed change could impact small businesses. Should a small business ask the executive director or a deputy director to appoint an ALJ to preside over an agency action or hire a stenographer to record and transcribe a hearing, this proposed change will allow the executive director or a deputy to hire an ALJ, or a stenographer, or both. However, if the executive director or a deputy does not agree to cover the costs of one or both, the small business would have to pay the costs. But hiring an ALJ or stenographer is an option available to the small business, and the small business is not required to seek the services of an ALJ or a stenographer under the proposed change.

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

This proposed change could impact non-small businesses. For example, should a non-small business ask the executive director or a deputy director to appoint an ALJ to preside over an agency action or hire a stenographer to record and transcribe a hearing, this proposed change will allow the executive director or a deputy to hire and pay for one or both. However, if the executive director or a deputy does not agree to cover the costs of an ALJ, or a stenographer, or both, the non-small business would have to pay the cost. But hiring an ALJ or stenographer is an option available to the non-small business, and the non-small business is not required to seek the services of an ALJ or a stenographer under the proposed change.

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

This proposed change could impact persons other than small businesses, non-small businesses, and state or local government entities ("Individuals"). Should an Individual

ask the executive director or a deputy director to appoint an ALJ to preside over an agency action or hire a stenographer to record and transcribe a hearing, this proposed change will allow the executive director or a deputy to hire and pay for one or both. However, if the executive director or a deputy does not agree to cover the costs of one or both, the Individual would have to pay the cost. But hiring an ALJ or stenographer is an option available to an Individual, and the Individual is not required to seek the services of an ALJ or a stenographer under the proposed change.

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

There are no compliance costs for persons affected by this proposed change. In addition, this proposed change authorizes options for appointing an ALJ to preside over agency actions and procuring a court reporter to record and transcribe the hearings; it requires nothing of anybody.

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

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

Net Benefits	Fiscal	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:				
The Executive Director of the Department of Transportation, Carlos M. Bracerias, PE, has reviewed and approved this fiscal analysis.				

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Subsection 72-1-201(h)	Subsection 63G-3-201(2)	Subsection 63G-4-102(6)
Subsection 63G-4-203(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:	01/17/2023

9. This rule change MAY become effective on:	01/24/2023
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

Agency head or designee and title:	Carlos M. Bracerias, PE, Executive Director	Date:	11/18/2022
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R907. Transportation, Administration.**R907-1. Agency Actions, Administrative Procedures.****R907-1-3. Appointment of the Presiding Officer and Hearing Record.**

(1) The Executive Director or a deputy director will appoint a Presiding Officer to oversee an informal hearing as follows:

(a) the Director of Operations, if the action involves Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act;

(b) the Deputy Director of Engineering and Operations or a designee if the action involves Title 72, Chapter 9, Motor Carrier Safety Act;

(c) the Director of Project Development or a designee, if the matter relates to:

(i) construction contract disputes; or

(ii) construction bids or the Disadvantaged Business Enterprise (DBE) program, in which case, the agency review also constitutes "administrative reconsideration" under federal regulation;

(d) the Region Director, if the action involves something other than the items listed in Subsection (a), (b), or (c), and this rule or a statute does not specify a specific appellate procedure;

(2) The Presiding Officer will record a hearing from beginning to end.

(3) For relocation assistance matters valued at more than \$50,000. The Executive Director will appoint an Administrative Law Judge (ALJ) to act as a Presiding Officer over challenges to decisions related to relocation assistance valued more than \$50,000 under Title 57, Chapter 12, Utah Relocation Assistance Act or the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, Sections 42 U.S.C. 4601-4655.

(a) If the Executive Director appoints an ALJ, the Executive Director will hire a stenographer to record and transcribe the hearing.

(b) The Executive Director will procure the services and pay the costs of the ALJ and stenographer.

(4) For matters that do not involve relocation assistance. The Executive Director or a deputy director may appoint an ALJ to preside over a matter if they determine that doing so serves the interests of the Department, the state, or a party.

(a) If the Executive Director or a deputy director appoints an ALJ, the Executive Director or a deputy may hire a stenographer to record and transcribe the hearing.

(b) The Executive Director or a deputy director may procure the services and pay the costs of the ALJ and a stenographer.

KEY: administrative procedures, enforcement (administrative)

Date of Last Change: 2023[August 22, 2022]

Notice of Continuation: December 19, 2019

Authorizing, and Implemented or Interpreted Law: 63G-4-101 through 502; 72-1-102

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R926-17	Filing ID:
		55114

Agency Information

1. Department:	Transportation	
Agency:	Program Development	
Room number:	Administrative Suite, 1st Floor	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, State and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 148455	
City, State and zip:	Salt Lake City, Utah 84114-8455	
Contact persons:		
Name:	Phone:	Email:
Leif Elder	801-580-8296	lelder@utah.gov

NOTICES OF PROPOSED RULES

Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R926-17. Road Usage Charge Program

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

The Department of Transportation (Department) proposes this change to incorporate program knowledge gained over the past three years. During that time, the Department experienced several different program scenarios that it did not anticipate when this rule was made. Therefore, the proposed changes add text to address these unanticipated scenarios.

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

The proposed change allows for applying portions of vehicle registration fees for individuals that register their motor vehicle after the registration due date. There was an identified scenario that could result in lost revenue to the state. The proposed changes also prevent the state from losing revenue because of how this rule is written.

Fiscal Information

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

A) State budget:

The proposed changes remedy a situation that could have resulted in lost revenue to the state's budget. Therefore, the Department anticipates the changes will positively impact the state's budget but cannot quantify the impact until it has time to operate under the changed rule.

B) Local governments:

The Department does not anticipate the proposed changes will impact local governments' budgets because road usage charges (RUC) do not apply to them.

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

The proposed changes likely will impact small businesses that operate vehicles to which RUCs apply. However, the Department believes this impact is inestimable currently.

The fiscal impact on small businesses depends on many independent variables such as Utah's population change, the change in prices for alternative fuel vehicles, the number of alternative fuel vehicles enrolled in the RUC program, the types of alternative fuel vehicles available on the market, and consumer behavior when confronting the options the proposed changes present to owners of alternative fuel vehicles.

The cost of calculating estimates of this possible fiscal impact exceeds the benefit the state might gain from the exercise.

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

The proposed changes likely will impact non-small businesses that operate vehicles to which RUCs apply. However, the Department believes this impact is inestimable currently because the fiscal impact on non-small businesses depends on several independent variables such as Utah's population change, the change in prices for alternative fuel vehicles, the number of alternative fuel vehicles enrolled in the RUC program, the types of alternative fuel vehicles available on the market, and consumer behavior when confronting the options the proposed changes present to owners of alternative fuel vehicles.

The cost of calculating estimates of this possible fiscal impact exceeds the benefit the state might gain from the exercise.

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**):

Possible fees would not be an additional fee but a prorated portion of registration fees that the individuals would be paying anyway. The Department believes this fiscal impact is inestimable currently because the fiscal impact on persons other than small businesses, non-small businesses, and state or local government entities depends on many independent variables such as Utah's population change, the change in prices for alternative fuel vehicles, the number of alternative fuel vehicles enrolled in the RUC program, the types of alternative fuel vehicles available on the market, and consumer behavior when confronting the options the proposed changes present to owners of alternative fuel vehicles.

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

Possible fees would not be an additional fee but a prorated portion of registration fees that the individuals would be paying anyway. The Department believes this fiscal impact is inestimable currently because cumulative RUC depend on alternative fuel vehicle use. The cost of estimating road use for the different kinds of alternative fuel vehicles that will be using Utah roads to quantify an estimated fiscal impact on an average person affected by these proposed changes outweighs any benefit the state might gain from the exercise.

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

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

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

The Executive Director of the Department of Transportation, Carlos M. Bracerias, PE, 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		
72-1-213.1		

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: 01/17/2023

9. This rule change MAY become effective on: 01/24/2023

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

Agency head or designee and title:	Carlos M. Bracerias, PE, Executive Director	Date:	11/18/2022
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R926. Transportation, Program Development.**R926-17. Road Usage Charge Program.****R926-17-1. Purpose and Authority.**

(1) Purpose. This rule is to administer the State's Road Usage Charge Program.

(2) Authority. [Utah Code] Section 72-1-213.1 grants the Department authority to make [promulgate] this rule.

R926-17-2. Definitions.

(1) "Account manager" means an entity under contract with the Department to operate and manage the road usage charge program on the Department's [its] behalf.

(2) "Alternative fuel vehicle" means the same as that term is defined in Section 72-1-203.1 [41-1a-102].

(3) "Alternative fuel vehicle fee" means the additional registration fee applied to alternative fuel vehicles as described in Subsections 41-1a-1206(1)(h) and 41-1a-1206(2)(b).

(4) [3] "Chargeable miles" means the number of miles for which a [the] RUC participant will [shall] be charged under the program parameters in place at the time [when] the miles are driven.

(5) [4] "Department" means the Utah Department of Transportation.

(6) [5] "DMV" means the Utah Division of Motor Vehicles.

(7) "Fully activated" means a vehicle owned or leased by a RUC participant where the RUC participant has completed necessary steps required for the vehicle to report miles driven to the account manager.

[(6) "Flat fee" means the additional registration fee applied to alternative fuel vehicles as defined in Utah Code Subsections 41-1a-1206(1)(h) and 1206(2)(b).]

(8[7]) "Payment period" means the interval during which ~~a~~a RUC participant~~owner/lessee~~ is required to report mileage and pay the appropriate RUC fee according to the terms of the program.

(9[8]) "Program" means the RUC program established and described in this section.

(10[9]) "RUC" means "road usage charge."~~[-]~~

(11[10]) "RUC fee" means the accrued amount owed to an account manager. ~~The RUC fee[4] is calculated as the number of chargeable miles driven multiplied by the RUC rate.~~

(12[11]) "RUC participant" means the owner or lessee of an alternative fuel vehicle that is enrolled in the program.

(13[12]) "RUC rate" means the amount of money per mile driven that RUC participants are required to pay as described in Section 72-1-203.1.~~[, and which has been approved by the Transportation Commission to be used in the program.]~~

(14[13]) "Value-added services" means amenities that an account manager may ~~want to~~ offer a RUC participant~~[RUC participants]~~, but which are ancillary to the core RUC purpose of collecting and reporting miles driven.

R926-17-3. Enrollment, Voluntary Withdrawal, and Removal Processes and Terms.

(1) The Department ~~[will]~~shall coordinate with the DMV and the account manager to notify owners or lessees of alternative fuel vehicles that they are eligible to enroll in the program as an alternative to paying the alternative fuel vehicle fee[flat fee] applicable to their vehicle.

(2) The Department ~~[will]~~shall provide a means of directing owners or lessees[owners/lessees] who want to enroll in the program to an account manager under contract with the Department that ~~[will]~~shall manage ~~[all aspects of]~~ enrollment in the program.

(3) An owner or lessee[Owners/lessees] who wants to enroll in the program ~~[must]~~shall submit vehicle information that includes the license plate number and vehicle identification number (VIN) to the account manager for verification that the participant's vehicle is eligible for enrollment in the program.

(4) A RUC participant[RUC participants] may withdraw a vehicle from the program at any time.

(5) A RUC participant who withdraws [RUC participants who withdraw] a vehicle from the program~~[prior to full completion of the current annual registration cycle must]~~ shall pay the alternative fuel fee[flat fee] amount applicable to that vehicle, less any RUC fees paid to date during that registration cycle.

(6) A RUC participant shall do the following to withdraw from the program before completing the RUC participant's full registration cycle:~~[The process for withdrawing from the program prior to completion of a full registration cycle is as follows:]~~

(a) notify[RUC participant notifies] the account manager that the RUC participant intends[they wish] to withdraw from the program~~[-]; and~~

(b) fulfill[RUC participant fulfills any] terms in the RUC participant's~~[their]~~ user agreement related to the return of electronic mileage collection devices.

~~[(7) RUC participants who complete a full registration cycle prior to withdrawing from the program, and have accrued a RUC fee amount less than the applicable annual flat fee, will not be required as a condition of withdrawal to pay the difference between the flat fee amount and the RUC fees they have already accrued.]~~

(8[7]) A RUC participant who withdraws[RUC participants who withdraw] from the program [after completing their full registration cycle will] shall revert to paying the alternative fuel

vehicle fee[flat fee] to the DMV until ~~[such time as]~~the RUC participant enrolls in[they opt into] the RUC program again.

(9[8]) Involuntary removal of a RUC participant[RUC participants] from the program is addressed in Section R926-17-8.

(9) The account manager shall charge each RUC participant a prorated amount of the alternative fuel vehicle fee for each month the RUC participant's vehicle is:

(a) past its registration expiration date at enrollment; or

(b) not fully activated and capable of reporting miles driven, unless the RUC participant has paid the alternative fuel vehicle fee for the current registration year.

R926-17-4. RUC Participant Payment Methods, Periods, and Procedures.

(1) Each RUC participant[RUC participants must] shall provide electronic payment information and set up a prepaid wallet at enrollment and shall maintain a minimum balance in the prepaid wallet as described in the user agreement between the account manager and the RUC participant.~~[-The wallet value will decrease as the value of miles accrues against the balance. A nominal amount, which will be agreed to by the RUC participant and account manager and stated in the user agreement, will be added by the RUC participant to the wallet once the balance drops below a predetermined minimum threshold.]~~

(2) RUC participants may only make electronic payments.~~[Only electronic payments will be accepted.]~~

(3) Account managers ~~[will]~~shall send each RUC participant~~[RUC participants]~~ a monthly statement showing at a minimum miles driven, RUC fees accrued, and amount of money added to the wallet during the previous month.

(4) Account managers ~~[will]~~shall cease accruing RUC fees against a vehicle once the cumulative amount accrued for the current registration cycle is equal to the alternative fuel vehicle fee[flat fee] applicable to that vehicle type. Fee accrual will resume at the beginning of the next registration cycle if the RUC participant remains in the program.

(5) Once a RUC ~~[P]~~participant's total accrued RUC fee for the year is equal to the RUC participant's[their] alternative fuel vehicle fee[flat fee], the RUC participant shall~~[Participant will]~~ no longer accrue additional RUC fees for that registration cycle. If the RUC participant remains in the program, RUC fees shall resume at the start of the next registration cycle.~~[until the beginning of their new registration cycle if they remain in the program.]~~

(6) Penalties for violation of terms and conditions, if applicable, may still result in accrual of fees against a RUC participant's account even after the annual mileage cap has been reached.

R926-17-5. Mileage Reporting Mechanism Standards.

(1)(a) If approved by the Department before being used, account[Account] managers may offer various reporting mechanisms to RUC participants for collection of [their-]mileage.~~[-All mechanisms must be approved by the Department prior to use by account managers.]~~

(b)(2) The reporting mechanisms[Such mechanisms] may include ~~[but are not limited to-]~~ devices installed in cars, smartphone applications, embedded telematics, ~~[and]~~or odometer image capture.

(c) For reporting mechanisms such as OBD-II devices and embedded telematics that may be able to support mileage collection either through location tracking or a simple report of the odometer

reading, the Department may dictate requirements~~[its preferences]~~ through account manager contract terms.

(13)2) Account managers may only offer~~[Mileage]~~ reporting mechanisms that are~~[will be]~~ capable of automatically transmitting mileage data directly to an account manager through wireless means. Account managers~~[The program]~~ may not provide for any manual reporting of mileage by RUC participants.

(14)3) The Department may dictate mileage aggregation and reporting frequency requirements~~[frequencies (e.g. hourly, daily, monthly)]~~ through account manager contract terms.

R926-17-6. Privacy and Data Sharing Processes and Procedures.

(1) The Department and account managers~~[All aspects of program operations will]~~ shall comply with the privacy requirements described in~~[statutes related to privacy found in Utah Code]~~ Sections 63G-2-305 and 77-23c-102.

(2) An account manager ~~[must]~~shall explain activities involving collection and storage of location data to each RUC participant~~[RUC participants]~~ as part of the enrollment process.

(3) User agreements between account managers and RUC participants~~[must]~~ shall be approved by the Department before~~[prior to]~~ use and ~~[must]~~shall require explicit consent for collection and storage of RUC participants' location data.

(4) RUC participants may~~[will be able to]~~ view their data being collected and stored by the account manager. They may also dispute mileage charges that they consider to be erroneous.

(5) RUC participants' location data and personal information is protected from public disclosure in accordance with~~[by]~~ the Government Records Access and Management Act (GRAMA).

R926-17-7. Security Processes and Procedures.

The account manager willshall process ~~[all]~~ card payment data and transactions ~~[in accordance with]~~ following the Payment Card Industry Data Security Standard (PCI DSS), which applies to the electronic payment card industry as a whole. Automated clearing house payment data and transactions willshall be processed according to the rules published by the National Automated Clearing House Association (NACHA), which apply to the electronic payment card industry as a whole.

R926-17-8. User Agreements Between Account Managers and RUC Participants.

(1) The Department ~~[must]~~shall approve user agreements used by account managers to enroll RUC participants before~~[prior to usage of those]~~ account managers may use the~~[prior to usage of those]~~ agreements.

(2) The user agreement willshall clearly explain location tracking, data retention, and privacy protection components of the program. The user agreement shall~~[it will]~~ also require explicit consent ~~[on the part of]~~by the participant to accept any terms related to tracking and retention.

(3) The user agreement willshall include ~~[but is not limited to]~~ the following components:

(a) ~~[M]~~mileage reporting mechanism to be used for the vehicle being enrolled and commitment from the RUC participant to keep the mechanism operable at all times so that no interruptions in data collection and transmission occur~~[]~~;

(b) ~~[E]~~electronic payment mechanism chosen by the RUC participant, consent to have a bank account or credit card debited when the wallet balance drops below a defined minimum threshold, and commitment to keep payment information current while enrolled in the program~~[]~~;

(c) ~~[R]~~refund procedures for when a positive wallet balance exists when a RUC participant exits the program~~[situations where a RUC participant completes a full registration cycle within the program but does not accrue enough mileage charges to consume the entire flat fee, thus leaving a positive wallet balance.]~~

(d) ~~[R]~~requirements, if any, for return of mileage reporting devices to the account manager after a RUC participant is no longer enrolled~~[]~~;

(e) ~~[L]~~length of time that raw location data ~~[will]~~shall be retained by the account manager~~[]~~;

(f) ~~[I]~~information about how data may be aggregated, anonymized, or shared~~[]~~;

(g) ~~[P]~~process for RUC participants to view their collected data and lodge a dispute if they believe charges have accrued to their accounts erroneously~~[]~~;

(h) ~~[P]~~processes and consequences of withdrawal from the program both ~~[prior to]~~before and after full completion of the current annual registration cycle applicable to the enrolled vehicle, as detailed in Section R926-17-3~~[]~~; and

(4) The user agreement willshall explain penalties associated with violation of its terms.

(5) Failure to comply with terms such as payment of RUC fees, return of devices, payment for lost devices~~[for payment for lost devices]~~, or intentional tampering with mileage reporting mechanisms may result in the following enforcement actions:

(a) ~~[A]~~an initial warning about the violation and steps for becoming compliant~~[]~~;

(b) ~~[A]~~a penalty fee, which willshall be agreed to by the RUC participant and account manager and stated in the user agreement, willshall be assessed to the RUC participant's electronic wallet if a warning ~~[doesn't]~~does not result in compliance~~[]~~;

(c) ~~[B]~~billing of the RUC participant's electronic wallet for ~~[all]~~ outstanding fees owed and removal from the program if compliance is still not achieved after penalty assessment~~[]~~; or

(d) ~~[N]~~notification by the account manager to the DMV that a former RUC participant has unpaid fees owed to the account manager, and subsequent placement of a registration hold by the DMV on the formerly enrolled vehicle if the RUC participant's electronic payment information is invalid or does not have enough balance to successfully pay the total fees owed. Former RUC participants with registration holds assessed will be required to~~[]~~ shall successfully settle their RUC account with the account manager before~~[prior to]~~ having the hold released by the DMV and being able to register the vehicle again.

R926-17-9. Contractual Terms Between the Department and Account Managers.

(1) The Department willshall provide account manager oversight through a contractual relationship governing what the account manager ~~[is authorized to]~~may do on behalf of the Department.

(2) Each contract between the Department and an account manager~~[Contracts between the Department and account managers will]~~ shall contain, at a minimum, guidelines for the following:

(a) RUC participant enrollment, withdrawal, and removal processes~~[]~~;

(b) ~~[S]~~structure and content of user agreements between account managers and RUC participants~~[]~~;

(c) ~~[D]~~descriptions of mileage reporting mechanisms that account managers ~~[are authorized to]~~may offer to RUC participants~~[]~~;

NOTICES OF PROPOSED RULES

(d) [P]payment collection, transaction processing, and revenue remittance protocols[-];

(e) [S]stipulation that any value-added services offered by an account manager ~~[must]~~ shall be approved by the Department ~~[prior to]~~ before use by RUC participants[-];

(f) [P]privacy and security protection processes, including parameters for data collection, retention, destruction, anonymization, aggregation, and sharing[-];

(g) [S]system testing and certification approach[-];

(h) [C]customer service level expectations and performance standards[-];

(i) [R]requirements for coordination and interfacing with the DMV[-];

(j) [R]reporting of data collected through the program[-];

(k) [A]audit procedures for verifying account manager performance in areas such as privacy protection, data destruction, data collection accuracy, and remittance of funds to the State[-]; and

(l) [R]remedies available to the Department if an account manager fails to fulfill contractual terms.

KEY: road usage charge (RUC), alternative fuel vehicles, RUC program

Date of Last Change: 2023~~[August 26, 2019]~~

Authorizing, and Implemented or Interpreted Law: 72-1-213.1

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal

Rule or Section Number:	R940-8	Filing ID: 55102
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Agency Information

1. Department:	Transportation Commission	
Agency:	Administration	
Room no.:	Administrative Suite, 1st Floor	
Building:	Calvin Rampton Bldg	
Street address:	4501 S 2700 W	
City, state, and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 148455	
City, state, and zip:	Salt Lake City, Utah 84114-8455	
Contact person(s):		
Name:	Phone:	Email:
Leif Elder	801-580-8296	lelder@utah.gov
Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R940-8. Establishment of Road Usage Charge (RUC) Rates

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

This rule is being repealed. In the 2022 General Session, the Legislature passed H.B. 186, which suspended the Transportation Commission's authority to set road usage charge rates. In H.B. 186, the Legislature also amended Section 72-1-213.1 to set road usage charge rate beginning January 1, 2023. The Commission proposes to repeal this rule, so it does not conflict with Section 72-1-213.1.

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. With this proposed change, the Commission repeals this rule so it does not conflict with Section 72-1-213.1 beginning January 21, 2023.

Fiscal Information

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

A) State budget:

This proposed repeal will not impact the state's budget because the Legislature suspended the Commission's authority to set road usage rates and now sets road usage rates by statute. Repealing this rule will have no fiscal impact on the state. The repeal prevents the rule from conflicting with Section 72-2-213.1.

B) Local governments:

This proposed repeal will not impact the local governments because they are not subject to road usage charges.

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

This proposed repeal will not impact small businesses because the Legislature suspended the Commission's authority to set road usage rates and now sets road usage rates by statute. Repealing this rule will have no fiscal impact on small businesses. The repeal prevents this rule from conflicting with Section 72-2-213.1.

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

This proposed repeal will not impact non-small businesses because the Legislature suspended the Commission's authority to set road usage rates and now sets road usage rates by statute. Repealing this rule will have no fiscal

impact on non-small businesses. The repeal prevents this rule from conflicting with Section 72-2-213.1.

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**):

This proposed repeal will not impact persons other than small businesses, non-small businesses, state, or local government entities because the Legislature suspended the Commission's authority to set road usage rates and now sets road usage rates by statute. Repealing this rule will have no fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities. The repeal prevents this rule from conflicting with Section 72-2-213.1.

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

Repealing this rule will not cause compliance costs for anybody. The repeal prevents this rule from conflicting with Section 72-2-213.1.

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

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

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Chairman of the Transportation Commission, Naghi Zeenati, 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 72-1-213.1		
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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: 01/17/2023

9. This rule change MAY become effective on: 01/24/2023

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

Agency head or designee and title:	Naghi Zeenati, Chair	Date:	10/14/2022
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R940. Transportation Commission, Administration.

~~**R940-8. Establishment of Road Usage Charge (RUC) Rates.**~~

~~**R940-8-1. Purpose and Authority.**~~

~~(1) The purpose of this rule is to establish procedures for setting road usage charge (RUC) rates in accordance with the RUC program established by Utah Code Section 72-1-213, and to set a RUC rate. The RUC program is a mileage-based revenue system intended to function as an alternative to the fuel tax.~~

~~(2) Authority for this rule is found in Utah Code Section 72-1-213.1.~~

~~**R940-8-2. Definitions.**~~

~~(1) "Commission" means the Transportation Commission, which is created in Utah Code Section 72-1-301;~~

~~(2) The "Department" means the Utah Department of Transportation, which is created in Utah Code Section 72-1-101;~~

NOTICES OF PROPOSED RULES

~~(3) "RUC" means Road Usage Charge as designated pursuant to Section 72-1-213.~~

~~(4) "Rate" means the per-mile usage fee that the owner of a motor vehicle enrolled in the RUC program must pay.~~

R940-8-3. Responsibility for Setting RUC Rates.

~~(1) The Commission will be responsible for setting RUC rates as specified in this rule.~~

~~(2) The Commission may, at its sole discretion, change the RUC rate.~~

R940-8-4. Process of Setting RUC Rates.

~~(1) The Commission will consider the Department's recommendations for RUC rates.~~

~~(2) The Commission may consider relevant data and information from any reliable source to help it determine RUC rates.~~

R940-8-5. Depositing of Collected Funds.

~~(1) Pursuant to State law, RUC fees collected by the Department will be deposited in the Transportation Fund established by Utah Code Section 72-2-102, and subject to the calculation pursuant to Utah Code Section 72-2-107.~~

~~(2) Monies from the fund may be used to pay for costs of administering the RUC program, pursuant to Utah Code Section 72-1-213.~~

R940-8-6. Road Usage Charge Rate.

~~(1) The RUC rate is 1.5 cents per mile effective January 1, 2020.~~

~~(2) The RUC rate will adjust annually on January 1 equal to the percentage change during the previous fiscal year in the Consumer Price Index (CPI), as determined by the Utah Tax Commission for the per gallon motor fuel tax rate pursuant to 59-13-201.~~

~~(3) By November 1 of each year the Commission will obtain from the Tax Commission the CPI percentage. This CPI percentage will be applied to the RUC rate and the increase will be published by December 1 with the adjusted rate taking effect on January 1.~~

[KEY: road usage charge (RUC), alternative fuel vehicles, RUC rates]

Date of Last Change: August 26, 2019

Authorizing, and Implemented or Interpreted Law: 72-1-213.1]

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R986-600	Filing ID: 55113
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Agency Information

1. Department:	Workforce Services
Agency:	Employment Development
Building:	Olene Walker Building
Street address:	140 E 300 S
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 45244

City, state and zip:	Salt Lake City, UT 84145-0244	
Contact persons:		
Name:	Phone:	Email:
Amanda B. McPeck	801-526-9653	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R986-600. Workforce Innovation and Opportunity Act

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

The purpose of this rule change is to update several sections concerning eligibility requirements for Workforce Innovation and Opportunity Act (WIOA) programs; add definitions; and change the requirements for training providers seeking to be included on the Utah Eligible Training Provider List (ETPL).

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

This rule change:

- 1) updates the individualized WIOA career services available from the Department;
- 2) clarifies income eligibility and barriers to employment related to WIOA Youth services; defines "major life activities;"
- 3) removes child support and unemployment compensation from "excludable income" and makes such income countable income in determining eligibility for services;
- 4) clarifies how tuition and incentives for WIOA youth services are paid;
- 5) adds requirements for inclusion on the ETPL, including requirements related to a provider's federal loan default rate and registration as a postsecondary proprietary school;
- 6) clarifies the ETPL application process, including specifying certain information that must be included with a provider's application;
- 7) requires that registered apprenticeship program sponsors included on the ETPL be reviewed every two years;
- 8) requires a provider to request unpaid tuition payments from the Department within 90 days of training completion or withdrawal from the program;
- 9) adds requirements for providers related to Department-approved student complaints and communications with Department staff;
- 10) adds a requirements that a provider notify the Department of certain changes within 30 days, and other changes during the continued eligibility process; and

11) adds provisions related to unscheduled or unannounced onsite visits to ETPL provider locations; and corrects citations.

The rule changes also makes technical, conforming, and stylistic changes in accordance with the Utah Rulewriting Manual and current Department of Workforce Services organization, policy, and procedure.

Fiscal Information

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

A) State budget:

This rule change will not have any fiscal impact on state revenues or expenditures. Funding for these programs is from the Federal government. The amendment requires no action or expenditure by state employees or resources, and does not require additional staff to provide services.

B) Local governments:

This rule change will not have any fiscal impact on local governments' revenues or expenditures. This amendment requires no action or expenditure by local governments.

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

There are no anticipated costs or savings to small businesses. This amendment requires no action or expenditure by small businesses, as participation in the ETPL is voluntary.

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

There are no anticipated costs or savings to non-small businesses. This amendment requires no action or expenditure by non-small businesses, as participation in the ETPL is voluntary.

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 amendment requires no action or expenditure by any person but may impact individuals seeking WIOA services ("customers"). The amendment creates new categories of customers deemed eligible for services; however, the amount of services will not change.

The Department cannot predict the number of customers who might become eligible with this change. The amendment makes child support and unemployment compensation "countable income" in terms of determining financial eligibility for WIOA services. Family income consists of total gross income to all family members from all sources, with some exceptions. Customers receiving

unemployment compensation would qualify for services under the dislocated worker program; therefore, that change will not impact eligibility for services.

Some customers may be over the family income limit for WIOA services if child support is included as countable income. There is, however, no cost-effective data to quantify or predict the number of customers who would might be receiving child support payments.

Further, the Department cannot readily determine if counting such income will cause a customer to exceed the household income limit.

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

This rule change may cause minimal compliance costs for affected persons as it requires certain reports from businesses that chose to be included on the ETPL. The changes that must be reported are changes initiated by the business, so the Department cannot accurately estimate the compliance costs as it cannot predict such changes. This rule change does not create any new administrative fees.

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

Regulatory Impact Table

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

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Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Workforce Services, Casey Cameron, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Title 35A, Chapter 5		

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:	01/17/2023

9. This rule change MAY become effective on:	01/24/2023
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

Agency head or designee and title:	Casey Cameron, Executive Director	Date:	11/30/2022
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R986. Workforce Services, Employment Development.

R986-600. Workforce Innovation and Opportunity Act.

R986-600-603. Youth Services.

- (1) The goals of WIOA [y] Youth services are to:
- (a) reconnect out-of-school youth to education and employment;
 - (b) provide options for improving educational and skill competencies;
 - (c) provide effective connections to employers;
 - (d) ensure access to mentoring, training opportunities, and support services;
 - (e) provide incentives for achievement; and
 - (f) provide opportunities for leadership, citizenship, and community service.
- (2) WIOA [y] Youth services may be available to [z]:
- (a) [in-School Youth] an in-school youth, age 14 through 21, who is [are] low income and who has [have] one or more barriers

to employment including barriers [those] that interfere with the ability to complete an educational program or to secure and hold employment;

(b) [out of School Youth] an out-of-school youth, age 16 through 24 and who has [have] one or more barriers to employment including a youth who: [school dropout, attendance issues, offender, homeless, runaway, foster care, aged out of foster care, pregnant or parenting, or disabled, and]

(i) has dropped out of school;

(ii) has attendance issues;

(iii) is an offender;

(iv) is homeless;

(v) is a runaway;

(vi) is in foster care;

(vii) has aged out of foster care;

(viii) is pregnant or parenting;

(ix) is disabled;

(x) has received a high school diploma or GED and is basic skills deficient; or

(xi) is an English language learner after obtaining a high school diploma or GED; or

(c) [out of School Youth] an out-of-school youth, age 16 through 24, who is [are] low income and who has [have] one or more barriers including a youth who: [Native American, child of incarcerated parent(s), substance abuse issues, victim of domestic violence, or refugee.]

(i) is Native American;

(ii) is a child of an incarcerated parent;

(iii) has substance abuse issues;

(iv) is a victim of domestic violence; or

(v) is a refugee.

(3) An incentive may be paid to provide recognition of achievement to eligible youth.

R986-600-606. Individualized Career Services.

(1) Individualized career services available to clients consist of:

- (a) an assessment as provided in Section R986-600-620;
- (b) development of an employment plan as provided in Section R986-600-621;
- (c) case management, career counseling, and career planning;
- (d) in depth testing and formal assessment;
- (e) workforce preparation activities and prevocational services; and
- (f) financial literacy services.

(2) The following individualized career services may be available to eligible adults, dislocated workers, and youth:

- (a) English language acquisition;
- (b) out-of-area job search and relocation assistance;
- (c) supportive services;
- (d) unpaid internships; and
- (e) employment internship opportunities.

(3) Additional individualized career services available to youth may include:

- (a) leadership development;
- (b) mentoring;
- (c) comprehensive guidance and counseling; and
- (d) entrepreneurial skills training;
- (e) alternative school; and
- (f) summer youth employment internship opportunities.

R986-600-613. Income Eligibility.

(1) Dislocated workers do not need to meet income eligibility requirements.

(2) Applicants for WIOA ~~[y]~~ Youth and ~~[a]~~ Adult programs must meet income eligibility requirements.

(3) A client is deemed to have met the income eligibility requirements for WIOA ~~[y]~~ Youth services ~~[, and]~~ or ~~[a]~~ Adult services, if the client is: ~~[;]~~

(a) receiving, has received, or has been determined eligible to receive SNAP at any time during the six months ~~[prior to]~~ before the application date, ~~unless~~ ~~[This does not apply if]~~ the client only received expedited SNAP;

(b) ~~currently receiving financial assistance from the Department or TANF funds from another state;~~

(c) homeless;

(d) currently receiving SSI;

(e) in foster care; ~~[or]~~

(f) basic skills deficient ~~[;]~~;

~~(g) for Youth services only: receiving or been determined eligible for free or reduced price lunch; or~~

~~(h) for Youth services only: currently living in a high poverty area defined as:~~

~~(i) an American Indian Reservation;~~

~~(ii) an Oklahoma Tribal Statistical Area, as defined by the U.S. Census Bureau;~~

~~(iii) an Alaska Native Village Statistical Area or Alaska Native Regional Corporation Area;~~

~~(iv) a Native Hawaiian Homeland Area; or~~

~~(v) a county with a poverty rate of at least 25 per cent as set every five years using American Community Survey five-year data.~~

(4) If a client is not eligible under ~~[paragraphs]~~ Subsection R986-600-613(1) ~~[, or (2)]~~ ~~[above]~~, the client must meet the ~~[low]~~ income eligibility guidelines in Subsection R986-600-613(3) ~~[this rule]~~.

(5) Up to 5% of the youth clients served do not need to meet the income eligibility requirements but must have barriers to employment, as provided by Section R986-600-603 ~~[as determined by the Department]~~. A list of current ~~[;]~~ eligible barriers is available ~~[at]~~ from the Department.

R986-600-614. How to Determine Who Is Included in the Family.

(1) Family size must be determined to establish income eligibility for WIOA ~~[a]~~ Adult and ~~[y]~~ Youth services. Family size is determined by counting the maximum number of family members in a single residence during the six months ~~[prior to]~~ before the date of application, not including the current month. A dependent of this section is defined as a person who is claimable as an IRS dependent per the client's statement. Family members included in the income determination are:

(a) a ~~[husband and wife]~~ married couple and dependent children;

(b) a parent ~~[(s)]~~ or legal guardian ~~[(s)]~~ and dependent children;

(c) a ~~[husband and wife]~~ married couple, if there are no dependent children, and

(d) two people living in a single residence who are not married but have children in common.

~~(e) dependent is defined as the client's statement that the child is claimable as an IRS dependent.~~

(2) A client can be considered a "family" of one, if the client is living alone or with a family member and has a disability

that substantially limits one or more major life activities. "Major life activities" are defined as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The income of the parent or guardian is not counted for a client who is over the age of 19 and the parents cannot claim ~~[him or her]~~ the client as an IRS dependent.

R986-600-616. Countable Income.

(1) Countable income is total gross income from all sources with the exceptions listed ~~[below under]~~ in Subsection R986-600-616(2), "Excludable Income." ~~[;]~~ If income is not specifically excluded, it is counted. Countable income, for WIOA purposes includes:

(a) gross wages and salaries including severance pay and payment of accrued vacation leave;

(b) net receipts from self-employment, including farming;

(c) pensions and retirement income including railroad and military retirement;

(d) strike benefits from union funds;

(e) workers' compensation benefits;

(f) alimony;

(g) any insurance, annuity, or disability, payments other than SSI, or veterans disability ~~[;]~~;

(h) merit-based scholarships, fellowships, and assistantships;

(i) dividends;

(j) interest;

(k) net rental income;

(l) net royalties, including tribal payments from casino royalties;

(m) periodic receipts from estates or trusts;

(n) net gambling or lottery winnings;

(o) tribal payments;

(p) disaster relief employment wages;

(q) on the job training wages reimbursed by the Department;

(r) child support;

(s) unemployment compensation;

(t) Social Security Retirement Benefits and Social Security Disability Income ~~[which]~~ that does not include old-age retirement or SSI; and

~~(u) [(s)]~~ ~~[at]~~ training stipends not listed in Subsection R986-600-616(2) ~~[, as]~~ excludable income.

(2) Excludable Income. Income that is not counted in determining eligibility:

(a) cash payments under a Federal, state, or local public assistance program, including FEP, FEPT, GA, RRP payment, or EA ~~[;]~~;

(b) SSI, Old-Age Retirement Benefits, and Survivor's Benefits paid by the Social Security Administration;

(c) payments received from any governmental entity for adoption assistance ~~[;]~~;

~~(d) [child support];~~

~~(e) unemployment compensation;~~

~~(f) capital gains;~~

~~(g) veterans disability payments other than retirement;~~

~~(h) educational financial assistance including [PELL] PELL grants, work-study, and needs-based scholarship assistance;~~

~~(i) foster care payments [;];~~

~~(j) tax refunds [;];~~

~~(k) gifts [;];~~

(j[~~h~~]) loans[~~;~~];
 (k[~~m~~]) lump-sum inheritances[~~;~~];
 (l[~~n~~]) one-time insurance payments or compensation for injury[~~;~~];
 (m[~~o~~]) earned income credit from the IRS[~~;~~];
 (n[~~p~~]) military service member income, including military pay, military allowances and stipends, and military reserve pay;
 (o[~~q~~]) reparation payments, including German reparation payments, Radiation Exposure Compensation Act payments, and Black Lung Compensation payments;
 (p[~~r~~]) guardianship subsidies as paid by a governmental entity;
 (q[~~s~~]) employment internship opportunity wages reimbursed to the employer by the Department;
 (r[~~t~~]) stipends received from VISTA, Peace Corps, Foster Grandparents Program, Retired Senior Volunteer Program, Youth Works, Americorps, and Job Corps;
 (s[~~u~~]) non-cash benefits such as employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, federal non-cash benefits programs such as Medicare, Medicaid, SNAP, school lunches, and housing assistance; and
 (t[~~v~~]) other amounts specifically excluded by federal statute.

R986-600-625. Funding.

(1) When a client is approved for individualized career or training services, the Department will estimate the anticipated cost to the Department associated with those services and reserve that amount for accounting purposes. This amount may be revised [and/or] rescinded by the Department at any time without prior notice to the client.

(2) The Department issues an electronic benefit transfer card [~~card~~] to each eligible individualized career and[~~for~~] training service client to pay for training[~~;~~] and supportive services[~~;~~ and incentives].

(a) Tuition is paid directly to the training provider through check or direct deposit.

(b) Incentives are paid directly to youth through check or direct deposit.

(3) The client must prove that [all] funds received from the Department were spent as intended. Proof may require receipts. If a client is found to have been ineligible for or to have[funds] made unauthorized use of Department funds, or cannot prove how [those] Department funds were spent, the client will be responsible for repayment of the overpayment.

(4) Amounts remaining on the card after 30 days of inactivity are subject to expungement.

R986-600-652. [Eligibility Requirements for Training Providers and Programs] Eligible Training Provider List.

(1) To be included on the Utah Eligible Training Provider List (ETPL), a training provider[Training providers] must apply for a specific program or programs[~~s~~], and be found eligible by the Department[; to be included on the Utah Eligible Training Provider List (ETPL)].

(2) The following training providers [can] may apply to be included in the ETPL[~~;~~]:

(a) a post[-]secondary institution[~~;~~];
 (b) [registered] an apprenticeship program[~~;~~];
 (c) another public or private provider[s] of training services[~~;~~]; or

(d) a provider[s] of adult education and literacy activities including English as a Second Language.

(3) Training provider requirements.[

(a) [A] training provider[s] seeking initial eligibility must:

(a) have been in business as a training provider and have provided training to students for at least two years[~~;~~]

(b) have less than a 31% federal loan default rate over the past three reported years, or have a plan to reduce the rate under 31%;

(c)(i) [Training providers, with the exception of government entities and basic education providers, must be registered with the Utah Division of Consumer Protection as a Post-Secondary Proprietary School.] be registered with the Utah Division of Consumer Protection as a Postsecondary Proprietary School; or

(ii) be registered as an exempt as a Postsecondary Proprietary School, unless the provider is;

(A) [The only acceptable reasons for exemption from registration as a post-secondary proprietary school are for those schools] governed by an accrediting body [which] that oversees program instruction[~~;~~];

(B) a basic education provider, or is a school directly supported, to a substantial degree, with funds provided by the state, a local school district, or any other Utah governmental subdivision; and

(d) able to train students without relying on contractors or subcontractors.

(4) A training provider[Training providers] must apply for eligibility for each training program the provider[~~y~~] wishes to have included on the ETPL.

(5) [Training programs are defined as] A training program is one or more courses or classes, or a structured regimen that leads to[~~;~~]

(a) an industry recognized post[-]secondary credential[~~;~~];

(b) employment[~~;~~];

(c) high school diploma[~~or GED~~], or secondary school diploma or equivalent; or

(d) a measurable skill gain toward credential or employment.

(6) A t[~~T~~]raining program[s] can be delivered in[-] person, online, or in a blended approach.

(a) Online training is only eligible if it[~~;~~];

(i) is part of a curriculum where lessons are assigned, completed and returned[~~;~~];

(ii) [requires students to interact with instructors, and] has a mechanism for student interaction with an instructor; and

(iii) requires students to take periodic tests.

(b) Self-directed online training that is not instructor-led is not eligible.

(7) A t[~~T~~]raining program[s] [must] shall submit performance data [that includes] including data from at least one training class that has completed [and/or] graduated from the program and the students have been tracked for at least [3] three months after completing the program. If a training program has not operated for at least three months after the first class has graduated, the provider must submit letters verifying the need for trained employees from at least three local businesses that hire employees that need the type of training offered.

(8) An o[~~O~~]ut of state training provider[s] that does not have a training location in Utah may apply to be on the Utah ETPL only if [they] the provider maintains provider and program eligibility on the ETPL in the state where [their] the provider's main or corporate office is located.

(9) Utah may enter into reciprocal agreements with other states to utilize the ETPL from those states. The agreement allows Utah clients to select a training program from another state's ETPL.

(10) The Department will not pay for training costs that are incurred ~~[prior to]~~ before the training program being found eligible.

(11) ~~[when]~~ When applying and while on the ETPL, a training provider[s] must agree to abide by the ~~[F]~~ training ~~[P]~~ provider Terms and Conditions Agreement ~~[which is provided as part of the application process]~~.

(12) A training provider shall not be eligible to be included on the ETPL if the training provider:

(a) ~~[The training provider]~~ was previously removed from the ETPL due to noncompliance with ~~[these rules]~~ this rule or is a successor to a training provider that was previously removed from the ETPL due to noncompliance with ~~[these rules]~~ this rule, and the removal period has not expired or the conditions for reinstatement have not been met;

(b) ~~[The training provider]~~ was previously removed from another state's ETPL due to noncompliance with that state's ETPL rules or is a successor to a provider that was previously removed from another state's ETPL due to noncompliance with that state's ETPL rules, and the training provider has not been reinstated to that state's ETPL;

(c) ~~[The training provider]~~ lacks the required accreditation, licensing, registration, and certification to operate any program a training provider seeks to operate;

(d) ~~[The training provider]~~ has lost its good standing status, or is a successor to a training provider that has lost its good standing status, with the Division of Consumer Protection; or

(e) ~~[The training provider]~~ owes an overpayment to the Department or is a successor to a training provider that owes an overpayment to the Department.

(13) Notwithstanding Subsection (12)(e) ~~[above]~~, the Department may include on the ETPL a training provider that owes an overpayment to the Department if:

(a) ~~[The]~~ the overpayment did not result from the training provider intentionally supplying inaccurate information or substantially violating Title I of WIOA or the WIOA regulations; and

(b) ~~[The]~~ the training provider has entered into a payment plan approved by the Department and is current in making required payments on the overpayment.

(14) For ~~[purposes of these rules]~~ this section, the following definitions apply:

(a) "Acquire" means to come into possession or control of, or obtain the right to use, an asset by any legal means, including gift, lease, repossession, or purchase. ~~[For purposes of]~~ In this section, "acquire" does not include a purchase of an asset through a bankruptcy proceeding if the court places restrictions on the transfer of liabilities to the purchaser.

(b) "Asset" means any property, tangible or intangible, that has value, including ~~[but not limited to]~~ the acquisition of a business or trade name, customers, accounts receivable, intellectual property rights, goodwill, employees, or an agreement by a predecessor not to compete.

(c) "Control" means to have the right to direct the general operations of a training provider.

(d) "Manage" means to have the right to control or direct the day-to-day educational or training operations of a training provider.

(e) "Substantially all" means ~~[ninety percent]~~ 90% or more of the value of a training provider.

(f) "Successor" means a person or entity that acquires the business or substantially all ~~[of the]~~ assets of a current or former training provider, or that is owned, managed, or controlled by the same principal~~[(s)]~~ as a current or former training provider.

R986-600-653. Applying for Initial Training Provider and Program Eligibility.

(1) An application for ETPL shall contain the following information about the training provider:

- (a) provider name;
- (b) main location address;
- (c) mailing address, if different;
- (d) website, if applicable;
- (e) description of programs or specialties offered and accreditation;
- (f) contact name;
- (g) contact email; and
- (h) contact phone number.

(2) A training provider shall submit the following documentation with the provider's application:

(a) if the provider is not a governmental entity or basic education provider, certification from the Utah Division of Consumer Protection registering the provider as a Postsecondary Proprietary School, or exemption documentation from the Utah Division of Consumer Protection registering the provider exempt as a Postsecondary Proprietary School; and

(b) if registered exempt by the Utah Division of Consumer Protection, documentation of accreditation by a licensing agency that oversees program instruction; and

(c) an attestation statement that the following policies and procedures exist:

- (i) refund policy;
- (ii) equal opportunity policy; and
- (iii) a grievance procedure that includes the process for customers to file equal opportunity and discrimination complaints; and

(d) provider's bank account or mailing information to the Utah Finance Division to be set up to receive payment.

(3) ~~[Training providers]~~ A training provider shall ~~[must]~~ submit the following information for each program for which ~~[they are]~~ the provider is seeking eligibility:

(a) [training provider contact information;] Classification of Instructional Programs (CIP) code;

(b) [training program description and requirements;] name of the program;

(c) [connection with in-demand industry sectors and occupations;] program website;

(d) [license or accreditation, if applicable;] length of program;

(e) [equal opportunity grievance procedure;] pre-requisites;

(f) [aggregate performance data for every graduating class in the last full school year for every student;] cost, including tuition and fees;

(g) [a list of all contractors or subcontractors the training provider intends to utilize for any aspect of the program, together with contact information for each contractor or subcontractor;] description of the program;

(h) [the cost of attendance for the program, including tuition, fees, and any other costs, and;] whether or not the program is done in person, online, or a combination of both;

(i) ~~[any other information, documentation and/or verification requested by the Department.]~~recognized postsecondary credential awarded upon completion, if applicable;

(j) a list of all contractors or subcontractors used for any aspect of the program;

(k) information concerning whether the provider is in partnership with a business for the program of study;

(l) in-demand industry sector and occupations the program of study leads to; and

(m) aggregate performance data for every graduating class in the last full school year for every student.

~~[(2)]~~(4) The training provider will be notified once an eligibility decision is made. If an application is denied, the notification will include information on the appeals process as described in Section R986-600-659.

R986-600-654. Registered Apprenticeships.

(1) ~~[All]~~(1) U.S. Department of Labor ~~[(DOL)]~~(1) Registered Apprenticeships located in Utah are eligible to be included on the ETPL. ~~[In order to]~~ To provide funding for classroom training, the registered apprenticeship sponsor must be listed on the ETPL.

(2) ~~[Registered]~~A registered apprenticeship program sponsor[s] must request to be included on the ~~[list]~~ETPL verbally, through email, or hard copy.

(3) ~~[Registered]~~A registered apprenticeship program sponsor[s] must submit information on the sponsor, program, and training provider. ~~[Registered]~~A registered apprenticeship program sponsor[s] ~~[are]~~is not required to submit performance standards.

(4) Any registered apprenticeship program sponsor will be removed from the ETPL if it loses its registration voluntarily or involuntarily.

(5) If a registered apprenticeship program sponsor is determined to have provided inaccurate information or to have substantially violated any provision of WIOA, ~~[they]~~the program will be removed from the ETPL.

(6) A registered apprenticeship program sponsor included on the ETPL will be reviewed every two years.

R986-600-656. Continued Eligibility Requirements for Training Providers and Programs.

(1) ~~A~~(1) training program[s] may receive initial eligibility for up to one year. To remain on the ETPL, ~~[the]~~a training provider must complete an application for continued eligibility and submit it before the expiration of the last month of eligibility.

(2) ~~[Training providers]~~A training provider shall ~~[must]~~ renew eligibility annually or more often as instructed by the Department.

(3) If a training provider already on the ~~[list]~~ETPL adds a new program, it must apply for approval of that program. The renewal date for the new program will be coordinated with the provider's other program or programs so all programs for that provider renew at the same time.

(4) If any of the information provided in Section R986-600-653 changes, the provider must notify the Department.

(5) To remain eligible for the ETPL, a training provider[s] ~~[must]~~shall continually comply with the following obligations:

(a) ~~[Provide]~~provide services in an ethical, professional, and timely manner;

(b) ~~[Not]~~not rely solely on funds from the Department to remain in business, which is defined as not having more than 20% of students funded by the Department at any one time;

(c) request any unpaid tuition payments from the Department within 90 days of the student completing or withdrawing from the training;

(i) if such a request is made after 90 days, the Department is not responsible to issue payment;

(ii) the Department does not guarantee any payment, as payments are negotiated between the student and the Department;

~~[(e) Not]~~(d) not use the Department's logo[s] or market, advertise, or imply the existence of a relationship with the Department, without express written approval by the Department;

(e) ~~[Not]~~not recruit on Department premises without Department Manager or Director approval;

(f) ~~[Not]~~not use Department approval or prospective approval as a condition for accepting a student, reviewing a student's application, assessing a cost or fee to a student, or otherwise making any type of decision regarding a student's enrollment or standing in the training program;

(g) ~~[Acknowledge]~~acknowledge and accept responsibility for ~~[all]~~any actions or inaction of any contractor or subcontractor the training provider uses, including not charging students directly for any costs imposed by a contractor or subcontractor's failure to provide services or make payments to the training provider;

(h) ~~[Not]~~not contact Department employment counselors unless the contact is regarding an individual student in common and the student has signed a Department Release of Information form;

(i) ~~[Submit]~~submit to and cooperate with ~~[all]~~any Department audits and requests for information, including unscheduled or unannounced site visits;

(j) ~~[Not]~~not expect or require a minimum number of Department-referred customers;

(k) ~~[Follow all]~~follow applicable laws to operate as a school, including having any required accreditation, licensing, registration, and certification;

(l) ~~[Respond]~~respond to Department complaints and requests within 48 hours of receiving the complaint or request, and cooperate with Department unscheduled or unannounced site visits due to complaint allegations from Department-approved students;

(m) not restrict or attempt to restrict Department-approved students from communicating their training experience with Department staff or through any platform including online, written, or verbal;

~~[(m) Notify]~~(n) notify the Department within 10 days of any change to the services the training provider is providing, including ~~[but not limited to]~~:

(i) ~~[Material changes in the coverage or availability of the courses or programs being offered;~~

~~— (ii) Changes in the location(s) where courses or programs are being offered or held;~~

~~— (iii) Changes in the cost of attendance, including changes in tuition, fees, or any other cost imposed or required by the training provider;~~

~~— (iv) Changes~~changes in accreditation, approval, certification, or licensing, including the commencement of formal or informal action or investigation to potentially remove or change accreditation, approval, certification, or licensing; and

~~[(v) Changes]~~(ii) changes in the identity or status of contractors or subcontractors being used;

~~— (vi) Changes in the ownership, management, or control of the training provider; and~~

~~— (vii) Changes to the provider's refund policy, grievance procedure, or limited English proficiency plan;]~~

~~(o) notify the Department within 30 days of any changes in ownership, management, or control of the training provider, and changes to the location where a course or program is being offered or held;~~

~~[(n) Ensure that]~~(p) ensure all physical facilities, equipment, materials, and staff necessary for operation as a school are adequate ~~[for that purpose]~~ and are compliant with ~~[all]~~ applicable laws, including the Americans with Disabilities Act and related authorities;

~~[(o) Abide]~~(q) abide by the Department's Equal Opportunity Clause and the equal opportunity and nondiscrimination requirements ~~[contained in Section 188]~~ of the Workforce Innovation and Opportunity Act, including allowing yearly Equal Opportunity monitoring by the Department;

~~[(p) Post]~~(r) post the Department's Equal Opportunity Notice;

~~[(q) Notify]~~(s) notify the ~~[State of]~~ Utah Finance Division of any changes to the training provider's bank account or mailing information;

~~[(r) Provide]~~(t) provide Department-approved students with progress and attendance reports upon request;

~~[(s) Comply]~~(u) comply with ~~[all]~~ applicable consumer protection laws, including ~~[but not limited to]~~ Title 13, Chapter 34, the Utah Postsecondary Proprietary School Act, ~~[Utah Code Ann. Section 13-34-101 et seq.]~~ and Title 13, Chapter 34a, the Utah Postsecondary School State Authorization Act~~[, Utah Code Ann. Section 13-34a-101 et seq.]~~;

~~[(t) Remain]~~(v) remain in good standing with the Division of Consumer Protection;

~~[(u) Report]~~(w) report to the Department within 10 days any action or investigation by the Division of Consumer Protection of which the training provider becomes aware;

~~[(v) Report]~~(x) report to the Department within 10 days any adverse action or investigation against the training provider in any other state;

~~[(w) Submit]~~(y) submit annual performance data on WIOA-funded students as required by the Department and according to deadlines set by the Department;

~~[(x) Not]~~(z) not report any false or inaccurate information to the Department; and

~~[(y) Abide]~~(aa) abide by the ~~[F]~~training ~~[P]~~provider Terms and Conditions Agreement.

(6) Contracted and subcontracted providers must meet the same requirements as a primary training provider.

R986-600-657. Applying for Continued Eligibility Training Provider and Program Eligibility.

(1) ~~A training provider~~~~[Training providers]~~ must certify that all the information previously provided for each program for which they are seeking continued eligibility is current and correct~~[-]~~, or update program information for each program, including:

~~(a) changes in the availability of the programs being offered; and~~

~~(b) changes in the cost of attendance, including changes to tuition, fees, or any other costs imposed by the training provider.~~

(2) As part of continued eligibility ~~[the]~~a provider must submit performance data by program according to the deadlines set by the Department, including aggregate data for ~~[all]~~any student~~[s]~~ participating in or attending ETPL-approved programs.

(3) The Department will also consider ~~[the]~~a provider's past compliance with the ~~[F]~~training ~~[P]~~provider Terms and Conditions Agreement when determining continued eligibility.

(4) ~~A program~~~~[Programs]~~ that does not meet the minimum standards or provide the required information by the renewal date will be removed from the ETPL. If a provider ~~[is unable to]~~cannot complete the renewal requirements, an extension may be granted if the delay is due to exceptional circumstances or circumstances that are beyond the provider's control. The request for an extension must be submitted 30 days before the renewal deadline or as soon as possible.

(5) ~~The Department will notify the training provider~~~~[Training providers will be notified]~~ of the decision on continued eligibility. If an application is denied, the notification will include information on the appeals process as described in Section R986-600-659.

R986-600-658. Training Provider Terms and Conditions, Noncompliance.

(1) ~~[Training providers must]~~A training provider shall agree to comply with the ~~[F]~~training ~~[P]~~provider Terms and Conditions Agreement. If a training provider does not follow the Terms and Conditions Agreement, the provider and ~~[all of]~~its programs will be removed from the ETPL.

(2) If a training provider reports false or inaccurate information during the initial or continued eligibility process or substantially violates any provision of Title I of WIOA or its implementing regulations, including Equal Opportunity (EO) ~~[regulations, the training provider and [all of] its programs will be removed from the ETPL. The Department may also do an onsite visit to ensure compliance with WIOA and EO regulations. Onsite visits may be unscheduled or unannounced. Removal from the ETPL under this subsection shall be for a period of at least two years.~~

(3) If after an onsite visit due to a complaint, any allegation such as insufficient trainers to train or monitor training activities, lack of necessary materials or equipment necessary to train, or training delays as a result of insufficient trainers or lack of necessary materials or equipment is substantiated, the Department will remove the provider or program from the ETPL.

(4) If a provider has been removed from the ETPL the Department will not pay for any additional training costs for any current or future clients until the training provider is eligible to reapply for ETPL initial eligibility.

~~[(4)]~~(5) If a training provider has been removed from the ETPL, ~~[they]~~the provider will be notified if ~~[they]~~the provider will be eligible to reapply for initial eligibility and when ~~[they]~~the provider can submit a new application.

~~[(5)]~~(6) If a training provider or program fails to comply with this rule~~[these rules]~~, or if a complaint is substantiated, the Department may:

(a) ~~[Remove]~~remove the training provider or program from the ETPL for a set~~[period of time]~~, not to exceed two years;

(b) ~~[Remove]~~remove the training provider or program from the ETPL until the training provider or program can establish compliance with ~~[these rules]~~this rule and any rehabilitative measures established by the Department; or

(c) ~~[Take]~~take any lesser action.

~~[(6)]~~(7) Any removal from the ETPL under ~~[these rules]~~this rule applies to the training provider or program that is removed as well as any successor training provider or program.

~~[(7)]~~(8) A training provider that receives Department funds during any period of noncompliance with ~~[these rules]~~this rule shall be liable to repay all Department funds received during the period of noncompliance. If the training provider's removal from the ETPL

NOTICES OF PROPOSED RULES

does not fall under Subsection (2)[~~above~~], the Department may, in its discretion, suspend or waive all or part of an overpayment.

R986-600-659. Training Provider or Program Appeals.

(1) A training provider or program may appeal a denial of eligibility, overpayment, removal from ETPL approved status, or other adverse action by submitting a written appeal to the Department within 30 days from the decision date.

(2) Appeal proceedings under this section are designated as informal proceedings [~~for purposes of Utah Code Ann. Section 63G-4-202~~] under Title 63G, Chapter 4, the Utah Administrative Procedures Act.

(3) Appeal hearings shall be conducted according to the procedures set forth in [~~Rule~~]Sections R986-100-123[4] through R986-100-138[3], unless those procedures are incompatible with the nature of an ETPL hearing.

(4) Further appeals from the decision of an ALJ or hearing officer may be made as set forth in [~~Rule~~]Section R986-100-135.

(5) EO findings are reviewed by the Department executive director for a final decision.

(6) All parties to an appeal[~~Training providers and programs~~] will be notified of the final decision.

(7) Actions taken by the Department against a training provider or program shall remain in force during the pendency of an appeal unless the appeal results in the reversal of the Department action.

KEY: SNAP, WIOA, Workforce Innovation and Opportunity Act

Date of Last Change: 2023[~~November 23, 2022~~]

Notice of Continuation: August 14, 2020

Authorizing, and Implemented or Interpreted Law: 35A-5

End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([~~example~~]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Rule or Section Number:	R68-25	Filing ID: 55108
Effective Date:	11/22/2022	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	4315 S 2700 W, TSOB South Bldg, Floor 2	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov

Cody James	385-515-1485	codyjames@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-25. Industrial Hemp Program-Cannabinoid Product Processors
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Emergency changes are needed to clarify the allowances of a Tier Three and Tier Four processing licensee to ensure product safety, as well as to remove the requirement for licensees to participate in the FBI Rap Back program for background checks because the Department of Agriculture and Food's (Department) application to have hemp processors participate in this program was denied.
4. Summary of the new rule or change (What does this filing do?):
Section R68-25 is updated to clarify that Tier Three licensees may receive bulk cannabinoid product rather

than concentrate and to remove their ability to manufacture under their license. A change has also been made to clarify that a Tier Four licensee may only sell finished product to a retailer. Additionally, language is removed from Section R68-25-4 requiring licensees to participate in the FBI Rap Back program (referenced in Subsection 4-41-103.2(6)). The Department's application to have hemp processors participate in this program was denied and statutory language will be clarified in the future to ensure the application is approved.

5A) The agency finds that regular rulemaking would:

X cause an imminent peril to the public health, safety, or welfare;

cause an imminent budget reduction because of budget restraints or federal requirements; or

X place the agency in violation of federal or state law.

B) Specific reasons and justifications for this finding:

The licensing clarifications are needed to ensure that licensees are producing products that are safe for the public to consume and to address concerns that have arisen under the Department's management of the hemp program. The background check changes are needed to ensure the Department is following federal law.

Fiscal Information

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

A) State budget:

The changes will not impact the state budget because they make this rule consistent with current Department practice or are clarifying changes only.

B) Local governments:

Local governments are not licensed under the industrial hemp program and will not be impacted by the changes.

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

Small businesses should not be impacted by this change because the changes are clarifying licensing requirements and the costs to participate in the program should not change. Background check costs will not change because licensees have not yet participated in the Rap Back program.

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

Other persons should not be impacted by this change because the changes are clarifying licensing requirements and the costs to participate in the program should not change. Background check costs will not change because

licensees have not yet participated in the Rap Back program.

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

The fees charged by the Department and compliance requirements of the program will not be impacted by this rule change.

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

This rule change will not have a fiscal impact on businesses. Craig W Butters, Commissioner

Citation Information

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

Subsection
4-41-103(4)

Agency Authorization Information

Agency head or designee and title:	Craig W Butters, Commissioner	Date:	11/22/2022
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R68. Agriculture and Food, Plant Industry.

R68-25. Industrial Hemp Program - Cannabinoid Product Processors.

R68-25-1. Authority and Purpose.

Pursuant to Subsection 4-41-103(4), this rule establishes the standards, practices, procedures, and requirements for participation in the Utah Industrial Hemp Program for the processing and handling of cannabinoid products.

R68-25-2. Definitions.

- 1) "CBD" means cannabidiol (CAS #13956-29-1).
- 2) "Cannabinoid" means any:
 - a) naturally occurring derivative of cannabigerolic acid (CAS #25555-57-1); or
 - b) any chemical compound that is both structurally and chemically similar to a derivative of cannabigerolic acid.
- 3) "Cannabinoid concentrate" means:
 - a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and
 - b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.
- 4) "Cannabinoid product" means a product that:
 - a) contains one or more cannabinoids;
 - b) contains less than the cannabinoid product THC level by dry weight; and
 - c) after December 1, 2022, contains a combined amount of total THC and any THC analog that does not exceed 10% of the total cannabinoid content.

5) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.

6) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

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

8) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert one cannabinoid into another.

9) "Final product" means a reasonably homogenous cannabinoid product in its final packaged form created using the same standard operating procedures and the same formulation.

10) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

11) a) "Key participant" means any person who has a financial interest in the business entity, including members of a limited liability company, sole proprietor, partners in a partnership, and incorporators or directors of a corporation.

b) "Key participant" includes an:

i) individual at an executive level, including a chief executive officer, chief operating officer, or chief financial officer; and

ii) an operation manager, site manager, or any employee who may present a risk of diversion.

12) "Handle" or "Handling" means possessing, transporting, or storing industrial hemp for any period.

13) "Processing" means any action taken to prepare industrial hemp, or material derived from industrial hemp, for market.

14) "Processor" means a person licensed by the department to process industrial hemp or a material derived from industrial hemp.

15) "Manufacturing" means storing, preparing, packaging, or labeling of industrial hemp or cannabinoid products.

16) "Non-compliant material" means:

(a) a hemp plant or plant material that does not comply with this rule, including a cannabis plant with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; and

(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level.

17) "Raw plant material" or "Raw concentrate" means industrial hemp plant material or concentrate that is not in final product form.

18) "Synthetic cannabinoid" means any cannabinoid that:

(a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and

(b) is not a derivative cannabinoid.

19) "Tetrahydrocannabinol" or "THC" means delta-9-tetrahydrocannabinol, the cannabinoid identified as CAS #1972-08-3.

20) "Third-party laboratory" means a laboratory that has no direct interest in a grower or processor of industrial hemp or cannabinoid products that is capable of performing mandated testing utilizing validated methods.

R68-25-3. Industrial Hemp Processor Licenses.

1) The department shall issue the following industrial hemp processor licenses:

a) a Tier One license, which allows a licensee to receive, store, extract, transport, and sell raw plant material or raw concentrate, and manufacture finished cannabinoid product;

b) a Tier Two license, which allows a licensee to receive raw plant material and extract it into raw concentrate to store, sell, or transport;

c) a Tier Three license, which allows a licensee to receive ~~[cannabinoid concentrate under 0.3% THC concentration]~~ bulk cannabinoid product, and ~~[manufacture]~~ store, package, and label finished cannabinoid product; and

d) a Tier Four license, which allows a licensee to receive, store, transport, or sell raw concentrate, raw plant material, or sell finished cannabinoid product to a retailer, and perform minimal processing for storage only.

2) A Tier One processor may accept industrial hemp derived cannabinoid concentrate with greater than 0.3% THC concentration from another Tier One processor or a Tier two processor.

R68-25-4. Application Requirements.

1) The applicant shall be a minimum of 18 years old.

2) The applicant is not eligible to receive a license if they have been convicted of a drug-related felony or its equivalent.

3) An applicant seeking an industrial hemp processing license shall submit the following to the department:

a) a complete application form provided by the department;

b) a physical description of the processing facility;

c) a plan review of the building, facilities, and equipment;

d) a street address for each building or site where industrial hemp or cannabinoid products will be processed, handled, or stored;

e) the planned source of industrial hemp material; and

f) a statement of the intended end use or disposal for each part of the industrial hemp plant and hemp material.

4) Each applicant ~~[and key participant shall submit to a background check pursuant to the requirements of Subsection 4-41-103.2(6) and shall provide the department with an authorization form allowing the department to access their background information]~~ shall submit a nationwide criminal history from the FBI completed within three months of their application.

5) The applicant shall submit a fee as approved by the legislature in the fee schedule.

6) The department shall deny any applicant who does not submit the required information.

7) Each applicant for a Tier one, Tier Two, or Tier Three license shall be required to register as a food establishment under Section 4-5-301 pursuant to the requirements of Section R68-25-7.

R68-25-5. Processing Facility Restrictions.

1) A licensee shall not process or store ~~[leaf or floral]~~ raw plant material or raw concentrate from industrial hemp in any structure that is used for residential purposes.

2) A licensee shall not process or store industrial hemp within 1,000 feet of a community location.

3) A licensee shall not process or handle industrial hemp or hemp material from any person who is not licensed by the department or the United States Department of Agriculture (USDA) or from a person outside the state who is not authorized by the laws of that state.

4) A licensee shall not permit a person under the age of 18 to access industrial hemp or cannabinoid products.

NOTICES OF 120-DAY (EMERGENCY) RULES

5) A licensee shall ~~ensure that each key participant has submitted to a background check as required in Subsection 4-41-103.2(6) and authorized the department to access their background information within the first month of employment~~submit a nationwide criminal history from the FBI to the department for each employee with access to material which contains, or may contain, over 0.3% THC within the first month of employment.

6) The licensee shall notify the department if a key participant separates from the licensee within two weeks following the separation.

R68-25-6. Extraction Methods.

1) In addition to the requirements of Section R68-25-4, an applicant seeking to engage in the extraction of cannabinoid concentrate from industrial hemp shall submit to the department a detailed description of the proposed extraction method.

2) The applicant shall describe the proposed process for the removal of any solvents added during the extraction process, if applicable.

3) The applicant shall describe the safety measures proposed to protect the public and employees from dangers associated with extraction methods.

4) The department may deny a license for methods that pose a significant risk to public health and safety.

5) Each licensee shall adhere to the following extraction guidelines:

a) ensure hydrocarbons n-butane, isobutane, propane, or heptane are of at least 99% purity;

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

c) ensure that any carbon dioxide (CO₂) gas extraction system uses a professional grade closed loop CO₂ gas extraction system where each vessel is rated to a minimum of six hundred pounds per square inch and CO₂ shall be at least 99% purity;

d) ensure that closed loop hydrocarbon, alcohol, or CO₂ extraction systems are commercially manufactured and bear a permanently affixed and visible serial number;

e) upon request, provide the department with documentation showing that the system is:

i) safe for its intended use; and

ii) commercially manufactured.

6) The applicant shall indicate whether they will be using derivative or synthetic cannabinoids and how they will produce or procure them.

R68-25-7. Processing Practices.

1) The department incorporates by reference 21 CFR 111, Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements for a licensee engaged in processing a cannabinoid product intended for human consumption.

2) The department incorporates by reference 21 CFR 507, Current Good Manufacturing Practice, Hazard analysis, and Risk-Based Preventive Controls for Food for Animals for a licensee engaged in processing cannabinoid products for animal consumption.

3) A licensee that manufactures cannabinoid products for human consumption shall be registered with the Division of Regulatory Services within the department.

4) A licensee shall use a standardized scale that is registered with the department when industrial hemp or cannabinoid products are:

a) packaged for sale by weight; or

b) bought and sold by weight.

5) A licensee that also is a holder of a medical cannabis processing license shall adhere to the separation requirements of Section R68-28-5 to ensure physical separation of medical cannabis and industrial hemp in their facility.

6) A licensee that manufactures cannabinoid products shall ensure that the facility meets basic cleanliness standards, including:

a) buildings are of suitable size, design, and construction to permit unobstructed placement of equipment, orderly storage of materials, sanitary operation, and proper cleaning and maintenance;

b) floors, walls, and ceilings are constructed of smooth, easily cleanable surfaces and are kept clean and in good repair;

c) fixtures, ducts, and pipes are installed in such a manner that drip or condensate does not contaminate materials, utensils, contact surfaces of equipment, or finished products in bulk;

d) lighting and ventilation are sufficient for the intended operation and comfort of personnel;

e) water supply, washing and toilet facilities, floor drainage, and sewage system are adequate for sanitary operation and cleaning of facilities, equipment, and utensils, as well as to satisfy employee needs and facilitate personal cleanliness; and

f) adequate filth and pest controls are in place.

R68-25-8. Required Reports.

1) A licensee shall submit a completed Production Report on a form provided by the department by December 31st.

2) The failure to submit a timely completed form may result in the denial of a renewal license.

R68-25-9. Additional Records.

1) The licensee shall keep records of receipt for any industrial hemp material obtained including:

a) the date of receipt;

b) quantity received;

c) an identifying lot number created by the licensee; and

d) the seller's information including:

i) the seller's department license number;

ii) seller's contact information; and

iii) the address of the facility or growing area from which the industrial hemp material was shipped.

2) The licensee shall keep records that include the following information for each batch of industrial hemp material processed;

a) the date of processing;

b) the lot number of the material;

c) the amount processed;

d) the type of processing; and

e) any lab test conducted on the industrial hemp material or product during the processing.

3) The licensee shall keep records of any derivative or synthetic cannabinoids procured or produced and the products they are used for.

4) The licensee shall keep records of any tests conducted with the identifying lot number.

5) A licensee processing a cannabinoid product for human consumption shall keep records required by 21 CFR 111 including:

- a) written procedures for preventing microbial contamination;
 - b) documentation of training of employees;
 - c) cleaning logs of equipment;
 - d) procedures for cleaning the physical facility;
 - e) documentation of your qualification of supplier; and
 - f) documentation of calibration of machinery.
- 6) A licensee processing a cannabinoid product for animals shall keep records as required by 21 CFR 507 including:
- a) written procedures for preventing microbial contamination;
 - b) documentation of training of employees;
 - c) cleaning logs of equipment;
 - d) procedures for cleaning the physical facility; and
 - e) documentation of calibration of machinery.
- 7) The licensee shall keep records of any products they have manufactured and the disposition of any cannabinoid material that leaves the facility.
- 8) Records shall be maintained for a minimum of three years.
- 9) Records are subject to review by department officials at the time of inspection or upon request.

R68-25-10. Testing.

- 1) Cannabinoid products shall be tested for the following before being made available for retail sale:
- a) cannabinoid profile;
 - b) solvents;
 - c) pesticides;
 - d) microbials;
 - e) heavy metals; and
 - f) foreign matter.
- 2) The testing shall be completed by a third-party laboratory.
- 3) The department shall conduct random testing of cannabinoid products and materials.
- 4) The sample taken by the department shall be the official sample.

R68-25-11. Inspections and Sampling.

- 1) The department shall have complete and unrestricted access to industrial hemp plants, seeds, and materials and any land, buildings, and other structures used to process industrial hemp.
- 2) Samples of industrial hemp or cannabinoid product may be randomly taken from the facility by department officials.
- 3) The department may review records kept in accordance with rule requirements.
- 4) The department shall notify a licensee of test results greater than 0.3% THC.
- 5) Any laboratory test with a result greater than 0.3% THC may be considered a violation of the terms of the license and may result in an immediate license revocation.
- 6) Any laboratory test of a final product with a result of 1% THC or greater shall be turned over to the appropriate law enforcement agency and revocation of the processor license shall be immediate.
- 7) The department shall notify the licensee of any solvents, metals, microbials, pesticides, or foreign matter found during testing.
- 8) The presence of deleterious or harmful substances may be considered a violation of the terms of the license and may result in a license revocation.

R68-25-12. Storage of Industrial Hemp and Cannabinoid Products.

- 1) A licensee may store hemp and cannabinoid products at their licensed facility provided:
- a) the licensee informs the department of the type and amount of the product being stored in the storage facility;
 - b) the storage facility is outside of the public view; and
 - c) the storage facility is secured with physical containment such as walls, fences, locks, and with an alarm system to provide maximum reasonable security.
- 2) A licensee may store a cannabinoid concentrate that exceeds 0.3% THC provided:
- a) the concentrate is kept in a secure room;
 - b) the concentrate is kept separate from other hemp products;
 - c) access to the concentrate is limited; and
 - d) a record is kept of the amount of concentrate being stored and when it is being moved.
- 3) Storage facilities shall be maintained in accordance with the practice adopted in Section R68-25-7.
- 4) Storage facilities and records are subject to random inspection by department officials.

R68-25-13. Transportation of Industrial Hemp Material.

- 1) Each movement of industrial hemp material shall include a transport manifest that includes the following information:
- a) a copy of the COA for each batch included in the shipment;
 - b) the location of the sending and receiving parties;
 - c) proof of registration or licensure for the sending and receiving parties; and
 - d) a bill of lading for the transported material.

R68-25-14. Restriction on the Sale and Transfer of Industrial Hemp Material.

- 1) A licensee shall not sell or transfer living plants, viable plants, viable seed, leaf material, or floral material to any person not licensed by the department or the USDA.
- 2) A licensee shall not sell or transfer living plants, viable seed, leaf material, or floral material to any person outside the state who is not authorized by the laws of that state or the USDA.
- 3) A licensee may sell stripped stalks, fiber, and nonviable seed to the general public provided the material's THC level is less than 0.3%.

R68-25-15. Renewal.

- 1) A licensee shall resubmit the documents required in Section R68-25-4, with updated information, before December 31st of the current year.
- 2) The department may deny a renewal for an incomplete application.
- 3) The department may deny renewal for any licensee who has violated any portion of this rule or state law.

R68-25-16. Violation.

- 1) It is a violation to process industrial hemp or industrial hemp material on a site not approved by the department.
- 2) It is a violation to process industrial hemp or industrial hemp material on a site within 1,000 feet of a community location.
- 3) It is a violation to process industrial hemp or industrial hemp material from a source that is not approved by the department.

NOTICES OF 120-DAY (EMERGENCY) RULES

4) A licensee shall not allow unsupervised public access to hemp processing facilities.

5) It is a violation to employ a person under the age of 18 in the processing or handling of industrial hemp or cannabinoid products.

6) It is a violation to sell a cannabinoid product to the general public or another licensee in violation of this section or state laws governing the final product.

7) It is a violation to add cannabinoids to a food product.

8) It is a violation to process raw concentrate without the appropriate industrial hemp processor license.

9) It is a violation to fail to keep records required by this rule or to fail to adhere to the notification requirements of this rule.

10) It is a violation to use derivative or synthetic cannabinoids in cannabinoid products without notifying the department.

11) It is a violation for a licensee to allow an employee that has been convicted of a drug-related felony or its equivalent access to hemp material or cannabinoid product that contains over 0.3% THC or has the potential to contain over 0.3% THC.

12) It is a violation to possess cannabinoid concentrate without an industrial hemp processing license.

13) It is a violation to store cannabinoid concentrate with greater than 0.3% THC concentration without following the requirements of Subsection R68-25-12(2).

14) It is a violation to store industrial hemp material without a processor license from the department or a cultivator license from the USDA.

15) It is a violation to possess non-compliant material.

16) It is a violation for a licensee to engage in practices outside of the scope of their license.

17) It is a violation to use an extraction method that is not authorized by Section R68-25-6.

18) It is a violation to employ a key participant without a background check for longer than 30 days.

19) It is a violation to operate a facility that does not meet current Good Manufacturing Practice requirements.

20) For holders of industrial hemp and medical cannabis processing licenses, it is a violation to operate a facility that does not adhere to the separation requirements of Section R68-28-5.

21) It is a violation to sell a cannabinoid product that has not been tested as required by Section R68-25-10.

22) It is a violation to deny the department the ability to take a sample of a cannabinoid product during an inspection or as part of an investigation.

23) It is a violation to deny the department access to an industrial hemp processing facility or industrial hemp processing facility records during regular business hours.

KEY: cannabidiol, hemp products, hemp extraction, hemp oil

Date of Last Change: November 22, 2022

Authorizing, and Implemented or Interpreted Law: 4-41-103(4)

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.utah.gov. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R25-3	Filing ID: 54548
Effective Date:	11/29/2022	

Agency Information

1. Department:	Government Operations	
Agency:	Finance	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 141031	
City, state and zip:	Salt Lake City, UT 84114-1031	
Contact persons:		
Name:	Phone:	Email:
Janica Gines	801-957-7727	jmgines@utah.gov
Jennifer Hardy	801-957-7732	jrhardy@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R25-3. Personal Use Expenditures Administrative Penalty Appeal Process

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 63A-3-110 (4)(b) requires the Division of Finance to create rules describing the appeals process for an appeal as described in Subsection 63A-3-110 (4)(a). This rule describes the appeals process for an employee who has been found by a governmental entity to have made a personal use expenditure in violation of Subsection 63A-3-110 (2).

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments as described 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 needs is necessary to ensure compliance with the statute and to allow employees found to have made a personal use expenditure in violation of Subsection 63A-3-110 (2) a path to appeal the governmental entity's findings and related decision. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jenney Rees, Executive Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-301	Filing ID: 50749
Effective Date:	11/30/2022	

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov

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

General Information

2. Rule catchline:
R315-301. Solid Waste Authority, Definitions, and General Requirements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 19-6-105 allows the Waste Management and Radiation Control Board to make rules establishing the minimum standards for protection of human health and the environment.
Subsection 19-6-108(12) requires that operation plans be reviewed every five years.
Section 19-6-109 authorizes officers, employees or representatives of the director to inspect places where solid waste is generated, transported, stored, treated or disposed. It also authorizes facilities to self-inspect.
This rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-301 contains the definitions and the basic prohibitions against disposal of waste except in sites that are approved and contain the necessary design, engineering, and closure elements that will provide protection to public health and the environment. This rule is also the foundation of the permit program required by the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-302	Filing ID: 50748
Effective Date:	11/30/2022	

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov

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

General Information

2. Rule catchline:
R315-302. Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-6-104(1)(d) requires the Waste Management and Radiation Control Board (Board) to require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility.

Section 19-6-105 allows the Board to make rules establishing the minimum standards for protection of human health and the environment.

Subsection 19-6-108(12) requires that operation plans be reviewed every five years.

Section 19-6-109 authorizes inspections of places where solid waste is generated, transported, stored, treated or disposed. It also authorizes facilities to self-inspect.

This rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-302 contains siting requirements for solid waste disposal facilities and the general outline of the operations, monitoring, closure, and post-closure care of a solid waste disposal facility. This rule forms the basis of the permit program required by the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-303	Filing ID:	53252
Effective Date:	11/30/2022		

Agency Information

1. Department:	Environmental Quality
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Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R315-303. Landfilling Standards
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-6-104(1)(d) requires the Waste Management and Radiation Control Board (Board) to require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility.
Section 19-6-105 allows the Board to make rules establishing the minimum standards for protection of human health and the environment.
Subsection 19-6-108(12) requires that operation plans be reviewed every five years.
This rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received from any interested persons either supporting or opposing this rule 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:
Rule R315-303 contains requirements for solid waste disposal facilities performance requirements, design

standards, operation, and maintenance standards. This rule forms the basis of the permit program required by the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-304	Filing ID:	50751
Effective Date:	11/30/2022		

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R315-304. Industrial Solid Waste Landfill Requirements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 19-6-105 allows the Waste Management and Radiation Control Board to make rules establishing the minimum standards for protection of human health and the environment.
Subsection 19-6-108(12) requires that operation plans be reviewed every five years.

This rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-304 is necessary to implement the requirements of the statute to review plans for facilities that dispose of nonhazardous solid waste. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-305	Filing ID:	50757
Effective Date:	11/30/2022		

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information**2. Rule catchline:**

R315-305. Class IV and VI Landfill Requirements

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-6-104(1)(d) requires the Waste Management and Radiation Control Board (Board) to require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility.

Section 19-6-105 allows the Board to make rules establishing the minimum standards for protection of human health and the environment.

Subsection 19-6-108(12) requires that operation plans be reviewed every five years.

Section 19-6-109 authorizes inspections of places where solid waste is generated, transported, stored, treated or disposed. It also authorizes facilities to self-inspect.

This rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-305 contains requirements for solid waste disposal facilities performance requirements, design standards, operation, and maintenance standards. This rule forms the basis of the permit program for Class IV and VI landfills required by the Solid and Hazardous Waste Act and is referenced by other solid waste rules. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-306	Filing ID: 50753
Effective Date:	11/30/2022	

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Kari Lundeen	801-536-0253	klundeen@utah.gov

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

General Information**2. Rule catchline:**

R315-306. Incinerator Standards

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-6-104(1)(j) requires the Waste Management and Radiation Control Board (Board) to require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility.

Subsection 19-6-105(1)(a) requires the Board to establish minimum standards for protection of human health and the environment for the storage, collection, transport, transfer, recovery, treatment, and disposal of solid waste, including requirements for the approval by the director of plans for the construction, extension, operation, and closure of solid waste disposal sites.

Subsection 19-6-108(12) requires that operation plans be reviewed every five years.

This rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-306 contains requirements for non-hazardous solid waste incineration facilities performance requirements, design standards, and operation and maintenance standards that will provide protection to human health and the environment. This rule is foundational to the permit program required by the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-307	Filing ID:	54189
Effective Date:	11/30/2022		

Agency Information

1. Department:	Environmental Quality		
Agency:	Waste Management and Radiation Control, Waste Management		
Room number:	Second Floor		
Building:	Multi-Agency State Office Building		
Street address:	195 N 1950 W		
City, state and zip:	Salt Lake City, UT 84116		
Mailing address:	PO Box 144880		
City, state and zip:	Salt Lake City, UT 84114-4880		
Contact persons:			
Name:	Phone:	Email:	
Tom Ball	801-536-0251	tball@utah.gov	

Kari Lundeen	801-536-0253	klundeen@utah.gov
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Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:

R315-307. Landtreatment Disposal Standards

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-6-104(1)(j) requires the Waste Management and Radiation Control Board (Board) to require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility.

Subsection 19-6-105(1)(a) requires the Board to establish minimum standards for protection of human health and the environment for the storage, collection, transport, transfer, recovery, treatment, and disposal of solid waste, including requirements for the approval by the director of plans for the construction, extension, operation, and closure of solid waste disposal sites.

Subsection 19-6-108(12) requires that operation plans be reviewed every five years.

This rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-307 contains standards that apply to any facility that engages in the landtreatment, landfarming, or landspreading disposal of solid waste in a manner that has a reasonable agronomic benefit to soils. This rule is foundational to the permit program required by the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R315-308	Filing ID: 50755
Effective Date:	11/30/2022	

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Kari Lundeen	801-536-0253	klundeen@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R315-308. Ground Water Monitoring Requirements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-6-105(1)(a) requires the Waste Management and Radiation Control Board to establish minimum standards for protection of human health and the environment for the storage, collection, transport, transfer, recovery, treatment, and disposal of solid waste, including requirements for the approval by the director of plans for the construction, extension, operation, and closure of solid waste disposal sites.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-308 establishes ground water monitoring requirements and compliance schedules for each existing landfill, pile, or land treatment disposal facility that is required to perform ground water monitoring. The requirements for groundwater monitoring are an integral part of the solid waste program to protect human health and the environment. Groundwater monitoring must be included in a state solid waste program for that program to be approved by the EPA. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-309	Filing ID: 50754
Effective Date:	11/30/2022	

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Kari Lundeen	801-536-0253	klundeen@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R315-309. Financial Assurance

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 19-6-105(1)(a) requires the Waste Management and Radiation Control Board to establish minimum standards for protection of human health and the environment for the storage, collection, transport, transfer, recovery, treatment, and disposal of solid waste, including requirements for the approval by the director of plans for the construction, extension, operation, and closure of solid waste disposal sites.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-309 contains the requirement for financial assurance. Financial assurance is required part of a solid waste program that is to maintain EPA approval and meet the requirement for financial assurance found in Subsection 19-6-108(9)(c). This rule is foundational to the permit program required by the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-310	Filing ID:	50763
Effective Date:	11/30/2022		

Agency Information

1. Department:	Environmental Quality
Agency:	Waste Management and Radiation Control, Waste Management
Room number:	Second Floor
Building:	Multi-Agency State Office Building
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144880
City, state and zip:	Salt Lake City, UT 84114-4880

Contact persons:

Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Kari Lundeen	801-536-0253	klundeen@utah.gov

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

General Information

2. Rule catchline:

R315-310. Permit Requirements for Solid Waste Facilities

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 19-6-105(1)(a) requires the Waste Management and Radiation Control Board to establish minimum standards for protection of human health and the environment for the storage, collection, transport, transfer, recovery, treatment, and disposal of solid waste, including requirements for the approval by the director of plans for the construction, extension, operation, and closure of solid waste disposal sites.

Subsection 19-6-108(12) requires that operation plans be reviewed every five years.

Subsection 19-6-109 authorizes inspections by the director or their representatives to inspect.

This rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-310 contains the requirement for a permit to operate a nonhazardous solid waste facility. The permitting program is an integral part of the solid waste program and is required to maintain EPA program approval and to meet the requirements of Section 19-6-108. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-311	Filing ID:	50756
Effective Date:	11/30/2022		

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Spencer Wickham	801-536-0082	swickham@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R315-311. Permit Approval for Solid Waste Disposal, Waste Tire Storage, Energy Recovery, and Incinerator Facilities
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 19-6-104(1)(d) requires the Waste Management and Radiation Control Board (Board) to require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility.
Section 19-6-105 allows the Board to make rules establishing the minimum standards for protection of human health and the environment.

Subsection 19-6-108(12) requires that operation plans be reviewed every five years.

This rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No other comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-311 is an integral part of the solid waste permitting program and defines major and minor modifications to permit and outlines the public comment process. Without this rule, the permit program would not meet the requirements of the Solid and Hazardous Waste Act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Doug Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-312	Filing ID:	50766
Effective Date:	11/30/2022		

Agency Information

Agency information:

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov

Spencer Wickham	801-536-0082	swickham@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R315-312. Recycling and Composting Facility Standards
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 19-6-105 allows the Board to make rules establishing the minimum standards for protection of human health and the environment.
Subsection 19-6-108(12) requires that operation plans be reviewed every five years.
This rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received from any interested persons either supporting or opposing this rule 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:
Rule R315-312 provides the standards for operation of recycling and compost facilities that are allowed by the Solid and Hazardous Waste Act. This rule also sets the standards that will assure that these facilities are operated in a way that protects human health and the environment. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Doug Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-313	Filing ID:	50764
Effective Date:	11/30/2022		

Agency Information

1. Department:	Environmental Quality
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Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0222	tball@utah.gov
Spencer Wickham	801-536-0082	swickham@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R315-313. Transfer Stations and Drop Box Facilities
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 19-6-104(1)(d) requires the Waste Management and Radiation Control Board (Board) to require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility.
Section 19-6-105 allows the Board to make rules establishing the minimum standards for protection of human health and the environment.
Subsection 19-6-108(12) requires that operation plans be reviewed every five years.
This rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-313 provides the standards for operation of transfer stations and drop box facilities that are allowed by the Solid and Hazardous Waste Act. This rule also sets the standards that will assure that these facilities are operated in a way that protects human health and the environment. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-314	Filing ID:	50760
Effective Date:	11/30/2022		

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Spencer Wickham	801-536-0082	swickham@utah.gov

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

General Information

2. Rule catchline:
R315-314. Facility Standards for Piles Used for Storage and Treatment
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 19-6-104(1)(d) requires the Solid and Hazardous Waste Control Board (Board) to require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility.

Section 19-6-105 allows the Board to make rules establishing the minimum standards for protection of human health and the environment.

Subsection 19-6-108(12) requires that operation plans be reviewed every five years.

This rule sets out the procedures and information that must be submitted to review a plan approval and meet the requirements of the statute.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-314 provides the standards for operation of facilities that treat and store solid waste in piles as allowed by the Solid and Hazardous Waste Act. This rule also sets the standards that will assure that these facilities are operated in a way that protects human health and the environment. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-315	Filing ID:	50762
Effective Date:	11/30/2022		

Agency Information

1. Department:	Environmental Quality		
Agency:	Waste Management and Radiation Control, Waste Management		
Room number:	Second Floor		
Building:	MASOB		
Street address:	195 N 1950 W		
City, state and zip:	Salt Lake City, UT 84116		

Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Spencer Wickham	801-536-0082	swickham@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R315-315. Special Waste Requirements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 19-6-105 allows the Board to make rules establishing the minimum standards for protection of human health and the environment for the storage, collection, transport, transfer, recovery, treatment, and disposal of solid waste.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received from any interested persons either supporting or opposing this rule 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:
Rule R315-315 sets standards for the management of special wastes. These wastes can present special risks or require special handling which is set forth in Rule R315-315. When these standards are obeyed, it will assure that these wastes do not present an unacceptable risk to public health or the environment. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-316	Filing ID:	50761
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Effective Date:	11/30/2022
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Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R315-316. Infectious Waste Requirements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-6-105(1)(h) requires the Solid and Hazardous Waste Control Board to make rules which relate to the collection, transportation, processing, treatment, storage, and disposal of infectious waste in health facilities in accordance with the requirements of Section 19-6-106.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received from any interested persons either supporting or opposing this rule 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:
Rule R315-316 sets standards for the management of infectious waste. This waste can present special risks or require special handling which is set forth in Rule R315-316. When facilities comply with these standards, it will assure that these wastes do not present an unacceptable risk to public health or the environment. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-317	Filing ID:	50770
Effective Date:	11/30/2022		

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R315-317. Other Processes, Variances, Violations, and Petition for Rule Change
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 19-6-111 allows the Waste Management and Radiation Control Board to grant variances if an application for variance is received.
Section 19-6-112 allows the director to serve a notice of violation when any person is in violation of an approved solid waste plan, the Solid and Hazardous Waste Act, or the rules. This section also allows the director to issue orders.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-317 sets the procedures for granting of variances, issuing of notices of violation, and procedures for rule change petitions. These are all an important part of the permit program for regulation of solid waste management facilities. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-318	Filing ID:	50765
Effective Date:	11/30/2022		

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R315-318. Permit by Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 19-6-104 requires the Waste Management and Radiation Control Board to meet the requirements of federal law related to solid waste.

Section 19-6-108 requires new facilities to submit operation plans and obtain approval prior to operating. This section also contains provisions for exemptions from certain approvals.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments were received from any interested persons either supporting or opposing this rule 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:

Permitting of solid waste facilities is a requirement to receive program approval from the EPA and is also required by the Solid and Hazardous Waste Act. Rule R315-318 sets out the procedures and conditions that will allow facilities that are permitted under another state program to receive a permit by rule and be in compliance with the Solid and Hazardous Waste Act and the solid waste rules and not be burdened by regulation by two different agencies. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R315-320	Filing ID:	50767
Effective Date:	11/30/2022		

Agency Information

1. Department:	Environmental Quality
Agency:	Waste Management and Radiation Control, Waste Management
Room number:	Second Floor
Building:	MASOB
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144880
City, state and zip:	Salt Lake City, UT 84114-4880

Contact persons:

Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov

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

General Information

2. Rule catchline:

R315-320. Waste Tire Transporter and Recycler Requirements

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-6-105(1)(a) requires the Solid and Hazardous Waste Control Board (Board) to require any facility disposing of non-hazardous waste to submit plans, specifications, and other information required by the Board prior to the construction and/or operation of a facility.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments were received from any interested persons either supporting or opposing this rule 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:

Rule R315-320 contains requirements for Waste Tire Transporter and Recycler Requirements. This rule forms the basis for the regulation of the waste tire program in Utah. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/21/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R414-515	Filing ID:	51017
Effective Date:	11/30/2022		

Agency Information

1. Department:	Health and Human Services
Agency:	Health Care Financing, Coverage and Reimbursement Policy

Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R414-515. Long Term Acute Care
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 26B-1-213 grants the Department of Health and Human Services (Department) the authority to adopt, amend, or repeal rules, and Section 26-18-3 requires the Department to implement the Medicaid program through administrative 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:
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 establishes long term acute care for Medicaid members that include provisions for member eligibility, program access, service coverage, preadmission review, continued stay review, and reimbursement. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	11/30/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R590-124	Filing ID: 53878
Effective Date:	12/01/2022	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-124. Loss Information Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.
Section 31A-23a-402 authorizes the insurance commissioner to define unfair methods of competition. This rule requires that, upon a written request from an insured, an insurer must provide the insured with their loss information.
Section R590-124-4 of this rule provides instructions as to what loss information insurers are required to release, when and how often they must release it, and in what format.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

It is important that the law provide guidelines to insurers for the maintenance and dissemination of loss information to the insured and other insurers. Otherwise, loss information would not be released by insurers. Loss information is important for insureds to determine if their efforts to reduce losses has been successful; it is important for insurers who want to provide the insured with a competitive quote for their business. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	12/01/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-155	Filing ID:	54149
Effective Date:	12/01/2022		

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule catchline:
R590-155. Utah Life and Health Insurance Guaranty Association Summary Document
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-28-119 provides guidelines for the Utah Life and Health Insurance Guaranty Association (ULHIGA) summary and disclaimer document.

The purpose of this rule is to specify the form and content of the summary and disclaimer document for insurers to disclose to policy and contract holders the intent that contractual guarantees are not covered or have limited coverage by ULHIGA.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Insurance has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Section 31A-28-119 prohibits agents from telling prospective insureds that the policy they are buying is covered by ULHIGA in the event that the insurance company becomes insolvent. This assurance has been used deceptively to sell policies when the insurer was financially insolvent or unsound. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	12/01/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-215	Filing ID:	54611
Effective Date:	12/01/2022		

Agency Information

1. Department:	Insurance		
Agency:	Administration		
Room number:	Suite 2300		
Building:	Taylorsville State Office Building		
Street address:	4315 S 2700 W		
City, state and zip:	Taylorsville, UT 84129		
Mailing address:	PO Box 146901		
City, state and zip:	Salt Lake City, UT 84114-6901		

Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-215. Permissible Arbitration Provisions for Individual and Group Health Insurance
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. This rule defines "permissible arbitration provisions" and provides guidelines upon which disclosure of a contract arbitration provision is to be made.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Federal law requires states to establish rules that set guidelines for the use of arbitration in the claims process. This rule provides those guidelines. Once an insured has exhausted the insurer's internal appeals process, they have the right to arbitration. This rule defines arbitration in its several forms, as well as the process itself. This rule ensures that the arbitration process is the same in all US states, which reduces confusion and misunderstanding. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	12/01/2022
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R850-70	Filing ID:	52040
Effective Date:	11/22/2022		

Agency Information

1. Department:	School and Institutional Trust Lands
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Agency:	Administration	
Room number:	Suite 500	
Street address:	675 E 500 S	
City, state and zip:	Salt Lake City, UT 84102-2818	
Contact persons:		
Name:	Phone:	Email:
Mike Johnson	801-538-5180	mjohnson@utah.gov
Lisa Wells	801-538-5154	lisawells@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R850-70. Sales of Forest Products From Trust Lands Administration Lands
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 53C-2-201(l)(a)(ii) authorizes the director of the School and Institutional Trust Lands Administration (SITLA) to provide for the sale of forest products, desert products, and other vegetative material from Trust Lands Administration land. This rule establishes the guidelines for SITLA to follow in the management and sale of these resources.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received by SITLA concerning this rule since the previous five-year notice of 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 establishes the guidelines for SITLA to follow in the management and sale of forest product resources located on trust lands. It also provides the public with the requirements for the acquisition of these resources. The sale of these products provides valuable revenue for the benefit of the respective beneficiary of the land. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Michelle McConkie, Director	Date:	11/22/2022
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

Plant Industry

No. 54869 (Amendment) R68-25: Industrial Hemp
Program-Cannabinoid Product Processors
Published: 10/01/2022
Effective: 11/22/2022

Alcoholic Beverage Services

Administration

No. 54841 (Amendment) R82-1-102: Definitions
Published: 09/15/2022
Effective: 12/01/2022

No. 54842 (Amendment) R82-1-208: Percentage Lease
Agreements
Published: 09/15/2022
Effective: 12/01/2022

No. 54843 (Amendment) R82-2-202.1: Late License
Renewals
Published: 09/15/2022
Effective: 12/01/2022

No. 54844 (Amendment) R82-2-306: Operational Matters
Published: 09/15/2022
Effective: 12/01/2022

No. 54845 (Amendment) R82-2-308: Consignment
Inventory Package Agencies
Published: 09/15/2022
Effective: 12/01/2022

No. 54847 (Amendment) R82-5-202: Retail License
Renewals
Published: 09/15/2022
Effective: 12/01/2022

No. 54848 (Amendment) R82-6-701: On Premise Beer
Retailer -- Reserved
Published: 09/15/2022
Effective: 12/01/2022

No. 54849 (Amendment) R82-9-201: Application
Requirements
Published: 09/15/2022
Effective: 12/01/2022

Commerce

Administration

No. 54884 (Amendment) R151-3: Americans with
Disabilities Act Rule
Published: 10/15/2022
Effective: 11/21/2022

Communications Authority Board (Utah)

Administration

No. 54815 (Amendment) R174-1: Utah Communications
Authority Board
Published: 11/01/2022
Effective: 12/08/2022

Environmental Quality

Waste Management and Radiation Control, Radiation

No. 54863 (Amendment) R313-19-100: Transportation
Published: 10/01/2022
Effective: 11/14/2022

Health and Human Services

Administration (Health)

No. 54732 (New Rule) R380-500: Agency Authority
Published: 08/01/2022
Effective: 11/21/2022

NOTICES OF RULE EFFECTIVE DATES

Insurance

Administration

No. 54942 (Amendment) R590-93-4: Duties of an Insurer

That Uses a Producer

Published: 10/15/2022

Effective: 11/22/2022

No. 54988 (Repeal and Reenact) R590-130: Rules

Governing Advertisements of Insurance

Published: 11/01/2022

Effective: 12/08/2022

No. 54989 (Amendment) R590-198: Valuation of Life

Insurance Policies

Published: 11/01/2022

Effective: 12/08/2022

No. 54943 (Repeal) R590-232: Authorization for a Health
Maintenance Organization to Provide Services as Third Party

Administrator of Health Care Benefits

Published: 10/15/2022

Effective: 11/22/2022

No. 54990 (Amendment) R590-235: Medicare Prescription

Drug Plan

Published: 11/01/2022

Effective: 12/08/2022

No. 54944 (Amendment) R590-251: Preneed Life

Insurance Minimum Standards to Determine Reserve

Liabilities and Nonforfeiture Values

Published: 10/15/2022

Effective: 11/22/2022

No. 54991 (Repeal) R590-270: Risk Adjustment Data

Submission Requirements

Published: 11/01/2022

Effective: 12/08/2022

No. 54945 (New Rule) R590-289: Term and Universal Life

Insurance Reserve Financing

Published: 10/15/2022

Effective: 11/22/2022

Natural Resources

State Parks

No. 54911 (Amendment) R651-604: Operation or Use of

Audio Devices

Published: 10/15/2022

Effective: 11/22/2022

No. 54933 (Repeal) R651-605: Begging and Soliciting

Published: 10/15/2022

Effective: 11/22/2022

No. 54914 (Repeal) R651-609: Explosives and Fireworks

Published: 10/15/2022

Effective: 11/22/2022

No. 54915 (Repeal) R651-617: Permit Violation

Published: 10/15/2022

Effective: 11/22/2022

No. 54918 (Amendment) R651-620: Protection of

Resources Park System Property

Published: 10/15/2022

Effective: 11/22/2022

No. 54916 (Repeal) R651-622: Rock Climbing

Published: 10/15/2022

Effective: 11/22/2022

No. 54917 (Repeal) R651-623: Sale or Distribution of

Printed Material

Published: 10/15/2022

Effective: 11/22/2022

Wildlife Resources

No. 54979 (Amendment) R657-13: Taking Fish and

Crayfish

Published: 11/01/2022

Effective: 12/08/2022

No. 54980 (Amendment) R657-14: Commercial Harvesting

of Protected Aquatic Wildlife

Published: 11/01/2022

Effective: 12/08/2022

No. 54982 (Repeal and Reenact) R657-43: Landowner

Permits

Published: 11/01/2022

Effective: 12/08/2022

No. 54981 (Amendment) R657-62: Drawing Application

Procedures

Published: 11/01/2022

Effective: 12/08/2022

Public Service Commission

Administration

No. 54832 (Amendment) R746-349: Competitive Entry and

Reporting Requirements

Published: 10/15/2022

Effective: 11/21/2022

Workforce Services

Administration

No. 54978 (Repeal) R982-800: Utah Data Research

Center

Published: 11/01/2022

Effective: 12/08/2022

Employment Development

No. 54872 (Amendment) R986-300: Refugee Transitional

Cash Assistance

Published: 10/01/2022

Effective: 12/01/2022

End of the Notices of Rule Effective Dates Section